

Risk Management ESSENTIALS

Tips, Knowledge and Tools
for Nonprofit Organizations

Announcing... RMnet™

RMnet™ is a robust policy management system with risk management tools built in. Brought to you by *DWA Risk Management Solutions* and the *Nonprofit Risk Management Center*, RMnet™ was designed specifically to help leaders of secular and religious nonprofits *create effective policies, ensure ready access to key policies, and deliver accessible training programs* to diverse groups of paid and volunteer staff.

Licensees of the new tool will use RMnet™ Policy Creation Kits to:

- review and assess current risks, policies, and organizational practices;
- create, revise or draft effective policies and procedures to address key risk areas;
- manage the policy review process: prioritize and assign policy review tasks, set due dates, and track progress, and
- create audit check-lists to ensure that the nonprofit's policies are being followed.

24/7 Accessibility. RMnet™ is an affordable way to “publish” key policies and documents available

continued on page 9

Help Wanted! Screening Challenges for 21st Century Nonprofits

By Melanie Lockwood Herman and Jennifer Chandler Hauge

Finding the right people for the key roles in your nonprofit is a continuing challenge. Leading an inspired team to achieve a nonprofit's mission doesn't happen until the leader has recruited and retained the team of people that will propel the nonprofit's mission forward. Yet despite the availability of high tech tools, screening effectively and choosing the *most suitable* applicant still feels a bit like watching a Las Vegas croupier spin the roulette wheel and launch the ball on the spinning wheel.

To *reduce* the risk of a poor match and *increase* the chance that your screening process will lead you to hire or enroll the most suitable candidate, consider the following.

Tune In and Tune Up

If your nonprofit's recruitment and screening processes haven't changed during the past 10 years, you're at great risk of making unsuccessful matches. The information superhighway buzzes with activity 24-7. While your applicant pool may

appear to be increasingly diverse, everyone shares a common social habit: internet-based communication is the norm, whether through a computer via email or instant messaging, or with a hand-held device such as a cell phone. Diligent nonprofit employers aware of this trend are using it to their own advantage in selecting applicants for paid and volunteer positions.

continued on page 4



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**Nonprofit
Risk Management
Center**

...find the answer here

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What is “Negligent Hiring?”

When a nonprofit brings a new staff member on board, paid or volunteer, the worker becomes the “agent” of the nonprofit. Should that worker subsequently cause harm to a co-worker, client or third party, the employer may face a claim alleging negligent hiring. Typically a claim of *negligent hiring* will allege that if the employer had engaged in more due diligence when screening the worker, a history of similar conduct would have been revealed which should have disqualified the worker from consideration.

In order to state a claim of negligent hiring successfully, the injured person must show:

1. That the employer did not exercise *reasonable care* in hiring the worker (example: the employer did not meet the minimum standard of care, such as by conducting a criminal history records check or reference check);
2. That the employee had dangerous tendencies, such as a record of unsafe driving, which should have been apparent if the employer had exercised reasonable care in screening (example: the employer did not have a policy to check the motor vehicle records of staff with driving responsibilities; and
3. That the employer placed the employee in a position where others could be injured.

A nonprofit can never prevent an unhappy litigant from filing a lawsuit; however, every organization can strive to demonstrate that it acted reasonably to protect those under its care from harm. Doing so starts with adopting

and following sound screening policies. Screening policies and protocols should be designed around the risks of the positions the nonprofit seeks to fill, with the understanding that since some positions expose the nonprofit to greater risk, *customizing the screening process is required*.

An additional component of defending negligent hiring claims is being able to show that as soon as the nonprofit received information calling into question the suitability of the worker for his or her position, it acted reasonably to protect the safety of others.

To fortify your nonprofit to defend a claim of negligent hiring (or negligent retention), consider:

1. Adopting or updating your screening policies and procedures to ensure that all volunteers and paid staff are appropriately screened

continued on page 7



Increase your Insurance Buying IQ

The Center is pleased to present *Coverage, Claims & Consequences—2nd Edition*, a text that takes the mystery out of the process of obtaining insurance for your nonprofit. The second edition of this popular text is now available, hot off the press, and may be purchased from the Center's on-line bookstore, <http://nonprofitrisk.org/store/coverage-claims.shtml>. A companion PDF version with hyperlinks to source and reference material is available at no additional charge to all buyers of the book.

For experienced risk managers and insurance program managers, *Coverage, Claims & Consequences—2nd Edition* will serve as a helpful reference. This book also will help round out your knowledge of various coverages and approaches to insuring nonprofit risks. The following topics are covered:

- Chapter 1, *Risk Management and Insurance*, offers a brief introduction to risk management and the role insurance plays in a risk management program.
- Chapter 2, *The Insurance Industry*, explains how the insurance industry works. This chapter explores the various players—insurance companies, agents, brokers, consultants, risk managers and regulatory departments.
- Chapter 3, *Managing Your Insurance Program*, provides a suggested approach to handling your organization's insurance program. This chapter offers suggestions for the assignment of



the duties and responsibilities for the insurance program manager and establishing risk-financing goals and objectives for your nonprofit's risk management program.

- Chapter 4, *Purchasing Insurance for Your Nonprofit*, explains the process of purchasing coverage for your organization. The chapter discusses how to select an insurance agent or broker, the use of insurance or risk management consultants, and the preparation of insurance specifications or a request for proposal.
- Chapter 5, *Understanding Your Insurance Coverage*, offers insight into how to read an insurance policy without breaking into a rash. The chapter concludes

continued on page 7

“
Coverage, Claims & Consequences—2nd Edition provides valuable guidance to any reader interested in becoming more knowledgeable about how the insurance industry operates and the various policies and coverages available to nonprofits. It offers guidance on managing your insurance program, including how to evaluate your organization's insurance needs and covers the basic steps in claims management, helpful for any nonprofit professional.”



“... what the employer expects from the employee may not be adequately expressed up-front or communicated in the early days post-hire.”

Help Wanted
continued from page 1

For example:

- More and more job seekers are turning to www.Idealist.org, or similar web-based job search sites to surf the Internet for interesting jobs and volunteer opportunities. Putting an advertisement in the local paper is no longer sufficient to ensure that your nonprofit is advertising an opening to the most sophisticated and experienced candidates.
- Employers are monitoring social networking sites and finding that some candidates for employment or volunteer positions demonstrate unprofessional judgment about what they post on their own sites. In today’s world, screening often starts with a visit to a candidate’s MySpace or Facebook profile.
- Using the Internet to search for information about a candidate for a volunteer or paid position may uncover information about potential employees that is useful.
 - But skillful web sleuths must beware. You may view information that reflects the prospective employee’s participation in a protected

category. To ensure against inadvertent or alleged discrimination, employers need to discuss with supervisors and others involved in the hiring process the factors that *may not be considered* in the hiring process, such as a candidate’s participation in an affinity group for persons in a protected category.

- Social networking sites can also be useful in spreading the word that a position is available. Many employers are creating or participating in social networking affinity groups online where they can keep in contact with former interns, employees and volunteers. This “alumni” group may be a good source for referrals for new hires. Send the word out via the social networking site that a position is available. Those who have worked at your organization in the past know what it takes to be successful at the organization, and may be in the best position to steer qualified candidates your way.

Carefully Define Expectations

Too often an employee is hired who seems perfect for the job, but



QualitySelect

This fall the Nonprofit Risk Management Center will be offering **QualitySelect**, a new tool that assists employers with the screening and hiring process by helping to manage the elements of the hiring process, from drafting comprehensive position descriptions, to ensuring that all candidates for the same position are screened consistently.

For more guidance on personnel practices and supervision, including a description of state laws that impact the hiring process, consult the Center’s popular publication, *Taking the High Road: A Guide to Effective and Legal Employment Practices for Nonprofits—2nd Edition*, <http://nonprofitrisk.org/store/high-road.shtml>.

after only a short time, significant challenges are evident in the employee's ability to perform. This dilemma is often due to a mismatch of expectations: what the employer expects from the employee may not be adequately expressed up-front or communicated in the early days post-hire. Alternatively, the employee's prior background and experience may not be as robust as it appeared during the hiring process.

Consider the following strategies for improving the odds that your next recruit will be eligible for your "volunteer of the year" award.

■ **No Position Description?**

Do Not Pass Go! Take the time to draft comprehensive position descriptions. Volunteer positions need descriptions too. List enough of the major responsibilities of the position so that you will have the basis for determining the extent of the screening process that will be required. Is a phone interview sufficient for a one-time-only volunteer post at your weekend 5K run? Maybe. But what is required to screen applicants for the position of CFO?

■ **Use an Application for all Positions.**

Although an application may seem better suited to larger organizations, they offer innumerable benefits. These benefits include: the opportunity to request answers to the questions you have for applicants, versus relying on what they care to share in a resume; and the valuable truth clause — the statement at the end of the applicant that asks the applicant to verify the truthfulness of all statements on the application and acknowledge that subsequently

Sample Reference Form

Part A (to be completed by the subject of this reference)

Employment reference for: _____

I have stated to [name of prospective employer] that I was employed by you as a [position title]. I request that the following information be furnished by you for reference purposes to this employer, and I consent to your providing this information regarding my past employment, work performance, attendance record, abilities, and reason for my separation from employment. Further, I knowingly waive all rights to bring an action for defamation, invasion of privacy, or similar causes of action, against either [Nonprofit] or you or [name of previous employer] in connection with providing information about my employment with [name of previous employer].

Signature

Date

Part B (to be completed by the employer providing a reference for the individual named above)

The person named above was employed as: _____

From: _____ To: _____

According to our records, the above person left the organization for the following reason(s): _____

(check one) I would would not reemploy this individual.

Please check below the rating that most accurately describes this individual:

	Exceptional	Satisfactory	Unsatisfactory
Work Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Work Quantity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooperation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supervision (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other remarks about the employee's job performance: _____

Were you the employee's supervisor? Yes No

Name _____

Title _____

Company _____

Signature

Date

Telephone

“ As if hiring were not enough of a challenge, knowing what some of your employees are up to is another matter. ”



Help Wanted continued from page 5

discovered misstatements are grounds for immediate dismissal.

- **Heavy Lifting Required? Say So!** When creating a position description, it is critical to ensure that the written description describes the physical requirements of the position as well as the minimum professional and educational qualifications. All position descriptions should include a category of “essential functions” even if you don’t think there is anything particularly “physical” about the job. For example, it is a physical requirement of many jobs in the social service area that an employee be able to lift a child who weighs up to 60 pounds or stand for long periods of time. Even jobs that are primarily intellectual require work at a computer station most of the day and should have “the ability to work at a computer station for several hours at a time” listed as an essential function. Having the physical requirements of the job listed on the position description will result in more effective interviews that reveal *when* and *where* an accommodation may be required. Identifying essential functions also provides a way for an employer to eliminate a candidate (or terminate an employee) who simply does not meet the qualifications for the position because s/he is unable to perform the essential functions.

- **Don’t Give Up on References.** When seeking references, if you are unable to get past the “we don’t give references” barrier, ask

whether a candidate’s former employer would be willing to speak with you if you provide a signed authorization from the candidate granting permission for a reference to be given from the former employer. This technique is effective because it allows former employers to tell you their opinion of the candidate’s qualifications for employment with less concern that anything negative that they share will come back to haunt them. See the sidebar on page 5 for an example of a Reference Form.

Guess Who’s Coming to the Workplace?

As if hiring were not enough of a challenge, knowing what some of your employees are up to is another matter. Supervision seems to require eyes in the back of your head. Employees may be engaged in activities while at work that would surprise you. Most leaders have been on the lookout for employees who use the organization’s computers and connection to the Internet to visit inappropriate Web sites, but have you considered the cost of employees who blog while at work, and the potential for those blogs to paint an unflattering picture of your nonprofit?

The use of sophisticated databases and software and the introduction of high speed Internet access into nonprofit workplaces bring countless benefits as well as downside risks to employers.

Consider:

- A recent study by Palisade Systems, a network and security company that found that the *biggest risk of*

continued on page 8

Negligent Hiring*continued from page 2*

based on the risks associated with their positions and assignments in the nonprofit. For positions in which the worker regularly or occasionally provides unsupervised (e.g. one on one) service to vulnerable clients, the screening process should be thorough. While there is no legal definition of thorough screening process, such a process likely includes conducting a criminal history records check, checking references, confirming professional/volunteer work history and verifying educational degrees conferred.

2. Ensuring that all candidates for the same position are subject to the same screening process. For example, when you select four finalists for in-person interviews, those finalists should be asked the same questions. If a background check will be part of the process, it should be conducted for all candidates who are finalists.

Insurance Buying IQ*continued from page 3*

with a discussion of different categories of insurance.

- Chapter 6, *Liability Insurance*, identifies and discusses the most common liability policies purchased by nonprofit organizations.
- Chapter 7, *Property Insurance*, explains and examines the property coverages that many nonprofits require.
- Chapter 8, *Miscellaneous Policies*, discusses a number of policies that have liability and property components, including: the business

3. Taking time to document the extent of the screening process for the position and the results of each recruitment process.

Particularly in cases where the allegation is that the nonprofit “negligently retained” a worker, it is critical for the nonprofit to show that as soon as the nonprofit had information, such as a complaint, that the worker was not acting appropriately, the nonprofit conducted a prompt and thorough investigation leading to a determination about the worker’s continuing eligibility. Documentation of the investigation will be critical in the defense of the nonprofit’s case.

For more information about screening techniques, or assistance establishing the right policies and evaluating your nonprofit’s screening procedures, contact John Patterson, Senior Program Director at the Nonprofit Risk Management Center at John@nonprofitrisk.org or (202) 785-3891. ■

auto policy, international coverage, accident medical reimbursement, and personal liability policies.

- Chapter 9, *Health, Life and Disability Insurance*, discusses various forms of health, life and disability insurance.

The *Glossary* provides a list of key insurance and other risk management terms. This Glossary can also be found on the Web at: <http://nonprofitrisk.org/library/glossary.shtml>.

The final section, *Resources*, provides a list of organizations and literature that may be helpful to a nonprofit in managing its insurance program. ■

“The Nonprofit Risk Management Center’s popular book, *Staff Screening Tool Kit*, [<http://nonprofitrisk.org/store/staff-screening.shtml>] provides extensive background on keeping those you serve safe by engaging in prudent screening practices. The publication includes step-by-step guidance on establishing a screening program at your nonprofit. *Instant gratification:* purchase the book online in a downloadable pdf format and save on shipping costs.”

New From the Nonprofit Risk Management Center:

Hallmarks of a Risk-Aware Nonprofit

While even the most seasoned and savvy nonprofit leader won't be able to predict the future with absolute accuracy, that doesn't mean you can't take steps to prepare. Some nonprofits are ready to respond to future events effectively and gracefully, while others stumble and fall. As mission-devoted leaders in our respective nonprofits, we have asked ourselves, "What can our organization learn from risk-aware nonprofits?"

Over the past two years, the Nonprofit Risk Management Center convened and consulted risk management experts from the nonprofit sector to identify the hallmarks of a risk-aware nonprofit organization. With generous grant funding from the *St. Paul Travelers Foundation*, over a dozen current and former experienced nonprofit and public entity executives helped identify 12 Hallmarks, along with practical strategies and tools to help turn your organization into one that manifests the hallmarks of a risk-aware nonprofit.

This new Hallmarks tool is available on the Center's Web site. [<http://nonprofitrisk.org/tools/hallmarks/intro.shtml>] Each Hallmark is followed by practical suggestions and additional resources to help you get started in your quest to guide your organization along the road to 'best practices' in risk management.

The Hallmarks are designed to be resources for the nonprofit community that:

- Inspire thoughtful risk-taking by nonprofit leaders
- Illuminate the risk management Hallmarks that are common in risk-aware nonprofits, and
- Provide specific and practical guidance as well as 'how-to' insights for leaders seeking to strengthen risk management practices in their nonprofit organizations.

We invite you to examine these Hallmarks [<http://nonprofitrisk.org/tools/hallmarks/intro.shtml>] and consider how they can inspire action steps to strengthen your nonprofit's risk-taking and risk management practices.

We suggest five basic steps for developing sound decisions for your nonprofit in the face of continuing uncertainty:

1. Consider the consequences.
2. Consider the likelihood of those consequences.
3. Consider the odds.
4. Listen to your intuitions and experience.
5. Be wary!

The Hallmarks invite leaders to be ambitious in setting risk management goals and selecting suitable strategies. We hope that our nonprofit clients and subscribers will find this new tool helpful. To check out this brand-new resource, visit www.nonprofitrisk.org.



Help Wanted

continued from page 6

data breach or theft comes from "careless employees or consultants who don't properly secure the data they are entrusted with."

- A survey by www.CareerBuilder.com, reporting that although only 8 percent of workers admitted to stretching the truth on their resumes, nearly half (49 percent) of hiring managers reported they caught a candidate lying on their resume. The most common lies discovered on a resume, according to the survey, include:

- Embellished responsibilities — 38%
- Skill set — 18%
- Dates of employment — 12%
- Academic degree — 10%
- Companies worked for — 7%
- Job title — 5%

What are the risks of hiring an unqualified or otherwise ill-suited applicant? The very real and potentially costly risks include:

- The value of time wasted on recruitment, training, screening and separation;
- The risk that an unsuited applicant will take action that will jeopardize the nonprofit's reputation in the community or among key stakeholder groups; and
- The chance that an unskilled worker or volunteer will act negligently and cause physical or other harm to a vulnerable client.

At the Nonprofit Risk Management Center we've been tracking the growing challenges of screening and supervising staff for more than two decades. One of our conclusions is that in our litigious and high tech world, effective screening is more important—and more difficult—than ever. Effective screening requires the careful development of *practical policies and procedures* that can be followed *consistently* by all personnel involved in staffing and volunteer recruitment. Even when your state-of-the-practice screening policies are followed to a “t”, you may still inadvertently hire or recruit someone ill-suited to serve your organization.

Screening is just the first step in ensuring that those you hire for paid positions and recruit for volunteer roles are suited to support your nonprofit's mission, not sabotage it. A thoughtful orientation process that communicates expectations and gets employees engaged with the mission right away is often the next critical step after making the hiring decision. Equally important is the commitment to ongoing, regular performance evaluations. Hiring shouldn't be a gamble. Close supervision and regular feedback, especially in the early stages of an employment relationship, increase the chances that when you roll the dice and make an offer, you'll hit the jackpot. ■

RMnet
continued from page 1

online, 24/7 to paid and volunteer staff. The site provides an easy to use and customize filing system that helps you ensure that no policies get overlooked.

Professional Development and Training Calendar

Fill out your 2008 calendar with professional development and training opportunities brought to you by the Nonprofit Risk Management Center. You won't want to miss any of these.

2008

ANNUAL CONFERENCE

September 7–9
Risk Management and Finance Summit for Nonprofits
Minneapolis, MN

WEBINARS

High-quality, 60-minute training programs delivered right to your desktop.

September 3
2–3 pm EDT
Selecting the Most Suitable Employees for the Job: The Screening Process in a Nutshell

October 1
2–3 pm EDT
Managing the Risks of Deploying Youthful Volunteers

November 5
2–3 pm EST
Managing Fundraising Risks

December 3
2–3 pm EST
Managing Special Event Risks
Recent programs: it's not too late to benefit from recently hosted programs! Each of the Center's webinars is recorded and can be downloaded at your convenience.

For additional information (including online registration), visit: <http://nonprofitrisk.org/training/webinars/webinars.shtml>

Don't forget training! A nonprofit's paid and volunteer staff are essential to mission fulfillment. Yet few nonprofits have the financial resources to provide training. RMnet offers affordable, downloadable audio courses designed around key

2009

REGIONAL CONFERENCES

The Center's 2009 regional conferences will be held during the period February–June 2009. Preliminary information on the series is provided below. To inquire about hosting a one or two-day event in your community, contact Melanie@nonprofitrisk.org.

February 19–20
Risk Management & Finance Essentials for Nonprofit Leaders
Columbia, SC

Hosted by: South Carolina Association of Nonprofit Organizations, www.scanpo.org

March 16
Risk Management & Finance Essentials for Nonprofit Leaders
Seattle, WA

Hosted by: The Non Profit Insurance Program (NPIP) www.npip.net

June (Dates TBD)
Risk Management & Finance Essentials for Nonprofit Leaders
Kennebunkport, ME

Hosted by: Maine Association of Nonprofits, www.nonprofitmaine.org

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risk management challenges facing nonprofit organizations.

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*Background audit of ChoicePoint volunteer screening statistics from 2002-2005.
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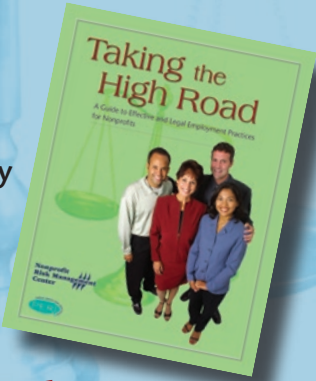
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You Need This Book!

Taking the High Road is a must-have resource on employment practices for nonprofit leaders. The book provides practical insights on key employment topics including discipline and termination, as well as detailed references to **federal and state employment laws**. Buyers of the book receive a **complimentary online version with active hyperlinks** to original sources cited throughout the book.



Order your copy today!

<http://nonprofitrisk.org/store/high-road.shtml>

Reduce the Risk of Rollover!




Photo courtesy of: National Transportation Safety Board.

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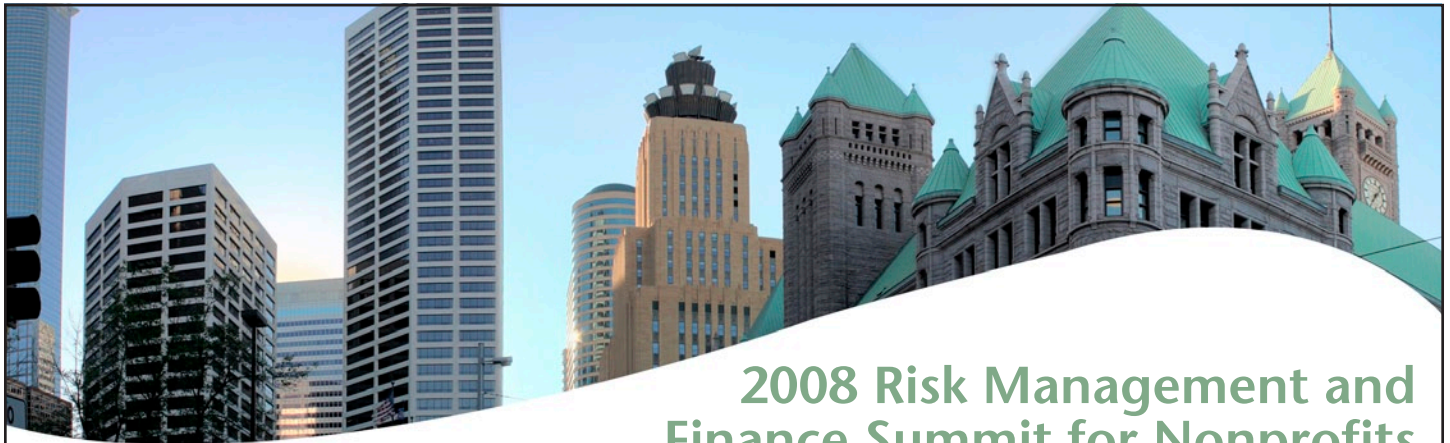
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Inside This Issue

Help Wanted! Screening Challenges for 21st Century Nonprofits...	1
What is "Negligent Hiring?"	2
Increase your Insurance Buying IQ.....	3
New From the Nonprofit Risk Management Center:	
Hallmarks of a Risk-Aware Nonprofit	8
Professional Development and Training Calendar.....	9
The Risk Management Marketplace	10
Products/Publications from the Nonprofit Risk Management Center	15