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your clients



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Creating value for agents and brokers  
who sell public entity products

# The Public Forum

## Partnering with you to bring value to the marketplace

As our business environment grows increasingly competitive, the value we as partners provide to the public entity marketplace becomes more critical. Our ability to succeed goes beyond the price that we charge for our product and relies heavily on how well we utilize our combined expertise in public entity business to benefit our clients.

Travelers Public Sector Services' second-to-none specialized risk control and claim services provide us with the unique ability to differentiate ourselves in the marketplace. As importantly, the value and knowledge you bring to your clients figures greatly in our combined abilities to attract and retain business. As the complexity of public entity operations continues to change, we want to continue to partner with you – providing information and quality specialized services that support you in delivering value and expertise to your current and prospective customers. Hopefully, this edition of The Public Forum will help you in that endeavor.

Public Sector Services will remain focused on the core business we have developed so successfully together. Our strong balance sheet in this business segment, coupled with the financial strength of Travelers, positions us well for future opportunities. We will continue to invest in specialized underwriting and marketing expertise as well as risk control and claim handling capabilities to remain a market leader. But our commitment doesn't stop there. We will continue to develop and enhance products that not only meet the needs of this unique market but also provide both of us with a competitive advantage.

As we approach the latter part of 2008 and look to 2009, we will endeavor to capitalize on those key business components that have made us successful: our agents, our specialized expertise, and those core products and services that comprise our value proposition.

Thank you for your partnership with us. I look forward to working with you to grow our businesses together in the coming months and years. As always, we welcome any thoughts or ideas you may have for ways to better serve you and your clients.

Dave Hall

## Police moonlighting: coping with gray areas

A deputy sheriff takes a part-time job providing security at a shopping mall. One day, he pursues a shoplifter into the parking lot and is wounded in the ensuing gun battle. An open-and-shut workers compensation case, of course. But under which employer’s policy? The public agency that gives him authority to make arrests or the private corporation he was being paid by at the time of the incident?



Surprisingly, the answer lies in a gray area that often depends on a judge’s perspective. In similar cases, courts have reached different conclusions. Some hold that a deputy acts “under the color of law” – essentially, always on duty when taking action that can be construed as enforcing the law. Some give weight to employment contracts that define who is responsible for coverage, but others do not. Still others look at whether the officer identified himself, or was in uniform, or followed law enforcement protocols.

The potential liability from moonlighting goes beyond workers compensation issues. Lawsuits have been filed that argue poor decisions or rash actions are the result of officer fatigue from working long hours or back-to-back shifts for different employers. Conflicts of interest have been claimed, as well as behavior that violates law enforcement ethics.

It all adds up to exposure that can come as an unpleasant surprise to an unsuspecting public law enforcement agency. But addressing moonlighting

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liability is an opportunity for agents to strengthen their relationship with these customers by offering access to risk control expertise.

At Travelers, we provide resources that you can tap into to help your customers create off-duty employment policies that position them to handle moonlighting issues with confidence. We also share the established guidelines that Travelers underwriters use when they look at a customer's risk control practices. Key elements include:

- **Pre-approval of jobs.** By requiring all officers who take on secondary jobs to clear them first, a public agency can avoid conflicts of interest and situations that could potentially embarrass the agency. For example, agencies should consider restricting officers from acting as investigators for divorce attorneys, bouncers at bars and debt collectors.
- **Limit on number of hours worked.** Officers need to be fresh and ready to make good decisions at their primary jobs. By establishing limits on the total number of outside hours worked and requiring downtime between work shifts for different employers, agencies can avoid claims that fatigue is impairing their officers' decision-making ability.
- **Secondary employer liability.** A public agency may establish the requirement that officers may only accept moonlighting jobs from employers who agree, through a binding contract, to assume liability

for the officer's actions. However, public agencies should be aware that courts may still assign responsibility to them if the officer's actions are perceived to be within the scope of law enforcement – the “under the color of law” provision.

- **Acting as contractor.** The one approach that eliminates gray areas is to have the public agency restrict moonlighting to jobs it offers under contract. For example, a school district or shopping mall would contract with a police department for private security services. Liability then becomes centralized at the public agency. However, some agencies are reluctant to take on this type of entrepreneurial activity or the added administrative responsibilities.

Another alternative is to forbid moonlighting entirely. While this may be a prohibition that appeals to some insurers, Travelers understands the interest that public agencies have in giving their employees outside opportunities. Moonlighting not only allows officers to make extra money, but also raises the visibility of law enforcement in the community and contributes to anti-crime efforts.

Agents can play an active role by educating their public agency customers about the potential liabilities involved and working with them to carefully control their moonlighting programs. With Travelers assistance, you can bring your customers out of the gray and into a black-and-white strategy.



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## Are your clients ready for the Red Flag Rules?

Just a few decades ago, saving information on microfiche or in paper files was standard operating practice for retaining municipal records. Today, the speed and efficiency of a computer system makes those former practices look antiquated and quaint.



Starting in May, your clients could be liable for the storage of customer information – whether in electronic or paper format.

However, speed and efficiency have hidden costs associated with their benefits. Computers are not cheap to purchase and maintain. Employees need to be trained on technology which is ever-evolving. The cost of back-up servers and data storage over time cut into budget dollars quickly. And these costs will continue to escalate beginning May 1, 2009.

Starting in May, your clients could be liable for the storage of customer information – whether in electronic or paper format – based on the Federal Trade Commission’s final ruling to the 2003 Fair and Accurate Credit Transaction Act (FACTA). The final rules require creditors that hold consumer accounts to develop and implement a written **identity theft prevention program** for combating theft of personal information associated with those accounts.

This written program must include policies and procedures for:

- Identifying relevant Red Flag risks and incorporating these Red Flags into the program.
- Detecting the Red Flags that have been incorporated into the program.

- Responding appropriately to Red Flags that are detected to prevent and mitigate identity theft.
- Ensuring the program is updated periodically to reflect changes in risk to customers from identity theft.

The term “creditor” is loosely defined by the FTC and does apply to municipalities or government agencies if their collection programs permit deferred payments for services or obligations. Examples of municipal deferred billing can include, but are not limited to, the following:

- Providing utility services (water, sewer, gas or electric) to customers and billing for actual usage at a later date;
- Allowing for the registration of municipal-sponsored activities (little league, swimming classes, recreation center events or senior citizen trips) and charging for the activities after the date of the activity or event; or
- Setting up a payment schedule for delinquent accounts to be paid over time.

The FTC Web site has an interactive tutorial to help review your exposures as well as how to implement corrective action. One of the best tips is to make

sure sensitive identity information (such as names, dates of birth, addresses, driver's license, social security and bank account numbers) is adequately protected or encrypted. Safeguarding sensitive data will provide an excellent defense and possibly put you outside of rule violations.

Security breach costs for a creditor can average from \$90-300 per lost record. While costs will vary depending on the particular incident, even if you have a breach impacting 1,000 individuals, you are looking at a minimum of \$100,000 in security breach-related expenses. These expenses can include costs to comply with breach notification laws, internal costs such as lost productivity, loss to reputation and regulatory costs.

A sound identity theft prevention program can reduce or mitigate your exposures and you can also purchase cyber liability insurance to reduce the impact of a security breach or identity theft claim should one occur.

Here at Travelers, we offer **Public Entity Cyber+ Liability** coverage specifically designed for public entities and their unique operations:

- Our form offers coverage for your **Communications & Media** exposures such as copyright or trademark infringement and plagiarism;
- Equally important, we will protect you for **Network & Information Security** exposures which include the failure to prevent the transmission of a computer virus, unauthorized



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user access to your computer or communications network and unauthorized access or use of private electronic information of others; and

- Endorsement options are also available for: a) **Crisis Management Expenses** and b) **Security Breach Notification Expenses**.

May will be here before we know it! If your public entity client is offering deferred billing payments, they will likely be subject to the new Red Flags Rules. Check with your client to be

sure their policies and procedures are current for all identity theft prevention requirements. And if they don't already purchase cyber liability coverage, get your client in-synch by calling your Travelers Public Sector Services Territory Manager for a proposal today!

**Note:** *These Red Flag Rules were originally scheduled to be implemented in November 2008 but the FTC will delay enforcement until May 2009 to allow all impacted businesses and public entities ample time to come into compliance.*



### It's more than just price

Because coverage provided by workers compensation insurance is regulated by state law, your customers may tend to focus only on price when comparing programs.

They may overlook the many other aspects of workers compensation coverage that can ultimately lower their overall costs while delivering the quality program they need for their employees. By educating them to look beyond the price tag, you can help them make smart decisions. At Travelers, we want to assist you with effective sales tools and a compelling track record of providing valuable service to our public sector customers.

The following two stories illustrate how we are ready to partner with you to close the workers compensation deal. TravComp® is a tour, both virtual and onsite, which explains to your customers how our aggressive claims management approach will help them save taxpayer dollars and keep their public servants on the job. PIM (Post-Injury Management) is a strategy that gets employees back to work faster, thus greatly lowering costs. These are just two of many differentiators that separate our coverage from our competitors – stories worth sharing with your public sector customers and prospects.

### TravComp® tour wins hearts and minds of customers

You wouldn't buy a car without taking it for a test drive – yet most public entities buy workers compensation insurance knowing little more than the price. At Travelers, we're working on changing that with a claims management process tour that gives customers a front-row seat and lets them "kick the tires" before reaching a decision.

If managing a claim is largely a paper-shuffling process, then how compelling is a tour?

In 2007, nearly 40 percent of potential customers who visited our claims management centers chose Travelers as their workers compensation carrier. That's because our approach – what we call TravComp – is much more than just processing the paperwork.

TravComp is a unique model that uses teamwork and technology to fairly resolve workers compensation claims,

reduce claim costs and return employees to productive work as quickly as possible. We integrate medical case managers and nurses with investigators and file managers to make sure each claim is appropriately handled in a streamlined manner that benefits both your governmental client and their employees. Our claims experts focus on making good, sustainable decisions early in the process, communicating clearly and frequently with all parties and moving claims along the path to resolution as fast as possible.

Our statistics tell us that our model works exceptionally well:

- Overall payout on our workers compensation claims is 8 to 10 percent lower than for our competitors.
- Medical provider network discounts can be 15 to 20 percent below state schedules.
- In 70 percent of lost-time cases, employees were able to return to work within 30 days.

When potential customers visit the claims management center where their claims would be processed, they hear all this. But, they also have the opportunity to meet and talk to the Travelers people with whom they would be working. They get to see the passion our experts have for handling a claim well, they can ask questions, and they can hear success stories about the outcome of specific claims that left our employees with that special feeling of accomplishment. (For the customer who can't make it to a center, we offer a virtual tour.)

As an agent looking to close the deal, you can use our tour to finalize your sales pitch. Visit [travelers.com/virtualevent/ClaimCenterTour/WMPversion/coporate.html](http://travelers.com/virtualevent/ClaimCenterTour/WMPversion/coporate.html) today to take the tour, and then contact your Territory Manager to make arrangements for an on-site visit.

## Travelers PIM - proven to reduce workers compensation costs

When customers talk to agents about workers compensation coverage, cutting costs is always at the top of their wish list. When you partner with Travelers, you open the door to resources that will position you as an agent who knows how to make those wishes come true.

We not only provide you with a demonstrated record of success to help you close the deal, but also with the specialized services that will put your customers on track for their own savings.

For example, one large municipal water agency found its workers compensation costs soaring. Employees faced physically demanding jobs and accidents were not uncommon. By working with Travelers, the agency discovered that its lack of formal procedures and failure to identify adequate light-duty jobs were increasing costs. Six months after adopting best practices in a comprehensive injury response program, the client documented an 82 percent decrease in loss costs, an 85 percent decrease in average cost per claim and an 89 percent decrease in overall indemnity expenses.

Not every public entity will see those kinds of results, of course. But we've seen an average 42 percent reduction in total incurred costs for the customers we've worked with, including our city, county and Indian Nation accounts.

How do we do it? Our Post-Injury Management (PIM) program provides a range of services including intensive collaboration to create a systematic response to injuries, easy access to consulting services from recognized

public sector risk control experts, and an online virtual risk manager to assist with creating and implementing the program. Each of these services helps public agencies embrace best practices that have proven to make a difference in making sure appropriate medical care is delivered, getting employees back to work as soon as possible, and avoiding costly litigation. They include:

- **Responding to an employee injury immediately.** When a systematic process of documentation and communications is followed during the first 24 hours, there is less likelihood of claims management problems.
- **Building strong relationships with medical providers.** Like any other vendor relationship, medical care needs to be assertively managed to ensure appropriate care is provided at a reasonable cost.
- **Providing transitional duties for employees on medical restrictions.** Getting employees back on the job in some capacity is better for both the employer and the employee.
- **Using a case management approach internally.** By making sure lines of authority and responsibility are clear, the employee is not left to wonder what the future holds.
- **Measuring performance.** By tracking different elements within the claims management process, rather than just looking at the outcome, an employer can identify areas for improvement.

You can deliver extra value to your clients and help them tap into the expertise that Travelers provides. With our PIM program, you can take comparative shopping for workers compensation beyond a discussion about price and into a focus on overall savings.



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## A reliable and productive relationship

In tough economic times, claims tend to rise as people aggressively look for someone else to pay for their problems. As the risk manager for the growing city of Gainesville in the northeast corner of Georgia, Cindy Mallett knows that the expectations of people who file claims aren't always realistic.



Above: The square in downtown Gainesville

The city is struggling with a number of issues, such as explosive growth, the resulting strains on infrastructure and tight budgets. “Just like everyone else, we’re trying to do more with less.”

- Cindy Mallett, Risk Manager, Gainesville, GA

“We want to do the right thing,” she says. “We want to pay the things we are obligated to pay, but at the same time we are dealing with taxpayer dollars and we can’t just open our wallet. It’s a tough balancing act.”

That’s why Ms. Mallett is glad that she can count on Travelers to handle claims fairly and with sensitivity. “They are the experts who understand the limits of our policy and case law, but they always confer with us and consider our input. They don’t make snap decisions without talking to us,” she says. “Many times, they have to deliver bad news; it

isn’t always what people want to hear. But we appreciate that they deliver the news professionally, in a way people can respect and understand.”

Claims handling isn’t the only area where Ms. Mallett views us as a valuable ally. The city is struggling with a number of issues, such as explosive growth, the resulting strains on infrastructure and tight budgets. “Just like everyone else, we’re trying to do more with less,” she says. “At the same time, risk management has expanded so much in the past few years. It isn’t just about slips and falls or auto accidents any more.”





## PSS Going Green!

Travelers plays a key role in helping Ms. Mallett find creative ways to control risks and provide training for employees. In addition, she sees our web resources as an important way for her to keep up with industry best practices and expand her knowledge base about new areas of exposure she should be addressing.

Ms. Mallett also credits Travelers with providing early support and sponsorship when she and other public risk managers in Georgia expressed interest in re-launching the defunct state chapter of the Public Risk Management Association (PRIMA). She went from chapter president of the new state organization in 2002 to sitting on the national board today, in her second year of helping lead an organization that she views as instrumental in assisting public agencies with their risk management concerns.

As a full-time risk manager in a city of 35,000 people, she knows she is fortunate to have the backing of an administration that takes risk management seriously. The city’s long-term relationship with Travelers makes her job easier.

“When I think about our relationship with Travelers and our team at the Turner, Wood and Smith Agency, I think about two words: partnership and commitment,” she says. “We work together as partners to address our city’s challenges. And even when the economy is going crazy or claims are climbing, we’ve seen a steadiness and commitment from the whole team that is very reassuring. I really value these relationships.”

Several federal agencies, over half the states and many localities across the U.S. have instituted policies to encourage or require environmentally friendly building via LEED (Leadership in Energy and Environmental Design) certification – and their ranks are growing daily. Countless others are using these “green” building practices in their construction efforts.

Travelers believes that local governments that embrace these “green” technologies are likely to be more risk management-minded and practice greater care in building maintenance and operation. We applaud these environmental initiatives and are pleased to introduce a property coverage expansion designed to support the “green” building movement. This coverage promotes the use of environmentally friendly building materials as replacement components following a Covered Cause of Loss.

Speak with your Territory Manager to learn more about Travelers’ Green Building Endorsement for our public sector clients.

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## An Open Door



Ms. Mallett appreciates the ability to turn to Travelers’ experienced and dedicated resources for advice. She sees Travelers as a consultant that wants to help, not a carrier whose first instinct is to say no.

“With Travelers, when we ask questions on the risks of doing things differently or starting something new, we don’t get doors closed in our face,” Ms. Mallett says. “Instead of a knee-jerk reaction, we get assistance – and that really helps.”

## Taser claims: strong defense begins before suit is filed

During the past decade, law enforcement has increasingly relied on electronic defense tools – such as the well-known Taser gun – to stop unruly suspects in their tracks. According to Taser International, as of June 2008 more than 300,000 devices were in the hands of 13,000-plus law enforcement agencies in 40 countries, with about 1.3 million recorded uses.

While Tasers are widely praised by officers as an effective alternative to the use of lethal weapons, the public can be less enthusiastic when cases involving Taser use come to their attention. The vision of a person being painfully paralyzed by a momentary electric shock delivered through barbed projectiles may simply seem too akin to torture or electrocution.

The conflict between the differing perceptions of law enforcement and the public most often surfaces when an excessive-use-of-force claim is filed. Lawyers for plaintiffs ask juries to believe that, no matter how much in the wrong their client was, officers used poor judgment in opting for the Taser, or used the weapon incorrectly or ignored deadly distress signs as the effects wore off.

To be most effective in defending against these claims, law enforcement officials need to take the right steps long before Tasers are even placed in the hands of their officers. That's where agents and brokers can play a key role, helping their customers access information to design the type of policies and training that will stand up in court.

At Travelers, we understand that keeping up on the latest court cases and scientific findings about electronic defense tools isn't always a top priority for busy law enforcement officials or even for the insurance agents who partner with us. That's why we've developed and rounded up a variety of publications for you to share with your customers. We also have a certified Taser instructor on our risk control staff who can deliver personalized expertise to your customers.

With Travelers' resources, you can help your law enforcement customers:

- **Implement best-practices policies about when and how to use Tasers.** A strong policy that clearly delineates when an officer is justified in using a Taser can be used to deflect charges that officers acted inappropriately or without authority.

Tasers are widely praised by officers as an effective alternative to the use of lethal weapons





- **Develop an effective training program for both new and continuing employees.** Because officers often have only a split-second to make the choice between reaching for their gun or their Taser, they need to be well versed in how the suspect will be affected, areas where it may be too dangerous to discharge an electric spark, the safety of using repeated shocks and much more.
- **Document usage and ensure policies are being followed correctly.** A law enforcement agency strengthens its position in court when it can demonstrate that it has a well documented program of training, accountability and continuous improvement.
- **Keep abreast of current developments in case law and professional practices.** As court cases are resolved, it is important to understand the implications behind decisions and settlements. For example, a recent Salinas, California jury awarded damages against the manufacturer when it decided the use of a Taser was a minor factor in the death of a suspect. However, the key finding in the case that law enforcement needs to be aware of is that the same jury cleared the police of excessive-use-of-force charges and also found the Taser to be an appropriate choice by the officers under the circumstances. No damages were awarded against the police. (Taser, which has prevailed in all 70 prior cases that have come to court, is appealing the verdict.)

Because of the challenging environment they work in and today's litigious society, it is difficult for law enforcement agencies to avoid excessive-use-of-force claims. Indeed, while the use of Tasers generate some claims, the alternatives – shooting a suspect or using physical force to beat one into submission – are no less subject to claims and are much more likely to injure suspects.

Avoiding claims may not be possible, so preparing well in advance to put on a good defense by establishing a law enforcement agency as responsible in its use of Tasers is a strategy that makes sense. Taking that message to customers and following up with helpful resources will give you an edge as an expert who knows how to deliver valuable service along with your products.

**To be most effective in defending against these claims, law enforcement officials need to take the right steps long before Tasers are even placed in the hands of their officers.**

## Have you Webinar-ed?

Keeping current with risk control topics can be challenging. Our new safety Webinar series is an opportunity for you to hear from industry professionals on a variety of risk control topics without leaving your office. Or maybe better yet – LEAVE YOUR OFFICE!!

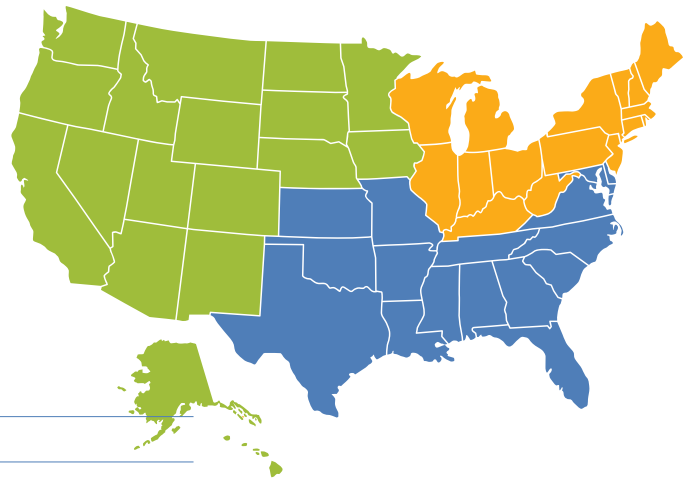
An agent recently wrote, "Instead of logging in at our agency, we logged in to the Webinar, "Aren't Certificates of Insurance Enough? Best Practices in Effective Risk Transfer" at the city's procurement department with about 15 city employees. We then stayed for a Q&A session. THEY LOVED IT! It was very productive and they walked away with useful information. Please send a big thanks to all the presenters!" What a great way to interact with your clients and show them the value of their relationship with you and Travelers!

**Our next Webinar- "Selecting and Managing the Safe Driver" will be offered November 19. Register now at [riskcontrol.com](http://riskcontrol.com). You may also want to check the site for other upcoming Webinars as well as replays of past programs.**

# We're here to help you write public entity business.

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## Feedback

### Comments? Suggestions? Questions?

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