



## FREQUENTLY ASKED QUESTIONS

**Q: Why did the Iowa League of Cities sponsor a program like ICAP?**

A: In the mid-1980s, only a handful of insurance companies were willing to offer casualty coverage to public entities. The coverage was more restrictive, had lower limits and the cost was much higher. The league's member cities needed relief and ICAP was conceived to address the insurance crisis. The League unanimously endorsed the Pool as an answer to the crisis.

**Q: Why wasn't ICAP formed as an insurance company?**

A: Legislation was passed (670.7) to respond to the insurance crisis and enabled Iowa public entities to form group self-insurance programs. Because the participants were Iowa public entities, insurance regulation was not required.

**Q: Can ICAP qualify as an insurance company doing business in Iowa?**

A: Technically, yes (according to KPMG, a national accounting firm, ICAP could comply with the requirements of any state in the country); however, short of perception, there are few advantages for the Pool to become an insurance company.

**Q: Why isn't ICAP an insurance company then?**

A: To be regulated by the Department would cost the Pool a percentage of assets every year. In addition, ICAP would be required to pay State and Federal income tax, the cost of which would greatly decrease the funds available to pay claims and earn investment income. The ICAP Board has evaluated and feels the rate of regulation (when compared to the benefits) is cost prohibitive.

**Q: Won't Insurance Department regulations make sure ICAP doesn't incur financial difficulties?**

A: The Insurance Department performs many functions; however, none of these include a guarantee or interference that the regulated insurance company is financially sound. The Department reviews the financials of admitted insurance companies but the review process is no guarantee of financial integrity.

**Q: Is it true that, in the event my town has a catastrophic loss and the insurance company goes bankrupt, I have coverage through a guarantee fund only regulated companies are able to participate in?**

A: Insurance companies that are admitted to operate in Iowa participate in a Guarantee Fund. The "Fund" is designed to respond to covered claims on behalf of policyholders of bankrupt insurance companies. The fund's maximum payout is \$300,000 per claim but usually payout is a negotiated settlement for damages as opposed to paying according to the original policy.

**Q: How is the Guarantee Fund capitalized?**

A: Through insurance company payments based on liabilities caused by bankrupt insurance companies and charged back on a pro-rata basis.

**Q: So, if my entity is covered by ICAP, none of the Pool's money will be spent to pay claims of companies going bankrupt?**

A: Correct. Your money stays with your Pool.

**Q: What is the Iowa Risk Management Agreement (IRMA) and what is its purpose?**

A: The IRMA is the legal document between each entity and the Pool. Its purpose is to establish the rules and responsibilities of the Pool, Members, Board of Directors and administrators.

**Q: Is it true our city doesn't have to sign a contract with an insurance company like we are required to with a pool?**

A: You are required to sign the insurance company application and the insurance company then issues an insurance policy, which is the contract for insurance coverage.

**Q: How long does our entity have to stay with the Pool if we elect to join?**

A: The IRMA requires an entity participate no less than one (1) year at a time (Article XI, 1).

**Q: Is it true an insurance company can non-renew/terminate our claims-made E&O policy and leave us without coverage for the time we were with them?**

A: Yes. The non-renewing company can offer an extended reported period of usually 12 months at a cost typically varied from 40% of the annual premium and up. This feature provides a longer reporting period for claims that occurred during the time you had coverage with the non-renewing company.

**Q: Does ICAP have the same ability?**

A: No. ICAP is owned and operated by Iowa public entities and, if the Board chooses to terminate your entity's coverage agreement, your entity will always have coverage for the period of time you were a member at no additional charge (Article XI, 2).

**Q: Does my entity have the flexibility to withdraw from ICAP at any renewal period?**

A: Yes and, according to the IRMA, you may even be eligible to receive a percentage refund of your annual contributions to the Cumulative Reserve Fund (CRF).

**Q: If an entity leaves ICAP, can they leave claims for the remaining ICAP members to pay?**

A: No. Pool members are protected from the expense of settling claims of a non-member. Upon withdrawal, a member is responsible for its claims, reported or unreported (Article XI, 1) and may be eligible to a portion of their CRF to offset the cost of unsettled claims.

**Q: Can withdrawing members buy coverage from an insurance company for unsettled claims?**

A: It is common for insurance companies and ICAP to offer coverage for the incurred but not reported claims (IBNR) for a charge. There is no coverage offered by any company for the reported, unsettled claims. It is for this purpose that the Pool has the refund feature described in the IRMA (Article XI, 1). As long as the withdrawing member's refund is sufficient to pay the cost of the reported, unsettled claims, the member has the flexibility to withdraw. If the refund is insufficient, the entity should consider withdrawing another year.

**Q: What is “occurrence coverage” and what types of coverage does it usually apply to?**

A: “Occurrence coverage” protects the policyholder for covered claims occurring during the coverage period, without regard to when the claim is reported. This is usually offered on general liability and auto-liability lines.

**Q: What is “claims made” coverage? What lines of coverage does it apply to?**

A: “Claims made” coverage applies *only* to claims reported during the coverage period for claims that occurred during the same period. In the event a claim is reported after the insured leaves the insurance company, there is no coverage for the claim. This coverage usually applies to public officials E&O coverage and law enforcement coverage.

**Q: What happens to our E&O and law enforcement liability claims if our entity leaves the current insurance company and joins ICAP?**

A: If a claim has been reported to your current insurance company, the company is required to cover you according to the policy. ICAP may offer “prior acts” coverage for the incurred but not reported exposure left vacant by the claims made from the insurance company used.

**Q: Does my entity have to notify the Pool 60 days prior to withdrawal?**

A: It is only necessary to provide 60 days notice of withdrawal if your entity wishes to take the portion of the Cumulative Reserve Fund (CRF) it has earned.

**Q: Is my entity penalized for withdrawing?**

A: No, there is no penalty for withdrawing; however, if the entity has equity coming back a fraction may be retained for the next year’s budget cost (Article XI, 1).

**Q: What is the Cumulative Reserve Fund (CRF)?**

A: The cumulative amounts paid by Members pursuant to Articles IX and X, which may be supplemented by investment earnings.

**Q: What good is the CRF unless I leave the Pool?**

A: Aside from capitalizing the Pool, the CRF earns investment income for the Pool and has the opportunity to reduce the cost of coverage for members.

**Q: Aside from lower cost and better coverages, what financial benefits are available to members?**

A: Through the first six (6) years of participation, every member accumulates an increasing amount in the Cumulative Reserve Fund. The cumulative amount increases through a vesting schedule illustrated in Articles IX and X of the IRMA. For the last sixteen years, fully vested members (six-year members) have received credits against the annual cost of coverage. In 2009, over \$1.6 million was credited to over 450 vested ICAP members (this represents a value of nearly 18% of the basis rate liability cost for one year).

**Q: If ICAP gets hit with several large claims, can my entity be assessed for more money mid-term?**

A: Absolutely not. There is no provision to make adjustments for mid-term deficiencies.

**Q: Then how does the Pool make up for poor loss years?**

A: If the Pool's loss experience deteriorates and the pool budgetary fund is deficient, the annual cost for coverage *may* increase Members' contribution at the next year's anniversary renewal. The need for cash to cure the deficiency caused by mid-term losses would be satisfied through the CRF.

*\*Note: ICAP has never had a rate increase or decrease since inception in 1986.*

**Q: You say there are no surprises with ICAP but what if we add vehicles or employees?**

A: Your annual contribution is based on information you and your agent submitted on the ICAP applications. Vehicles and additional employees added after the anniversary effective date are covered until the next anniversary with no retro-charge. In 2005, the ICAP Board of Directors elected to offer a three-year rate guarantee.

**Q: What if we *cut* employees or vehicles?**

A: The cost for coverage is adjusted down at the next renewal anniversary. This is true even if your entity has the ICAP 3-year guarantee or extension in place.

**Q: Is it true ICAP was created for Iowa public entities that couldn't buy insurance anywhere else because of terrible loss experience?**

A: No. Over the years, several public entities that have applied to ICAP have been declined for a variety of underwriting reasons (including but not limited to: poor loss experience, uninsurable exposures and negative attitudes towards loss control). Every entity is annually underwritten and must maintain acceptable risk to remain a member.

**Q: Can a member be kicked out?**

A: Yes. According to Article XI,2, a member's participation may be cancelled by a 2/3 majority vote of the Board, effective only at anniversary with a 60-day notice of cancellation (no mid-term cancelation is possible).

**Q: Has any ICAP member ever been cancelled?**

A: No. As of yet, it has never been necessary.

**Q: Is there a fee for membership?**

A: No, there is only a cost for annual coverage, which is presented prior to anniversary or joining the Pool.