Following the Rules
By Chris Burand

Good E&O risk mitigation procedures almost always enhance agency productivity and profitability. I've met many agency owners and producers who question that logic–but I've never met a staff member who questioned it. This fact really gets to the heart of many E&O issues. Good procedures makes the staffs' jobs easier. On the other hand, good procedures may initially make a producer's job more difficult until the producer gets use to them. So the owner, who is almost always a producer by trade, resists implementing and/or following procedures. If the agency has no desire to minimize E&O claims, improve productivity, or improve profitability, this behavior is not an issue. If the goal is to minimize E&O claims, improve productivity, and improve profitability, then producer behaviors need to change.

The following three questions will help you decide which path is best for your agency:

1. Is an E&O claim caused by a CSR more expensive than an E&O claim caused by an owner or producer? No. So why shouldn't owners and producers follow procedures if CSRs are expected to follow procedures?

2. Does an agency's risk of losing an E&O claim increase if some people follow procedures and others don't? Yes. So why have double standards for following procedures?

3. Does having two work quality standards increase or decrease:
    - Agency morale?
    - EPL exposures?
    - Ease of employee management?

If you need more evidence of the benefits of following procedures, consider these four simple examples:

1. If a producer has to follow all procedures on small accounts, they will find they will not have time to:
    a. Do all their work
    b. Write new business

At first glance, this is not an acceptable result and that is why so many agency owners begin side-stepping procedures. Doing so is a mistake because producers will run out of time only if they have too many unprofitable accounts. The producers make money on these accounts, but the agency certainly does not. Producers effectively work on a cost+ basis in most agencies. In other words, regardless of their cost, they will make a profit. This enables producers to make a profit on virtually every account they write. Agencies, on the other hand, only make a profit when their expenses are less than their commissions and it is easy to spend more staff time and resources on small accounts than those accounts generate in commission.

The only reason producers can keep on writing unprofitable, small accounts in many agencies is because the agencies do not enforce their own procedures. The best way and a quite simple way to align the producers' actions with the agency's best interest is to make everyone follow the same rules. The result is more horsepower because the producers and the agency will be working toward the same goal while simultaneously decreasing E&O exposures and improving agency morale.

2. Staff productivity increases because if producers follow procedures, staff members can do their jobs more efficiently. With ten CSRs, for example, a 10% increase in productivity would be the equivalent of one CSR. The extra productivity can be used to handle growth or to reduce the number of CRS. If an agency chose to reduce headcount, the saving would be $25,000-$40,000 every year!

3. Some E&O carriers are raising rates even when agents only put their carriers on notice a claim may be filed. Not that a claim is ever filed, must less is the claim lost, only that the carrier is put on notice. Better procedures will decrease E&O exposures and therefore, in all likelihood, decrease E&O notices resulting in even more savings.

4. Better procedures decreases staff turnover. My experience analyzing and working with agencies for almost two decades is that agencies with better procedures, and procedures that are actually followed, have lower staff turnover. This outcome is logical. Having two standards is demoralizing and unnecessarily increases the workload, both of which decrease job satisfaction. Just how much do you really enjoy finding and hiring new staff?

Does it really make sense to have two standards? If the reason the agency's producers do not have to follow the rules is because it might impair their ability to write new business, just how profitable is that business? Is the price paid in inefficiency and staff turnover worth it? Consider again for a moment that 10% gain in staff efficiency. Using a 7% profit margin (which is within the normal range for agency profits), $25,000 to the bottom line is equal to $357,000 in commissions. How many of your producers even produce $357,000 in commission? Double standards simply do not make sense and is obviously an unprofitable strategy.

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