IRMI® Update
Risk Management & Insurance Commentary, Tips, and Tactics

25 RISK-CONQUERING IDEAS

By the Readers of IRMI Update *February 2009*

IRMI Update is a twice monthly e-mail newsletter for risk management, insurance and legal professionals. We launched IRMI Update on July 12, 2000, and have published more than 200 issues since then. Much has transpired in the world since that first issue, and IRMI Update has attempted to chronicle and comment on the risk management implications of many of the important events.

The readership of IRMI Update has grown to exceed 34,000 people and comprises some of the most knowledgeable, experienced, and respected risk professionals in the business. Most issues feature a risk management tip submitted by one of these readers.

This special report presents 25 tips selected from past issues. These particular tips were chosen because they are generally applicable to most any organization. Each provides one or more practical suggestions for controlling risks or reducing premiums. Those new to risk management and insurance will gain many pearls of new wisdom in these pages and even the most seasoned practitioner will benefit from some of these ideas.

A subscription to IRMI Update is absolutely free of charge, and we encourage you to sign up on our Web site if you do not already receive it. Your subscription will yield two new practical tips every month—bite size morsels of actionable tactics you can put to work right away.

Please be assured that signing up for IRMI Update will not cause you to get spam from us or anyone else. We respect your privacy and pledge (1) that we will not use the IRMI Update subscriber list for any other type of e-mail and (2) that we will not give, rent, or sell your e-mail address to another organization.

Figure 1 lists the 25 tips presented in this special report. For ease of use, we have linked directly to each tip from the figure. We sincerely hope that these ideas help you to improve the risk management and insurance program for your company or your clients.

Figure 1
25 Terrific Risk Tips

1. You've Got E-Mail—Don't Let It Get You
2. Implement Drug Testing and Background Screening
3. Incorporate MVRs into Your Risk Management Program
4. Reduce Claims by Instituting a Successful Safety Incentive Program
5. Don't Forget Post-Injury Management Training
6. Sanitize Your Web Site To Avoid Underwriter Fears
7. Don't Be Afraid of E-Commerce—Be Prepared
8. Set Up a Fraudulent Claims Prevention Program
9. Implement Enterprise Risk Management Concepts
10. Assess and Manage Your IP Risks
11. Obtain Business Income Coverage for Damage to Leased Equipment
12. Get Rid of Obsolete Stock and Equipment
13. Remember Products Liability When Disposing of Stock and Equipment
14. Prepare Superior Underwriting Presentations
15. Smooth the Risk Wrinkles That Come with an Aging Workforce
16. Implement Win-Win Fire Safety Training
17. Use Loss Control and Insurance To Combat Employee Dishonesty
18. Think Like an Underwriter
19. Allow Adequate Lead Time for Competitive Quotes
20. Use Quick References for Insurance Information
21. Obtain a "Knowledge of Occurrence" Endorsement
22. Take Action before, during, and after the Premium Audit
23. Promptly Provide Insurers with Notice of Lawsuits
24. Avoid a Carbon Monoxide Headache
25. Clearing Your Office Is Good Risk Management

1 You've Got E-Mail—Don't Let It Get You

E-mails routinely are included in "documents" requested during the litigation discovery process, because smoking-gun messages often are found. To protect your organization:

- ✓ Have a formal policy on e-mail use, and have employees acknowledge in writing that they will follow it. Include the right to monitor employee e-mail. Main rule: Never send an e-mail you wouldn't want a jury to see.
- ✓ Substantive e-mails to and from your attorney aren't subject to discovery. Subject lines should include something like "Privileged and confidential: attorney-client communication." In the text, ask for the attorney's guidance.
- ✓ Sometimes it's best to communicate by picking up the phone or walking to the other person's office and having a conversation.
- ✓ In e-mails, don't exaggerate, speculate, insult anyone, use vague terms such as "substandard" or "troublesome," or use legally loaded terms such as "negligent" unless you are sure the term is appropriate. Keep in mind that "keyword" tracking software is used to find smoking gun e-mails.
- ✓ Include e-mail in your document retention policy. Archive systems can allow you to find the files you need without wading through all the others. Be wary of using every archival technology available, however. Metadata—data about data—can be valuable to an opposing counsel.
- ✓ At the first hint of legal action, place a hold on any documents that might be relevant, and don't allow them to be destroyed, regardless of your retention policy.
- ✓ Remember, "deleted" items still reside on a server with a "not used" status, and can be retrieved until they're overwritten.
- ✓ "Blogging" risks can include defamation, libel, invasion of privacy, infringement of intellectual property, and securities laws violations. Insurance is available to address these exposures, which typically fall outside the "advertising injury" protection of a commercial general liability policy. If you include blogging standards in your e-mail policy, reference your existing company policies regarding nondisclosure of confidential information, discriminatory conduct, etc.

By: William Henry
The CIMA Companies, Inc.
From IRMI Update 145 (Sept. 20 2006)

2 Implement Drug Testing and Background Screening

In today's fast-paced environment, sometimes it is easy to overlook the seriousness of the effect of drugs and alcohol in the workplace. With the inconvenience of having to send people to a lab, along with the lost time and production, sometimes it's easier to just let them keep working. This kind of thinking could cause the downfall of companies—large and small. Businesses failing to drug test and do background screenings of their employees are open to serious legal costs and customer service risks. Consider the following:

Drugs testing:

- ✓ Over $100 billion annually is the cost to U.S. employers for on-the-job drug abuse.
- ✓ 85 percent of drug abusers steal from their workplaces.
- ✓ 65 percent of all work-related accidents are the direct result of substance abuse.
- ✓ 77 percent of all drug users over the age of 18 are employed.

Background Screening:

- ✓ 30 percent of business failures are due to poor hiring practices.
- ✓ An estimated 1 of every 20 working age adults (4.1 percent) will serve time in a prison during his or her lifetime.
- ✓ 53 percent of job applicants provide false information.
- ✓ On average in U.S. businesses, at least half of all new hires do not work out.

Drug testing and background screening should be up-front in a risk management program. Think about it. It's a simple decision that will make a major impact on your business.

By: Daniel G. Getzinger
National Association of Drug Free Workplaces
From IRMI Update 98 (Oct. 12, 2004)

3 Incorporate MVRs into Your Risk Management Program

If an employee was in an accident while on company business and caused bodily injury to someone else, do you think the lawsuit would be worse if your driver had multiple traffic violations on his record as opposed to none or, perhaps, one? Believe it or not, it might not matter, depending on how proactive you were before allowing that person behind the wheel.

Time is money, so it's easy to want to get a person behind a wheel and on the road to start making profit. Before doing so, however, you are well advised to proactively manage the risk by exercising due diligence in who you put there. A lot of businesses rely on their auto insurer to let them know if a driver is acceptable or not. Don't rely on the insurer; rather, set up your own guidelines of acceptability. I've seen insurance companies be too stringent, almost handcuffing the business. I've also seen them be too lax. If you put your own standards and processes in place, and they are effective, you enhance your negotiating power later on with insurers, and this can prove valuable.

For example, an idea that has been proven effective for us was to have employees who regularly drive on company business order their own MVRs from the state every 6 months and give it to their managers to review and reimburse. It forces the employee to take an active role and consciously think about it—kind of like a report card. As in any risk management endeavor, employee activity works better than passivity. Below are a few other things to consider:

- ✓ Have the employee sign an MVR consent form.
- ✓ Make the MVR a condition of employment, and check it before hire.
- ✓ Have a process to check MVRs however often you want them run.
- ✓ Set your standards for acceptability.

Because the auto exposure presents the greatest potential for catastrophic loss for a majority of businesses, this effort can pay large dividends.

By: Marty Orlowski
The McNish Group, Inc.
From* IRMI Update 153 *(Jan. 24, 2007)

4 Reduce Claims by Instituting a Successful Safety Incentive Program

Our firm achieved an average 43 percent claim reduction for all our clients, compared to the previous year, by developing a program to reward employees for performing their jobs safely. By making all employees eligible to win cash and prizes, all employees became involved in the safety process. Here are some of the keys to the success of these programs:

- ✓ **Make the message safety.** No games, just safe behavior.

- ✓ **Provide monthly awards.** Keep the focus on safety by meeting and discussing accidents, near-misses, and safety every month. Celebrate injury-free months with as many employees attending, over as many shifts as possible, and deliver with lots of enthusiasm.

- ✓ **Make the rewards large enough to influence behavior.** A pizza party or $50 is not going to change the behavior of employees who are inclined to act carelessly and violate safety procedures. You must offer at least one award that is desirable and large enough to encourage behavior change. While you cannot afford to have every employee win every month, you can have every employee who acts safely qualify to win every month. Then use a drawing to provide the award to one of them. Workers comp costs are so high that they justify a meaningful award.

- ✓ **Encourage positive peer pressure.** Getting all your employees to encourage each other to do the right thing and discourage unsafe or dishonest behavior is one of the cardinal rules for safe companies. If the rewards are meaningful, and there are positive benefits for teams and departments to all be safe, you can create an atmosphere of teamwork and an important second level of peer pressure. Those that want to do the right thing are given a reason to step up and exert influence on those who are not as careful or dedicated.

- ✓ Lastly, manage the program! Stay involved and make changes to your program after both bad and good months. Stay visible, stay involved, and keep the program fresh and interesting. Add surprises, such as having the president attend and spontaneously add a couple $100 awards to names drawn from a hat.

If you invest the time, effort, and money, the payoff can be ten-fold. A safer company tends to be a happier company, with better morale and productivity.

By: Joe Stevens
Bridge Consultants, Inc.
From IRMI Update 95 *(Aug. 24, 2004)*

5 Don't Forget Post-Injury Management Training

The concept is so fundamental that we many times forget to even consider how important it is to train management, supervisors, and staff on proper post-injury management. However, it is the single most important and cost-effective technique that can be done to manage claims, return the injured worker to his or her pre-injury condition, and reduce the overall cost of claims. Proper and timely responses to incidents can make certain that the injured workers get the appropriate care as well as the information needed to allow them to rehabilitate and recover from their injuries.

The training should include an emphasis on immediately reporting the claim to the insurer or third-party administrator. This allows the adjuster and other ancillary resources to be most effective in getting the injured worker comfortable with an unfamiliar process of making a claim, the follow-up care needed, and—if lost time is involved—the required payment of indemnity wages. This will usually reassure injured workers that they are being treated fairly, improve morale for injured workers and their coworkers, and reduce the anxiety that might drive injured workers to attorney when they are not needed.

If you do not believe that you are qualified or capable of providing this training, most insurers, brokers, and consultants have some form of training for post-injury management. Review a few of the options and make modification suggestions to best fit your organization's needs.

By: Randy McKnight
Belz Enterprises
From [IRMI Update 142] (Aug. 9, 2006)

6 Sanitize Your Web Site To Avoid Underwriter Fears

Underwriters routinely visit the Web sites of their customers and prospects to get a better handle on their operations and the risks they present. Of course, most Web sites are maintained by corporate marketing departments with no concept of how an underwriter might perceive the information displayed there. Sometimes the unfortunate result is a terrified underwriter along with higher insurance costs (or no insurance at all).

For example, I ran into this recently when a contractor's Web site had photos of condominiums and a power plant despite the fact the firm does no residential construction and didn't routinely work in power plants. The underwriter considered not providing a quote until we explained that someone in the marketing department put these photos on the Web site because they were "cool shots," not because they had anything to do with the contractor's normal operations.

To avoid unnecessarily complicating your renewal process by steering the underwriter in the wrong direction, carefully review your firm's (or your client's) Web site with an underwriter's eye. Then eliminate or change anything that might raise a red flag. This will be time and effort well spent.

By: Steven D. Davis
McGriff, Seibels & Williams
From* IRMI Update 54 *(Dec. 3, 2002)

Get Your Tip Published in *IRMI Update*

All the tips in this special report were submitted by subscribers to ***IRMI Update*** and previously published in the newsletter. Provide us your tip on buying insurance, managing claims, or filling gaps in insurance coverages, and put yourself and your company in front of more than 34,000 risk professionals from around the world.

Risk Tips must be short (only a paragraph or two—150–300 words), original, practical, and not promotional. To qualify, your tip should not be specific to a particular industry. Your name, title, firm, and city/state will be shown. If you'd like, your e-mail or phone number can be shown so readers can contact you directly, and a live link to your Web site can be provided in the IRMI.com version of ***IRMI Update***. Your contact information will not be published elsewhere or shared with anyone else. Learn more or submit a Risk Tip.

7 Don't Be Afraid of E-Commerce—Be Prepared

While a number of risks arise from conducting business via the Internet, the bigger risk is not getting into e-commerce. With the appropriate planning, organizations can make the most of this opportunity and minimize their exposure by undertaking a thorough review of the organization's e-commerce business model to identify and address the potential risks. The following plan of action is recommended:

- ✓ **Review e-commerce applications.** Look carefully at all the ways the company uses the Internet and related technologies, especially applications involving e-commerce or business-to-business integration. Consider what would happen if one of these systems were temporarily shut down or penetrated by a hacker.

- ✓ **Set priorities.** Focus on e-commerce risks that could have the greatest impact on profits or reputation.

- ✓ **Gauge the company's vulnerability.** Conduct an audit of security policies and procedures. One method is to conduct "ethical hacking" by retaining a consultant to attempt to break into your network to identify its vulnerabilities.

- ✓ **Assess values affected.** Examine the financial impact and valuation issues associated with e-commerce activities. For example, a denial of service attack will affect earnings associated with online retail operations in a matter of minutes.

- ✓ **Review insurance.** Does the existing insurance program cover e-commerce risks?

- ✓ **Examine contracts with vendors.** To what degree are liability risks transferred to outside vendors who provide critical functions such as Web hosting and Web development and maintenance?

- ✓ **Use a team approach.** Establish a team in the organization to evaluate e-commerce risks and develop strategies to deal with them. The team should include risk management, internal audit, legal, information technology, and marketing.

- ✓ **Establish e-commerce security procedures.** Set up due diligence procedures for systems security and business continuity, and test these methodologies. If a company cannot build the infrastructure to support security, it should consider outsourcing it.

By: Randall Mohammed, ARM
Telecommunications Services of Trinidad and Tobago
From IRMI Update 23 (Aug. 21, 2001)

8 Set Up a Fraudulent Claims Prevention Program

Insurance fraud is endemic in the United States and takes approximately $100 billion every year from the industry. Avoiding, or reducing, the flow of cash due to fraud requires the following from insurers.

1. An effective, well-trained and funded Special Investigation Unit (SIU).
2. A claims staff that is honored for detecting potential fraud and referring it to the SIU for further investigation.

To maintain an effective SIU the following steps must be taken by the insurer:

- ✓ Employ sufficient SIU staff to investigate no less than 3 percent of your claims since insurance fraud is involved in 3 to 10 percent of all claims.
- ✓ Train your SIU personnel to read and understand insurance policies issued by the insurer.
- ✓ Train your SIU personnel on the elements of the crime of insurance fraud and what is necessary to cause a prosecution to begin.
- ✓ Train your SIU personnel on the information needed to use fraud as a defense to a civil suit.
- ✓ Train your SIU personnel to be effective insurance investigators and interviewers.

To keep your SIU busy, it is imperative that every insurer train every claims person to recognize potential insurance fraud. To do so, it is necessary that they learn to recognize the "red flags" or indicators of insurance fraud. It is also imperative that the claims personnel recognize that red flags are not evidence sufficient to accuse someone of fraud but only enough to cause the insurer to thoroughly investigate the claim to determine if there is evidence to establish fraud.

If you are a risk manager or insurance buyer, you would be wise to ask your insurer about its process for identifying and dealing with fraudulent claims. If there is no process similar to this one, your loss experience is probably being adversely affected.

By: Barry Zalma, Esq., CFE
Barry Zalma, Inc.
From IRMI Update 70 (Aug. 12, 2003)

9 Implement Enterprise Risk Management Concepts

Many companies are considering enterprise risk management concepts but are quickly overwhelmed with the range of issues they need to consider. Here are a few simple ideas to get things started.

- ✓ If you are a public company, begin by asking the person or group that identifies risks for SEC reports to also identify the top three corrective actions for the next quarter. Update the list quarterly.
- ✓ Ask your insurance brokers for a list of exposures. Your broker should be able to provide you with information about insurable risks and uninsured or non-insurable risks.
- ✓ Hold a meeting with representatives from Human Resources, Legal, Operations, Finance, and Sales to identify overlapping areas of responsibility and gaps. Typical examples include contract review, credit management, information technology, employee safety, and acquisitions. Develop processes for managing overlaps.
- ✓ If your company has formal quarterly or annual objectives, ask each employee to identify the risks that could block implementation and to include risk mitigation strategies.
- ✓ Coordinate the development of a business continuity plan with an enterprise risk management review. In both cases, you need to focus on the areas of greatest potential loss.

Many formal approaches can be used to categorize, prioritize, and implement risks, but one of the fundamental requirements is cross-departmental communication. The above measures will help to establish a foundation for future action.

By: John Schaefer
ABD Insurance and Financial Services
From [IRMI Update 64] (May 6, 2003)

10 Assess and Manage Your IP Risks

With the growing recognition of the importance of intellectual property, it is imperative that organizations fully exploit their patents, copyrights, and trademarks while at the same time minimizing or insuring the risks that accompany such actions. The following plan of action is recommended:

- ✓ Review and catalog all intellectual property, looking carefully at the ways the company uses it and related technologies. Consider what would happen if the intellectual property rights were invalidated.
- ✓ Review current operations with a view toward discovering any exposure that might result in business interruption, loss of royalty payments, or a need for any redesign, remediation, and reparation that may occur or be required if your firm is found to be infringing on another's intellectual property.
- ✓ Focus on those areas of greatest vulnerability, and then conduct an audit of intellectual property defense and enforcement policies and procedures.
- ✓ Assess the viability of these policies and procedures and the associated need for insurance in the areas of infringement abatement, infringement defense, and loss of intellectual property value.
- ✓ Review available insurance and determine which programs cover the above-identified risks.
- ✓ Use the team approach, joining the risk manager, director of research, chief patent counsel, and group or division leader to make decisions in this area.

By: Robert W. Fletcher
Intellectual Property Insurance Services Corp.
From IRMI Update 30 (Dec. 4, 2001)

11 Obtain Business Income Coverage for Damage to Leased Equipment

Business income coverage under some property forms is triggered by a loss to covered property insured under the policy. With the rapid advances in technology (computers, mainframes, telephone switches, etc.) taking place today, businesses must continuously upgrade equipment to keep up to date with the latest innovation. Therefore, instead of buying equipment that could rapidly become obsolete, the trend now is to lease this equipment. The lease agreement often requires the lessor to insure the equipment, so the insured (lessee) need not add it to its property schedule.

What happens when the insured suffers a business income loss and the property or equipment damaged was not listed in the policy or part of the blanket limit of coverage? Most likely the insurer's response would be, "No coverage." The simple solution is to have the insurer add wording to the policy by endorsement saying essentially the following:

> It is understood and agreed that the Business Income Coverage provided under this policy will be applicable to all physical losses to property and/or equipment sustained by the Insured whether such property and/or equipment is insured under this policy or under some other form of insurance provided by the owner or supplier of said property and/or equipment

This endorsement wording will have no effect on the insured's obligation to insure all of its property and equipment under its own policy, but will prevent the insurer from denying a business interruption claim simply because the direct damage insurance on the insured's equipment was provided by another party.

By: John Darlington
HRH Baltimore
From IRMI Update #5 (Nov. 14, 2000)

12 Get Rid of Obsolete Stock and Equipment

Sometimes manufacturing plants have overstock that becomes obsolete. It gets stored in a warehouse somewhere and is carried on the balance sheet as an asset. They pay insurance premiums, taxes, and waste valuable money housing items they will never use or sell.

Often, a better practice is to either have a "garage sale" and sell the obsolete items or simply dispose of them. The extra cost to warehouse obsolete items plus the chance of having a coinsurance penalty imposed because of being underinsured is too high. It is better to sell it at a loss than to continue to pay for things you do not use.

A plastics manufacturer in Dallas had a large warehouse half filled with obsolete or outdated stock. When we were talking about contents valuations, the manufacturer had not included these items, yet an astute adjuster would have included them to determine the insured value required by the coinsurance provision if there had been a major loss. The manufacturer had a garage sale and made at least some of its money back on the product while reducing its warehouse, taxable inventory, and insurance costs.

This could apply to obsolete equipment as well.

By: Mary Roth, CPCU, HB
Staff Training Programs
From* IRMI Update #9 *(Jan. 23, 2001)

13 Remember Products Liability When Disposing of Stock and Equipment

Mary Roth's Risk Tip in IRMI Update #9, to dispose of obsolete inventory or equipment rather than store it indefinitely makes great sense. This holds true whether by sale, as Mary suggests, or by donation to charity. If there is any probability that the equipment will be used again, there are product liability risks associated with its disposal that you need to manage.

Some things to consider when deciding to sell or donate used equipment include:

- ✓ How hazardous is the equipment?
- ✓ What was wrong with the equipment for it to become expendable?
- ✓ Was it too old to operate, did not operate properly, or were replacement parts unavailable?
- ✓ If the original manufacturer or seller has gone out of business, the seller of used equipment may have full liability.

Some measures to consider to help mitigate this product liability exposure include:

- ✓ Obtain advice of qualified legal counsel to be sure all mitigation measures are appropriate.
- ✓ Make it clearly understood, in writing (such as in a sales agreement), that the equipment is being "sold as is."
- ✓ Specify what "sold as is" might mean, i.e., with no inspections, testing, reconditioning, or repair performed.
- ✓ Recommend that the buyer or recipient have it inspected and tested before it is used and repaired or upgraded as needed to be sure it is safe for use.
- ✓ If there are any known safety hazards or deficiencies, identify them, and either repair them or recommend that the buyer/recipient repair them. It might be best to just scrap the equipment and not sell it or give it away.
- ✓ Include an indemnity clause specifying that the buyer or recipient holds the seller (or company who donates the equipment) harmless for all liability, legal fees, and expenses, etc., arising out of the use of such equipment.

By: Kenneth E. Ryan
FCCI Insurance Group
From** IRMI Update #10 **(Feb. 6, 2001)

14 Prepare Superior Underwriting Presentations

It amazes me how few agents and brokers appear to take the time to adequately prepare underwriting presentations on behalf of their clients. In that light, here are what I perceive as the three deadly sins.

1. **If you don't know more about the risk than the underwriter, you lose.** It is immaterial what the risk is—know "everything" possible about it. If that means studying subject matter, so be it. For example, if the presentation covers a chemical risk, understand the chemicals, know whether they are potentially explosive, reactive, nonreactive, etc. Fully understand the physical risk, and have a clear handle on losses and loss potential.

2. **For goodness sake, stop using ACORD forms.** Present your clients in a format that includes:

    - An executive summary
    - General and physical information of the potential risk
    - Safety or industrial certifications, e.g., ISO 9001, and espouse on their value
    - Coverage specifications
    - Full underwriting information
    - Complete loss data and, if casualty oriented, you had better be prepared to defend trended and developed losses
    - Premium expectations

3. **Never, never ask for a quote.** Advise underwriters of premium expectations and be able to defend them.

By: Peter Polstein
IRMI.com Expert Commentator
From IRMI Update 48 *(Sept. 10, 2002)*

15 Smooth the Risk Wrinkles That Come with an Aging Workforce

The changing face of today's workforce is adding a few wrinkles to the way risk managers handle escalating costs of medical, wage replacement, and lost productivity. Chronic conditions, such as heart disease, arthritis, back problems, respiratory disease, and diabetes lead the way in medical care of the over-55 population. One of the best ways to combat rising medical costs for these chronic conditions is to address the lifestyle issues contributing to their onset and management and to promote healthy life choices. What can you do?

- ✓ Encourage employees to become educated about their health issues.
- ✓ Offer Health Risk Appraisals to employees.
- ✓ Introduce Disease Management Programs to promote healthy behavior.
- ✓ Make healthy food options available.
- ✓ Encourage exercise.
- ✓ Discourage unhealthy habits by prohibiting workplace smoking.
- ✓ Employers with large employee concentrations may benefit from on-site medical facilities.
- ✓ Employee Assistance Programs (EAPs) can assist employees with family and home issues that sometimes emerge when managing long-term chronic conditions.
- ✓ Allow for breaks. Build limited mobility into work tasks. Being sedentary or standing for long periods can be taxing on an employee with a health condition.
- ✓ Conduct periodic ergonomic assessments.
- ✓ Allow for breaks in concentration and focus by dividing tasks into shorter cognitive units.
- ✓ Establish a safety committee. Recognize and reward valuable safety suggestions.
- ✓ Build in accountability for safety at the front-end supervisor level.

By: Wendy Manners
Specialty Risk Services
From IRMI Update 94 (Aug. 10, 2004)

16 Implement Win-Win Fire Safety Training

We're a medium-size property management company handling mostly apartment complexes and senior housing. Fire safety is one of our major concerns, especially with the senior housing. We've arranged for the local fire departments in various communities to come out to our locations and supervise a fire drill. While there, they also are given an opportunity to demonstrate some of their equipment. They've shown our tenants how to operate a fire extinguisher and explained what to do and what not to do in case of a fire. On a couple of occasions, we've given them permission to use our building for a practice ladder exercise.

These demonstrations are a tremendous benefit to our tenants and staff, and additionally, they're very entertaining. The fire crews love it as well as it gives them an opportunity to promote fire safety and show off some of their new equipment. It's also great for community relations. Our insurance underwriters love it too.

We started this program with our senior housing in mind, but we're now expanding it to all our multifamily units and even to our office building properties. It's becoming an entertaining, educational, awareness developing, social event at many of our properties.

By: Dennis Engstrom
The Newbury Companies
From IRMI Update 120 (Sept. 14, 2005)

17 Use Loss Control and Insurance To Combat Employee Dishonesty

The day before Independence Day is a slow news day. Perhaps that explains why the *New York Times* Metro Section on July 3, 2008, had two long stories about employee dishonesty. One reported that a staff accountant stole $2.8 million dollars from his employer, Tishman Realty & Construction, and the other dealt with the Riverdale Country School suing a former bookkeeper to recoup $960,000 that she had embezzled.

Tishman is a major player in the New York and national real estate field; Riverdale Country School is an upscale New York City private school. In addition to falling victim to the dishonesty of trusted employees they have something else in common: the employees both had prior histories of employment dishonesty! The lesson for us is obvious: Institute loss control and insurance limits.

Employee dishonesty risk management starts with checking prior history. Other good steps are outlined in the questions in typical employee dishonesty applications. For example:

- ✓ Audits by an independent CPA that include a review of internal controls
- ✓ Two signatures required on all checks over a nominal threshold
- ✓ Separation of duties and mandatory vacations for accounting/bookkeeping personnel
- ✓ Confirmation of statement balance by someone outside the accounts payable unit
- ✓ Stamping invoice "paid" when checks are issued
- ✓ Joint control of securities by two employees
- ✓ Regularly inventorying valuable equipment and storing it in secure areas
- ✓ Computer controls including:
  - ❖ Automatic prevention of repeated attempts of unauthorized access
  - ❖ Exception reports generated for unauthorized sign-in or repeated access attempts
  - ❖ Segregation of duties between programmers and operators
  - ❖ Individuals who can authorize checks should not also be able to produce them

The answer to the question of what is an adequate employee dishonesty insurance limit is: "More than you think." Because employee dishonesty losses can go on undetected for years, even relatively small businesses can suffer very large losses. The record is probably held by a small Michigan County whose treasurer stole $1.2 million even though the county's annual budget was only a little over $4 million. Incidentally, he stole the money to fund his investment in a Nigerian Internet swindle!

A good starting point is 10 percent of annual budget, sales, etc., but note that in the case of the county, the amount stolen was more than 25 percent of one year's budget. Employee dishonesty is an exposure that gets little respect. It's time that it did.

By: Jerry Trupin, CPCU, CLU, ChFC
Trupin Insurance Services
From IRMI Update 190 (Aug. 20, 2008)

18 Think Like an Underwriter

Many small business owners outsource much of the regular day-to-day insurance management/selection functions to an insurance company representative or agent/broker. However, it is important to retain control over your loss and coverage information and know how it is being presented to potential insurers. To achieve the greatest satisfaction relative to your insurance requirements and your associated servicing and pricing expectations, you have to think like an underwriter and be prepared to provide what they need to write your business. Build and maintain a risk profile so you can show a historic record of your exposures, loss data, and insurance contracts. It is important that you maintain the file—you don't want to depend on past insurers for this historical loss and coverage information. Keep it on hand and current:

- ✓ **A narrative/history of the firm**—Be positive and realistic. Well-managed accounts that have adapted well during all economic cycles will result in an underwriter competitively pricing your business.
- ✓ **Resumes of key management**—Show you know your business and have a great team behind you.
- ✓ **Sales brochures/Web pages,** if applicable.
- ✓ **D&B Report on your business**—If D&B is unable to complete a report, you may get a lower financial grading. Had a few bumps in the road financially? There are companies willing to work with you, but less so if they have to pull teeth to get the information.
- ✓ **Audited financials,** if applicable.
- ✓ **Estimated values,** including sales, workers compensation payroll, automobile fleet, and property and equipment.
- ✓ **Historic sales, payroll, and auto units** for the past 5 years
- ✓ **Insurer loss runs/claim runs** of the previous 5 years for all policies, valued within 90 days of your renewal.
- ✓ **Outline of your safety plan(s).**
- ✓ **Fleet maintenance schedules.**
- ✓ **Your workers compensation experience modification factor,** if applicable.

Insurance companies have invested greatly in computer systems that track all client insurance data. Be sure to review this information for accuracy and add it to your own database. By maintaining your insurance profile information in a comprehensive, accurate, and current manner and staying on top of how that information is being presented, you stand a far better chance of securing a competitive and effective insurance program.

By: Ted McKenna
AIG Small Business Construction
From IRMI Update 173 ***(Jan. 9, 2008)***

19 Allow Adequate Lead Time for Competitive Quotes

If you are a commercial property and casualty insurance buyer, you have no doubt been frustrated that your renewal proposals are often presented 1 or 2 days prior to the effective date of coverage. This leaves little time for analysis, questions, and negotiation. The sad fact is that, with an eye on expense ratios, insurance companies have stretched their underwriting staffs to the limit. Underwriters with growing workloads struggle to deliver program quotes by the deadlines that agents and customers establish.

The best way to combat this trend is to start the quote process as early as possible. Working 90 days in advance of your program renewal is advisable. This allows for the extra time needed for underwriting questions (which are not always asked immediately), loss control inspections, and negotiation by your agent. An underwriter is more likely to meet a requested deadline if a company's specifications and information are presented with more than minimum lead time.

So, next time an agent calls you in August to quote your November renewal, remember that that's a good thing!

By: Joseph L. Pilato, CPCU
Maran Corporate Risk Associates
From* IRMI Update 141 *(July 26, 2006)

20 Use Quick References for Insurance Information

Most organizations require multiple insurance policies to cover all their risks, and it is not uncommon to have several similar types of policies in effect (e.g., general liability, umbrella, E&O liability, and D&O liability insurance). This can easily lead to confusion as to what constitutes a "claim," when it should be reported, and to whom.

We designed "cheat sheets" for our clients that they can attach to the outside of the file jacket. It provides the definition of "claim," along with a simple plain-English explanation. The reporting requirements are also summarized: how to report, to whom, and what information should/must be included.

We also provide them with a cross-reference to other policies that might be affected by the receipt of a claim. This gives the client a logical starting point and cuts down on time spent looking for and reviewing policies.

We always remind them that the insurer has the final say on whether coverage is afforded.

By Stephanie A. Cafiero
Callie Consulting & Insurance Services
From IRMI Update 169 (Sept. 19, 2007)

21 Obtain a "Knowledge of Occurrence" Endorsement

Most liability policies contain clauses requiring prompt notice of claims or even events that may lead to claims. While it is reasonable for insurers to require prompt claims reporting to give them an opportunity to investigate and provide for a defense, these clauses can lead to coverage problems.

Take, for example, an actual situation where a new employee was being harassed at work. She complained to her supervisor on several occasions, but the supervisor failed to take any action. The more she complained, the worse the harassment became, until she was forced to resign and later filed a discrimination charge with the EEOC. It was more than a year after the employee first complained of the harassment that a Senior Investigator for the EEOC sent notice of the claim to the insured organization, which it promptly reported to its employment practices liability insurer.

The insurer denied coverage on the basis of a "Prior Claims and Potential Claims Exclusion," which stated, "This policy does not apply to any claim or loss arising out of any matter that was listed, or should have been listed, in the application attached to this policy." The insurer went on to point out that the insured specifically responded "No" to the questions in the application about whether or not any persons had filed complaints with the EEOC.

The question of whether the insurer's position was correct is debatable given the facts. However, the debate was unnecessary because of two endorsements the insurer overlooked when it denied the claim. The insured clearly was entitled to coverage because the policy was endorsed with a "knowledge of occurrence" provision that stated:

> Knowledge of an occurrence by an agent, servant or employee of the named insured shall not in itself constitute knowledge of the insured unless the Chief Financial Officer shall have received such notice.

Further, the policy was endorsed with a provision which read:

> Failure to disclose all existing hazards at the inception of the policy, or errors or omissions in applications or other documents shall not prejudice the insured in regard to the coverage provided by this policy, provided that such failure was unintentional.

Such provisions frequently prevent extended disagreements between insureds and their insurers over whether or not a claim can be denied on the basis of late reporting or prior knowledge. While these provisions are rarely included in insurers' standard policy forms, they can often be obtained through negotiation and be added by endorsement.

By: Steve Bird, CPCU
Esses Consulting, Inc.
From** IRMI Update 17 **(May 22, 2001)

22 Take Action before, during, and after the Premium Audit

Before your premium audit, be sure your exposures are accurate:

- ✓ Notify your broker when changes occur that affect your workers compensation (number of employees, job classifications, payroll, states of operation) or commercial general liability (payroll, sales, area or other basis for premiums) policies. These changes could affect not only the cost of your insurance, but also the insurer's obligation to cover a claim.
- ✓ Understand what "remuneration" does not include, such as: expense reimbursement to employees, contributions to benefit plans, work uniform allowances, and perks such as company-provided vehicles. Make sure your payroll records identify the officers, so the auditor can cap their compensation.
- ✓ Track overtime pay separately—both by individual employee and for all employees in a classification, so overtime is counted as straight time for workers compensation.
- ✓ Verify that your contractors have their own insurance in force. If you don't, their payroll becomes your payroll. If your contractors can't provide certificates of insurance, charge back to them the portion of your insurance cost that is based on their payroll. Follow the IRS criteria to make sure your contractors are "independent."
- ✓ Monitor your claim reserves so your debit or credit modification reflects current reserves.
- ✓ Once notified of an audit, conduct a "dry run" to compare your projected results with the actual audit.

During the premium audit:

- ✓ Have available your federal and state tax reports, ledgers, checkbooks, contracts, 1099s or other documents the auditor specifies.
- ✓ If conducted at your site, stay in the room during the audit to answer questions.
- ✓ Make sure rates and classifications on the audit match the current policies.
- ✓ Make sure officers are identified.
- ✓ Ensure the "experience modification factor" used on the workers compensation audit, and any experience calculations used for the commercial general liability policy, are current. If you are not sure the auditor's worksheets reflect your actual claims experience, have the auditor check the claim files.
- ✓ If there's an error on the experience modification factor, make sure the insurer

notifies the National Council on Compensation Insurance to make the correction.

- ✓ Get copies of the draft worksheets from the auditor.

After the premium audit:

- ✓ Compare draft worksheets with the final audit. Check for simple mistakes like transposition errors.
- ✓ Make sure overtime was not charged inappropriately.
- ✓ Ensure no contractors were classified as employees if you had certificates for them and they satisfied the IRS "independent contractor" criteria.
- ✓ Make certain former employees are not shown on the payroll unless they actually worked during those policy periods.
- ✓ If an error in the experience modification factor was discovered, make sure the insurer corrects it.
- ✓ Keep in place all the controls described in the first part of this article.

By: William Henry
The CIMA Companies, Inc.
From IRMI Update 174 (Dec. 12, 2007)

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23 Promptly Provide Insurers with Notice of Lawsuits

Sometimes risk and insurance professionals are reluctant to give notice to insurers of potential business litigation lawsuits when it isn't clear that the event is covered under their policies or in fear that future premiums will be adversely affected. Electing to not provide notice of claims is problematic for at least five distinct reasons.

1. Since the duty to defend is broader than the duty to pay, a defense may be available even if any subsequent settlements or awards aren't covered. Cash flow recognized from defense fee reimbursement in such cases can be significant.

2. Insurance brokers' exposure to errors and omissions claims rises when potentially covered claims of which they are aware are not reported to insurers.

3. Difficulties in discerning when the first alleged wrongful conduct occurred that might trigger coverage could cause the analyst to apply the wrong policy terms to the coverage analysis.

4. Most jurisdictions follow the rule that a narrowing of insurance coverage that is not brought to the insured's attention cannot be applied. Thus, pre-wrongful acts inception policies must also be reviewed.

5. Current business litigation exposure is but one of the liability risks to be assessed by underwriters upon renewal. Anecdotal evidence seems to indicate that premium adjustments rarely occur in connection with this claims activity.

In summary, it is wise to carefully consider submitting any legal liability claim against the organization to insurers, even if it initially appears to involve issues and circumstances beyond the scope of the insurance program. Reporting claims will avoid allowing the insurer to later use late reporting as a defense to providing coverage. As the litigation matures and more facts become known, a final coverage determination can be made.

By: David Gauntlett
Gauntlett & Associates
***From** IRMI Update 101 (Nov. 23, 2004)*

24 Avoid a Carbon Monoxide Headache

Carbon monoxide is colorless, odorless, and deadly. One of the early signs of carbon monoxide poisoning is a severe headache—and that's exactly what many insureds get when they submit a liability claim resulting from death or injury due to carbon monoxide poisoning. Insurance companies argue that such claims are barred by the CGL pollution exclusion. (See "Pollution Exclusions in CGL Policy Bars Coverage for Carbon Monoxide Poisoning.")

The pollution exclusion was intended to eliminate coverage for catastrophic Superfund environmental exposures, but it is often read to exclude claims that were accepted by insurers without problems under previous policy wordings. To ameliorate this problem, Insurance Services Office, Inc. (ISO), has over the years added exceptions to the pollution exclusion that provide coverage for claims arising from such things as hostile fire, motor vehicle lubricants, etc. A recent broadening was the addition of an exception for claims due to fumes, etc., from equipment used to heat, cool, or dehumidify a building or to heat water for domestic use. This coverage is included in the latest ISO commercial general liability (CGL) forms (e.g., CG 00 01 12 07).

That's the good news. The bad news is twofold: (1) not all carbon monoxide cases arise from heating, etc., equipment (the one in the IRMI article mentioned above didn't); and (2) many larger insurers use their own forms when insuring middle-market and national accounts. In reviewing policies for our clients, more often than not we find non-ISO CGL policies, and in a surprising number of cases, we find the broadened wording missing.

You have to seek amendments to those policies to close the gaps. Better policy wording beats telling your client to take two aspirin and call a doctor if the pain persists.

By: Jerry Trupin, CPCU, CLU, ChFC
Trupin Insurance Services
From IRMI Update 186 (June 18, 2008)

25 Clearing Your Office Is Good Risk Management

It is amazing how much customer private information is left on an employee's desk at lunch hour and at breaks. We recommend that screen savers with passwords be used on computer workstations when employees are away from their desk. This is a simple and cheap way to enhance the security of private information which employee's must have access to but must otherwise be protected. We suggest screen saver passwords be changed monthly by management and access to them be limited. We also recommend that desktops be cleared at night so that cleaning personnel and others do not have immediate access to information that is confidential. Information is just as valuable as your bank account in today's business environment.

Ask your clients to walk with you around their office after closing. You will be amazed how much confidential information remains on desktops overnight. Even more amazing is that many times we find that employees do not have a clear understanding of how much damage can be done if the information falls into the wrong hands. A frank talk with employees about this issue and vigilant monitoring are the least expensive forms of risk management. You do not have to be a computer technician to develop ways to make your client's office operation more secure.

By: Chester A. Butler, III
The Butler Company, Inc.
From IRMI Update 44 (July 9, 2002)