Kansas Association of Insurance Agents

DETERMINING AGENCY E&O LIMITS

KAIA MEMBER RESOURCE

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By Dave Hulcher, CEO — Kansas Association of Insurance Agents

Errors & Omissions (E&O) insurance is one of the most consequential protection decisions an insurance agency makes. While carrier contracts set minimum coverage requirements, those minimums rarely reflect the unique risk profile of a growing agency. Too often, agencies default to the minimum — leaving themselves dangerously exposed as their book of business expands in size and complexity.

To help members make a more informed decision, KAIA has analyzed E&O limit data from over 200 Kansas member agencies and identified the key factors that should drive the limits conversation. Whether your agency writes primarily personal lines or complex commercial accounts, this guide will help you take a structured, risk-based approach to E&O limit selection.

200+	1 in 6	50%	1/3
KANSAS AGENCIES ANALYZED	AGENCIES REPORT A CLAIM PER YEAR	OF CLAIMS CLOSE WITH NO LOSS	OF TOTAL CLAIM COSTS ARE LEGAL FEES

Common Types of E&O Errors

E&O claims most often stem from a customer's lack of appropriate coverage or inadequate limits. Claims can be broadly divided into procedural errors (process breakdowns) and knowledge-based errors (coverage or risk assessment failures). The five most common claim types are:

Failure to Procure Coverage	Not securing the requested coverage — the most fundamental and commonly alleged error.
Inadequate Values / Limits	Recommending or accepting coverage amounts insufficient to cover an actual loss.
Misrepresentation of Coverage	Incorrectly describing what a policy covers, leading clients to assume protected exposures aren't.
Improper Exposure Assessment	Failure to identify all relevant risks a client faces, leaving coverage gaps unaddressed.
Lack of Timely Execution	Missing binding deadlines, renewal windows, or retro dates that leave clients momentarily or permanently unprotected.

On average, **1 in 6 agencies** will report an E&O claim in a given year. Fortunately, half of those reported claims are closed with **no loss or defense costs incurred**. The real risk lies in the other half — where settlements, verdicts, and legal fees can escalate rapidly, particularly on complex commercial accounts.

Key Factors in Determining Your E&O Limits

Every agency's risk profile is different. The following eight considerations should guide a structured analysis of what limits are appropriate for your agency — not just what the carrier requires.

1 Carrier Contracts

Required E&O minimums outlined in agency agreements are a floor, not a target. Also note: carriers can and do file E&O claims against agencies — this is one of many reasons why placing your E&O coverage with an appointed carrier creates a significant conflict of interest.

2 Agency Size

The larger the agency, the greater the asset being protected — and the higher the probability of errors. More staff, more transactions, more clients, and broader operational scale all amplify E&O exposure.

3 Mix of Business

Standard personal and small commercial lines carry a vastly lower risk profile than large commercial, healthcare, manufacturing, or public entity accounts. The sophistication of your client base directly affects loss severity potential.

4 Policy Complexity

Layered programs, manuscript forms, executive and professional liability lines, and placements with retroactive dates all increase client reliance on the agent for coverage design and risk advice — and increase the stakes if something goes wrong.

5 Max Probable Loss

Identify your largest, most complex accounts and model realistic worst-case scenarios: a total failure to bind, a catastrophic client loss, a missed umbrella layer, or a missed retro date. Review property values, average limits, claims history, and inflationary trends.

6 Legal Environment

The jurisdiction where a claim is filed significantly affects both outcome and severity. Some states impose a higher duty to advise than others. Where your clients are located directly shapes your E&O exposure profile.

7 Defense Costs Structure

Approximately one-third of total E&O claim costs are legal fees. Always verify whether defense costs are inside or outside your policy's limit. A $2M policy with defense costs outside the limit offers comparable protection to a $3M policy with costs inside.

8 Staff Experience & Workflows

The knowledge, workload, and turnover rate of your staff meaningfully impact E&O risk. Equally important: consistently followed, well-documented procedures are the single most important risk management factor for any agency.

Kansas Legal Environment

The standard of care imposed on insurance agents varies significantly by state, and understanding your jurisdiction is critical to assessing your true E&O exposure.

> **Kansas Note:** Kansas generally requires insureds to specifically request the insurance they later claim the agent failed to procure. This is a relatively favorable standard compared to states like Arizona, where agents may be required to proactively inform clients of additional coverage types and available limits. Where your clients are located — not just where your agency is based — can influence your E&O exposure.

Some states are considered 'order taker' states (such as Mississippi), where the agency's obligation is limited to procuring exactly what was requested. Others impose a broader 'duty to advise,' requiring agents to identify coverage gaps and inform clients of options. Agencies writing business across state lines should be particularly attentive to the most demanding standard applicable to their book.

Defense Costs: Inside vs. Outside the Limit

Approximately one-third of all E&O claim costs are attributable to legal defense fees — not damage payments. This makes the defense cost structure of your policy a critical element of your effective coverage level.

Defense Costs OUTSIDE Limit		Defense Costs INSIDE Limit
$2,000,000 Occurrence Limit Legal fees paid separately. Full $2M available for damages.	=	**$3,000,000** Occurrence Limit ~$1M consumed by legal fees. ~$2M remaining for damages.

When comparing E&O policy options, always ask whether defense costs erode your occurrence limit. A policy with a lower nominal limit but defense costs outside the limit may provide meaningfully better protection than a higher-limit policy where legal fees reduce what's left for damage payments.

> **Important:** Do not place your agency's E&O coverage with a carrier you also represent. A meaningful portion of E&O claims are filed by carriers against their own appointed agencies. Placing your E&O with that same carrier creates a direct conflict of interest — and could leave you without adequate defense when you need it most or at minimum a very strained relationship with a priority agency carrier.

E&O Limits Benchmarking by Agency Size

The following benchmarking data is derived from over 200 Kansas member agencies enrolled in KAIA's E&O program, segmented by gross annual premium (GAP). Use these figures as reference points to validate your own risk-based analysis — not as a substitute for it. Outlier data points have been excluded to provide a more representative view of the market.

TIER 1 | Agencies with $0 – $2M in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$2,000,000	$2,048,913	$1M – $2M	$500K – $3M
Aggregate	$2,000,000	$2,907,609	$2M – $4M	$1M – $6M

TIER 2 | Agencies with $2M – $4M in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$2,000,000	$2,687,500	$1M – $4M	$1M – $7M
Aggregate	$3,500,000	$3,812,500	$2M – $5M	$2M – $8M

TIER 3 | Agencies with $4M – $8M in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$3,000,000	$3,305,556	$1M – $5M	$1M – $10M
Aggregate	$4,000,000	$4,527,778	$2M – $5M	$1M – $9M

TIER 4 | Agencies with $8 – $20M in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$5,000,000	$5,032,258	$3M – $7M	$1M – $12M
Aggregate	$6,000,000	$6,129,032	$4M – $7M	$2M – $10M

TIER 5 | Agencies with $20M – $40M in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$8,000,000	$8,777,778	$5M – $10M	$1M – $15M
Aggregate	$10,000,000	$10,259,259	$6M – $14M	$2M – $26M

TIER 6 | Agencies with $40M+ in GAP

Limit Type	Median	Average	Middle 50% Range	Full Range (Min–Max)
Occurrence	$10,000,000	$10,750,000	$8M – $12.5M	$3M – $15M
Aggregate	$10,000,000	$11,375,000	$8M – $13.5M	$5M – $20M

Whether you're evaluating your current limits, preparing for agency growth, or managing a complex book of business, the KAIA E&O team is here to help. As the exclusive E&O agent for Kansas agencies of all sizes and types—including P&C, L&H, and crop agencies—we help each agency build an appropriate, well-reasoned protection strategy. The KAIA/Big I Professional Liability program is backed by financial strength, long-term stability, and nearly a half-century track record as the largest, most trusted E&O program serving insurance agents.

Reach out to Barb Wise or Patrick McCoy to discuss your current E&O coverage, review benchmarking data relative to your agency's profile, or explore the exclusive risk management resources available. Visit www.kaia.com/eo-insurance to learn more.

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