

Wrap-Ups: What a Contractor Should Know

Michael G. Alberico, ACI, CRIS
Senior Vice President,
Construction Practice Leader

September 28, 2017



Today's Learning Objectives

- » OCIP or CCIP = wrap-up
- » Why a sponsor considers a wrap-up
- » Types of wrap-ups
- » Contractor concerns and coverage issues
- » Enrolling in a wrap-up
- » How to better manage the wrap-up process



In the Interest of Full Disclosure

- » I'm a proponent of wrap-ups
- » I've sold, placed and managed 11 wrap-ups totaling \$3B+ in hard costs
- » If properly administered, they're very effective for the sponsor and contractors
- » ***4 of my wrap-ups involved trade contractor clients of mine***

Familiar Projects



Minimizing risk. Maximizing health.®

What Can Go Wrong



Minimizing risk. Maximizing health.®



What is a Wrap-Up?



What's a Wrap-Up?

- » Project/site specific insurance program
- » Consolidated insurance program provided by a sponsor
- » Used in lieu of traditional insurance
- » Insures owner, GC/CM, all **enrolled** subcontractors
- » Purchased by sponsor
 - » Owner – Owner Controlled Insurance Program (OCIP)
 - » Contractor – Contractor Controlled Insurance Program (CCIP)
 - » Rolling – Rolling OCIP or CCIP = ROCIP or RCCIP
- » Funded by removing insurance costs from contractors' bids

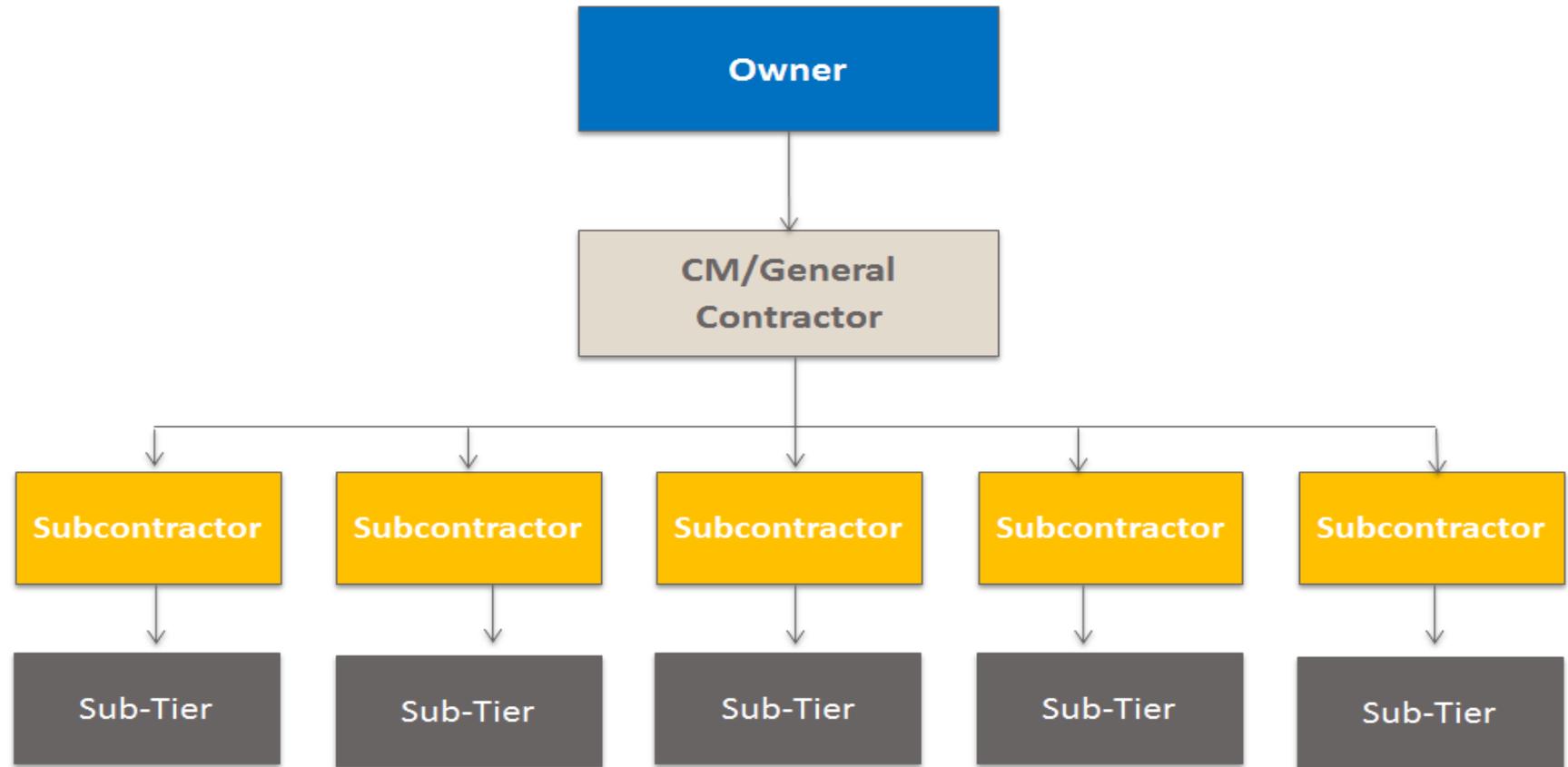


Risks – Traditional Approach

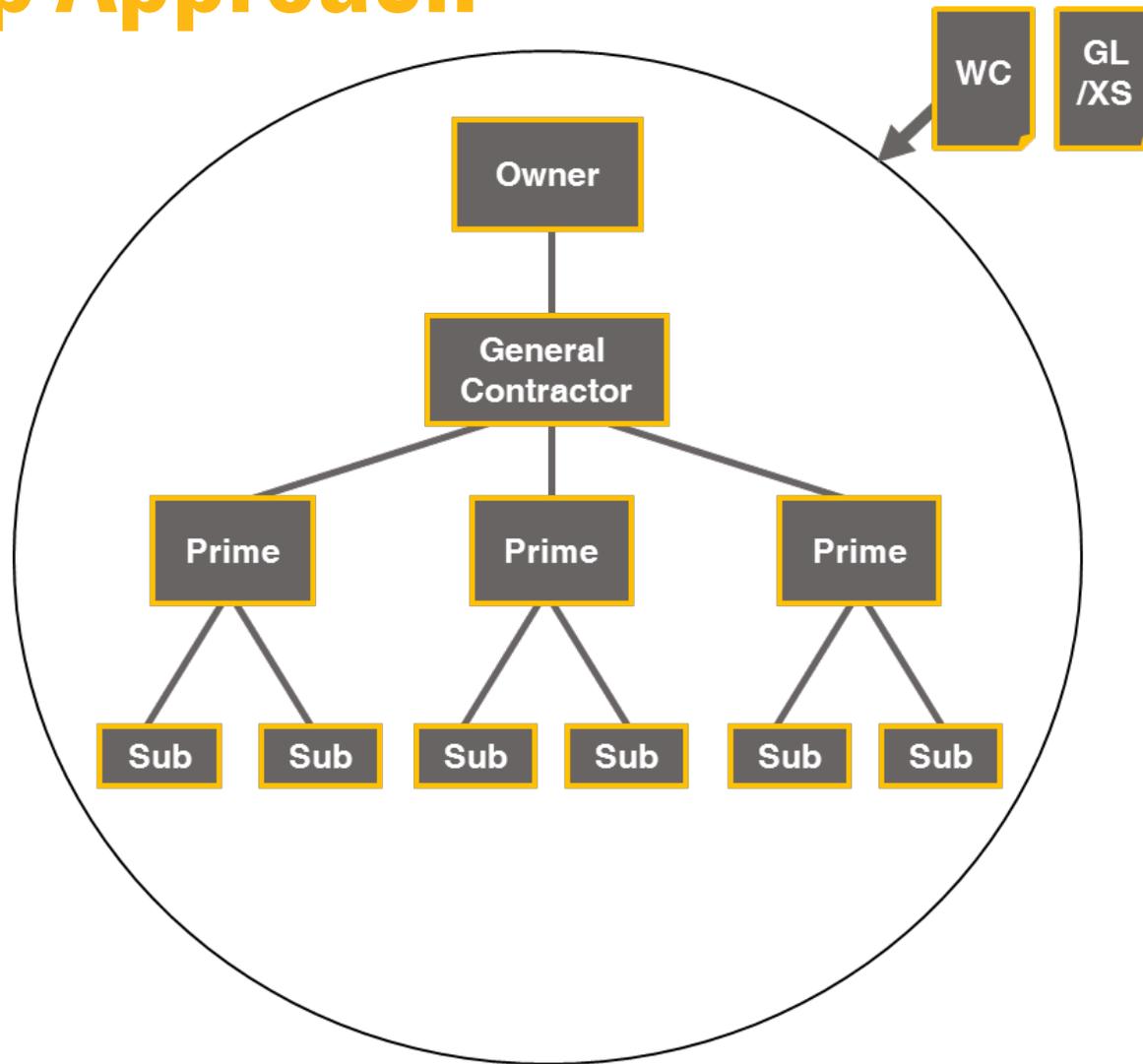
- » Exposes owner to CGL claims under its insurance due to:
 - » Partial or contributory negligence
 - » Inadequate contractor insurance
 - » Coverage exclusions
 - » Improper additional insured endorsements
 - » Contractor/insurer insolvency
 - » Discontinuation of coverage (e.g., JV)
 - » Reservation of rights
 - » Horizontal exhaustion
 - » Potential lack of post-construction insurance protection



Traditional Insurance Approach



Wrap-Up Approach





Why a Sponsor Wants a Wrap-Up

- » Isolates construction risk to a project-specific program
- » Known dedicated limits, coverages and insurers
- » Known completed operations coverage and term
- » All contractors comply with on-site insurance requirements
- » Reduces litigation – no finger pointing
- » Centralized safety and claims management
- » Project term pricing protection
- » Provides broader scope of coverage and higher limits
- » Eliminates concerns over improperly insured contractors
- » Potential of savings



Sponsor Financial Model

Maximum Cost

Contractor Premium / Target Bid Credits

Program Loss

Cost Avoidance

Claims

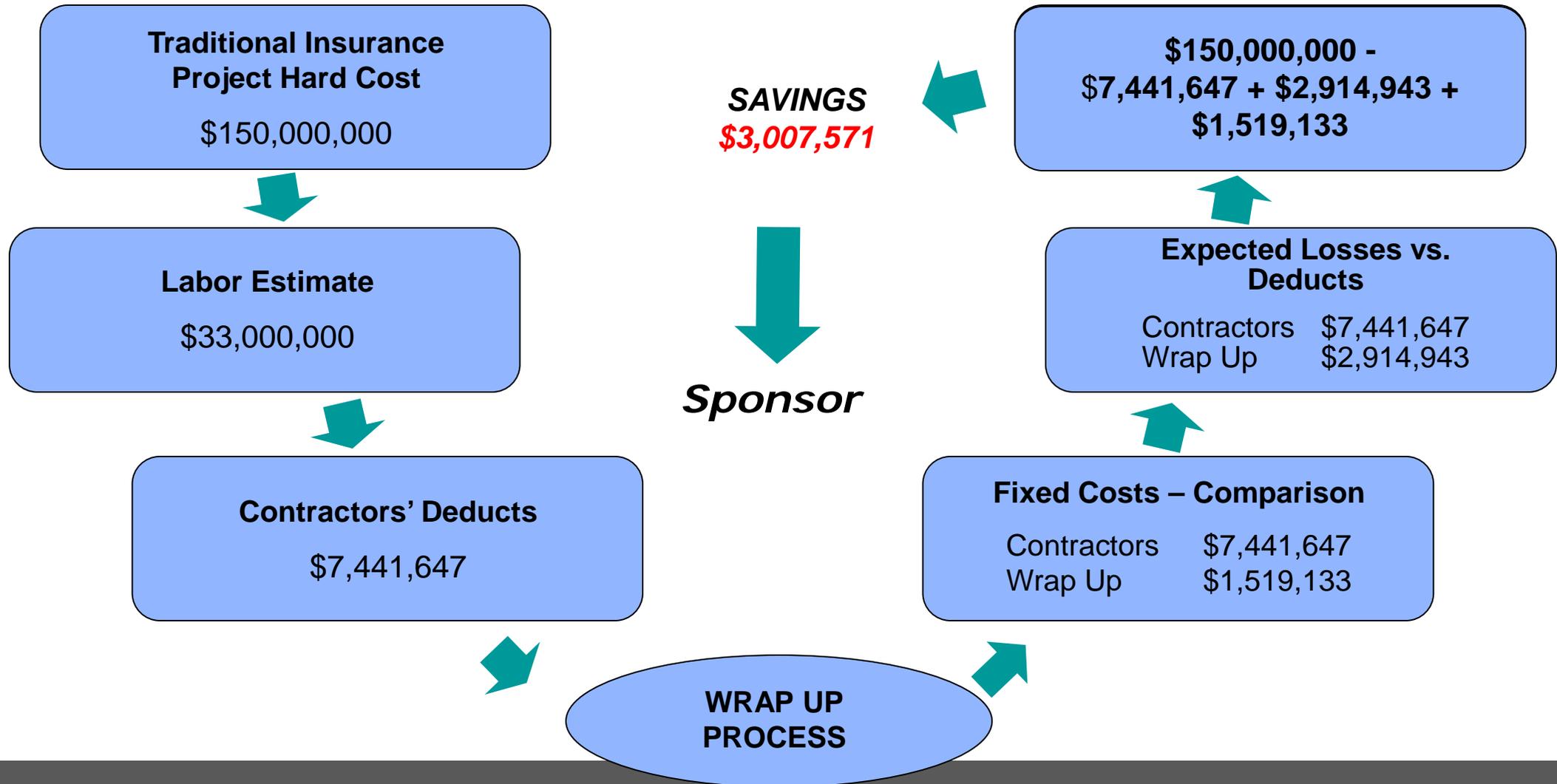
Minimum Cost

Fixed Expenses
(Fixed Insurance, Excess, Administration)

0 10 20 30 40 50 60 70 80 90

Loss Ratio (%)

Sample \$\$ Flow Diagram





Types of Insurance in a Wrap-Up

- » **Core lines of coverage**
 - » Workers compensation
 - » General liability
 - » Excess liability
- » **May include**
 - » Professional liability
 - » Environmental liability
 - » Railroad protective liability



Types of Wrap-Ups

» Traditional Program

- » General liability and workers compensation through the same carrier
- » Written on a loss sensitive program usually a large deductible
- » Large projects, no residential – hard costs in excess of \$100 million
- » Extended completed operations
 - Statutes of repose/limitations
- » Clash and bucket deductible



Types of Wrap-Ups

Modified Traditional Program

- » General liability and workers compensation through different carriers
- » Large residential projects or projects in bad construction defect states
- » Workers compensation written on a loss sensitive plan
- » General liability written with a deductible commensurate with the size of the program
- » Extended completed operations
 - Statutes of repose/limitations



Types of Wrap-Ups

» Liability Only Program

- » No workers compensation, project too small
 - Growing trend to use these on large projects
- » Residential projects or projects in bad construction defect states
- » Extended completed operations
 - Statutes of repose/limitations

Challenges with Wrap -Ups



Disadvantages of Wrap-Ups

- » Administrative burden
- » Contractor concerns and objections
- » Potentially complicated bidding process
- » Collateral requirements (sponsor)
- » Potential of unrealized savings
- » Failure to change mindset



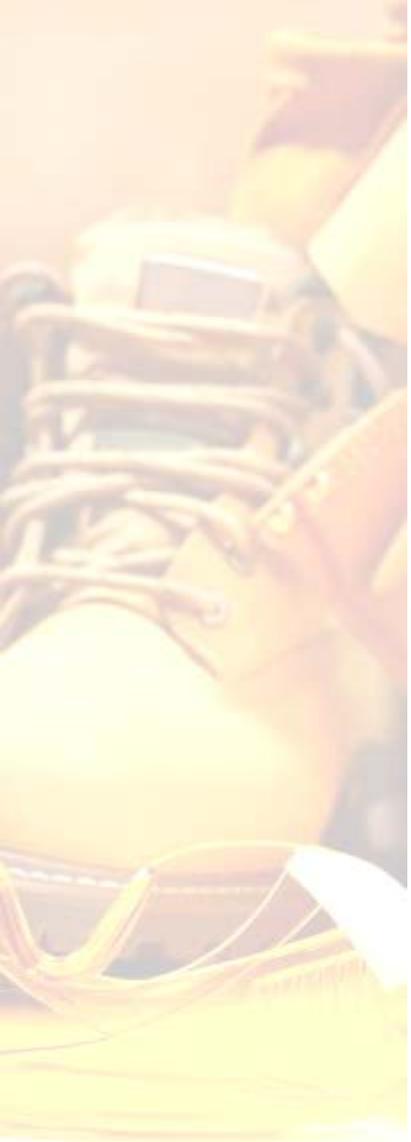
Contractor Concerns

- » Administrative complaints
- » Potential loss of profit
- » Unfair or abusive credit calculations
- » Allocation of deductibles/retentions
- » May impact cost of traditional programs
- » Resistance by insurance brokers/advisors
- » Failure of sponsor to provide timely information
- » Documentation/deliverables
- » Mandatory adoption of stringent safety requirements

A close-up, slightly blurred image of a yellow work boot with white laces, positioned on the left side of the slide. The boot is the primary focus of the background image.

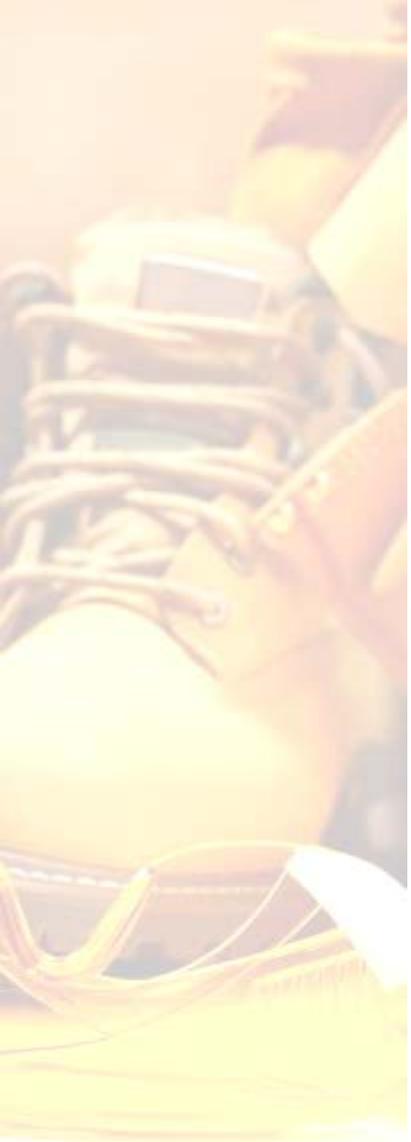
Contractor Coverage Issues

- » Discrepancies between contract, manual and policies
- » Failure to specify responsibility for retentions
- » Named insured and additional insured errors
- » Failure to complete enrollment process
- » Inadequate limits of liability
- » Inadequate “project” or “site” descriptions
- » Failure to extend coverage for delayed projects
- » Failure to include primary/non-contributory endorsements



Contractor Coverage Issues (cont'd.)

- » Missing extended products/completed operations endorsements
- » Failure of excess insurance to “follow form”
- » Damage to the project is excluded
- » Failure of sponsor to supply copies of policies or other documentation
- » Wrap-up exclusions/limitations in own traditional policies



Financial Impact on Contractor

- » Audit on traditional policies – proper documentation from sponsor
- » Traditional policies may contain a minimum premium (GL)
- » Too much wrap-up work can increase net cost on traditional program
- » Experience modifications and contractor credits
- » Assumption of retentions greater than traditional program
- » Deduct applied to change orders?



Coverage Secured by Contractors

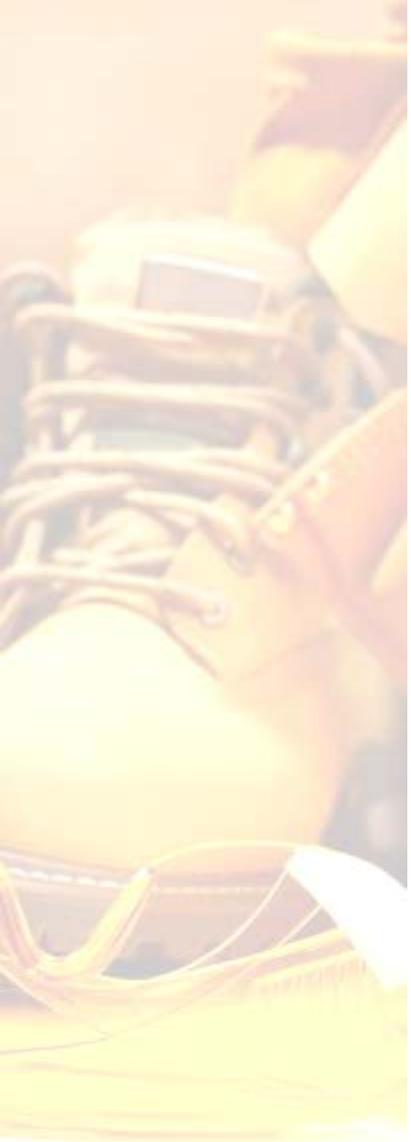
- » Automobile liability
- » Aviation liability (as required)
- » Watercraft liability (as required)
- » Contractors equipment
- » Off-site workers compensation, general liability
 - » Workers compensation for liability only wrap-ups
- » Surety bonds
- » Deductible buyback (not required)



What You Need to Know

Minimizing risk. Maximizing health.®





Common Obstacles to Success

» Sponsor lacks

- » Experience
- » Strong safety/claims management programs
- » Commitment, preparedness and focus
- » Supportive culture
- » Vision past insurance credit amounts
- » Poor program design
- » Poor communication between participants
- » Conflicting agendas of participants
- » Faulty expectations of participants



What You Need to Review

- » Contract which specifically speaks to wrap-up
 - » BEWARE the contract that has been “amended” to add wrap-up language!
 - » Improperly worded indemnification clauses or offsite AI requirements
- » Complete copy of manual
 - » Proper description of project
 - » Review exclusions, conditions, warranties
 - » Who’s responsible for retentions/deductibles?
 - What’s fair?
- » Is project safety plan part of the general conditions of the construction agreement?
- » Did sponsor include safety requirements in pre-bid documents?



What You Need to Review

- » You can ask for a copy of the policy
- » Waiver amongst the participants?
- » Will change orders for deducts be issued downward as well as upward?
- » Extended completed operations time frame and wording
- » Is warranty work covered?

***The Enrollment and Deduct /
Credit Process***

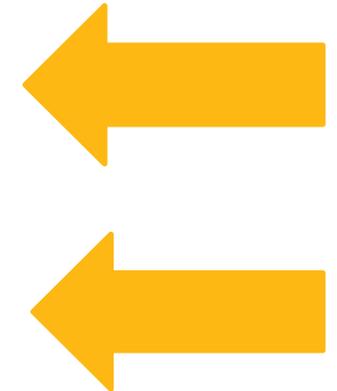
Types of Bid Credits (Deducts)

- » Bid credits fund the wrap-up
- » Bid credit methodologies
 - » Net Bid – contractor bids without insurance (Bid Accepted)
 - » Insurance Add Alternate – insurance costs identified and reviewed (Bid Adjusted)
 - » Bid Credit Tracking – insurance costs adjusted for payroll (Bid Adjusted)
- » Comparison of methodologies

| | Net Bid | Insurance Add Alternate | Bid Credit Tracking |
|-------------------------|---------------------------------|---------------------------------------------------------|------------------------------------------------------------------------|
| Procedure | Accepted “Net of” Insurance | Insurance Costs Identified In Bid | Costs Identified And Tracked Over Project Term |
| Identification of Costs | Competition Forces Remove Costs | All Costs Are Identified/Negotiated In Bidding Process | Deduct All Costs Contractors Would Pay In Absence Of A Wrap-Up Program |
| Comments on Savings | Savings Estimated | Savings Identified At Front End (No Payroll Adjustment) | All Insurance Costs Identified And Deducted from Contract Value |
| Credit Levels | Lower | Medium | Higher |

Enrollment Form

| | | | |
|-----------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------|
| A. Contractor Information: | | Federal ID # or Soc. Sec. # 1 | |
| | <input type="button" value="Business Information (headquarters)"/> | <input type="button" value="Contact Information (address questions to..)"/> | |
| Company Name & dba: | 2 | 3 | |
| Contact Name & Title: | | | |
| Address: | | | |
| City, State, Zip Code: | | | |
| Telephone: | | | |
| Fax: | | | |
| E.mail Address: | | | |
| B BID INFORMATION: | | Bid Package 1 | {Project Name} |
| Description of Work: | 2 | | |
| Proposed Contract Price \$: | 3 | Are you Submitting a bid to | : 5 <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Amount of Self Performed Work \$: | 4 | If No, identify to whom: | 6 |



- » Contact information
- » Bid information

Enrollment Form

| C. Workers' Compensation Insurance Information for Work Described Above: ^(a) (attach a separate sheet if necessary) | | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------|----------------------------------|-----------------------------------|----|-------------------------------------------|
| a State | b Class Code | c Description | d Rate (per \$100 payroll) | e Man-hours | f | g WC Premium (Payroll * Rate / 100) |
| 1 | | | | | | |
| Identify the Amount of Your Claim Retention: <u>5</u> | | | | 3 | 4 | |
| Employers Liability Rate: <u>8</u> | | | | Compensation Experience Modifier: | 6 | |
| | | | | Modified Premium (line C4 x C6): | 7 | |
| | | | | Employers Liability Premium: | 9 | |
| 10 Modification & Discount Premium Factors | | | 11 Rate | 12 Amount | | |
| Mod 1: | | | + or - | | | |
| Mod 2: | | | + or - | | | |
| Mod 3: | | | + or - | | | |
| Mod 4: | | | + or - | | | |
| Mod 5: | | | + or - | | | |
| Total Modification Amount (Total of all amounts entered in column C12): | | | | | 13 | |
| Total Workers' Compensation Premium (line C7 + C9 + C13): | | | | | 14 | |

\$24,378

- » Typical workers compensation information
- » How an administrator handles loss sensitive programs
- » Include experience modification
- » Make sure all credits/modifications are included
- » What happens if credits are not included
- » Premium without contractors credit
- » Premium with contractors credit

Enrollment Form

| | | | | | |
|----------------------------------------------------------------------------------------------|---------|----------------------------------------------------------|----------------------------------------|-----------------------------------------------------------------------------------------------|----------------|
| D. General Liability: ⁽¹⁾ | Rate: 1 | 2 Based On: Total Payroll (C3) Contract Price (B3) | 3 Rate factor: Per 100 Per 1,000 | Identify the Amount of Your Claim Retention: _____ | 5 |
| | | Other _____ | | Premium (D2 x D1 + D3): | |
| Excess/Umbrella Liability: ⁽¹⁾ | Rate: 6 | 7 Based On: Total Payroll (C3) Contract Price (B3) | Per 100 Per 1,000 | Excess/Umbrella Premium (D7 x D6 + D8): | 9 |
| | | Other _____ | | | |
| E. Builder's Risk/Installation Floater | | | | | Not Applicable |
| F. Other Insurance Premiums: ⁽¹⁾ (Enter total premium costs identified on page 2) | | | | | 1 |
| G. Totals | | Total of all Insurance Premiums (D2 + D8 + F1): | | C14 + D5 + D9 + E3 + F1): | 1 |
| Overhead & Profit on Insurance Prem. % | 2 | 15% | | Overhead & Profit Amount (G1 x G2): | 3 |
| | | | | Total Initial Insurance Cost (Total of lines G1 + G3): | 4 |
| | | | | Contractor's Initial Insurance Cost Rate (Line G4 divided by total payroll in line C3 x 100): | 5 |

- » Typical general liability information
- » How an administrator handles loss sensitive plans
- » Excess/umbrella liability – “flat”
- » Builders risk/installation floater handled by owner not part of Wrap Up
- » Other insurance premiums to be deducted/credited
- » Why overhead & profit

Enrollment Form

H. Signature Block: I verify the information presented above and attachments are correct:

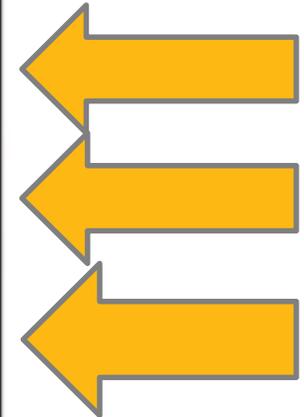
Name: _____ Date: _____
(please print)

Title: _____ Signature: _____

Completion of this form is a required part of your bid and must accompany your bid documents. Complete a separate form for each contractor, known Trade Contractor(s) and trades not currently awarded to a Trade Contractor. Duplicate this form as needed.

(a) Please provide copies of the following documents to support your insurance cost calculations:

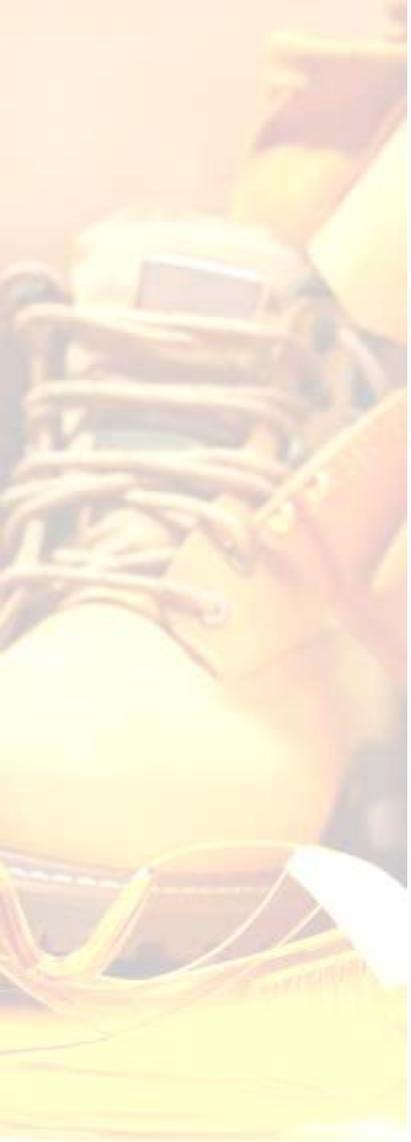
| | |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Schedule of Values | <input checked="" type="checkbox"/> General Liability declaration and rate pages |
| <input checked="" type="checkbox"/> Workers' Compensation declaration and rate pages | <input checked="" type="checkbox"/> Umbrella/Excess Liability declaration and rate pages |
| <input checked="" type="checkbox"/> Experience Modification worksheet | <input checked="" type="checkbox"/> 5 years actual loss experience for each line of coverage in which Contractor retains a deductible or SIR. |



- » Signature block
- » All tiers must complete enrollment form
- » Required documentation to be included

Enrollment Process Completed

- » Once enrolled you should receive:
 - » Certificate of insurance for general and excess liability
 - Other coverages provided by sponsor
 - » Workers compensation policy binder
 - » Workers compensation policy after issuance
- » Did sponsor conduct orientation meeting? Did the you attend?
- » Can request copies of general and excess policies
- » Manual should have been provided with bid documents
 - » All subsequent changes to manual
- » Monthly payroll tracking
 - » Change orders if payroll exceeds projected payroll, or
 - » Change order for payroll difference after your work is completed



The Wrap-Up Ends

- » Did it end when the project ended?
- » Contractor closeout
- » Warranty protection
- » Extended completed operations
- » Claim assistance – sponsor and contractor
- » Confirm you have the correct paperwork
- » Confirm you will receive loss runs for open claims



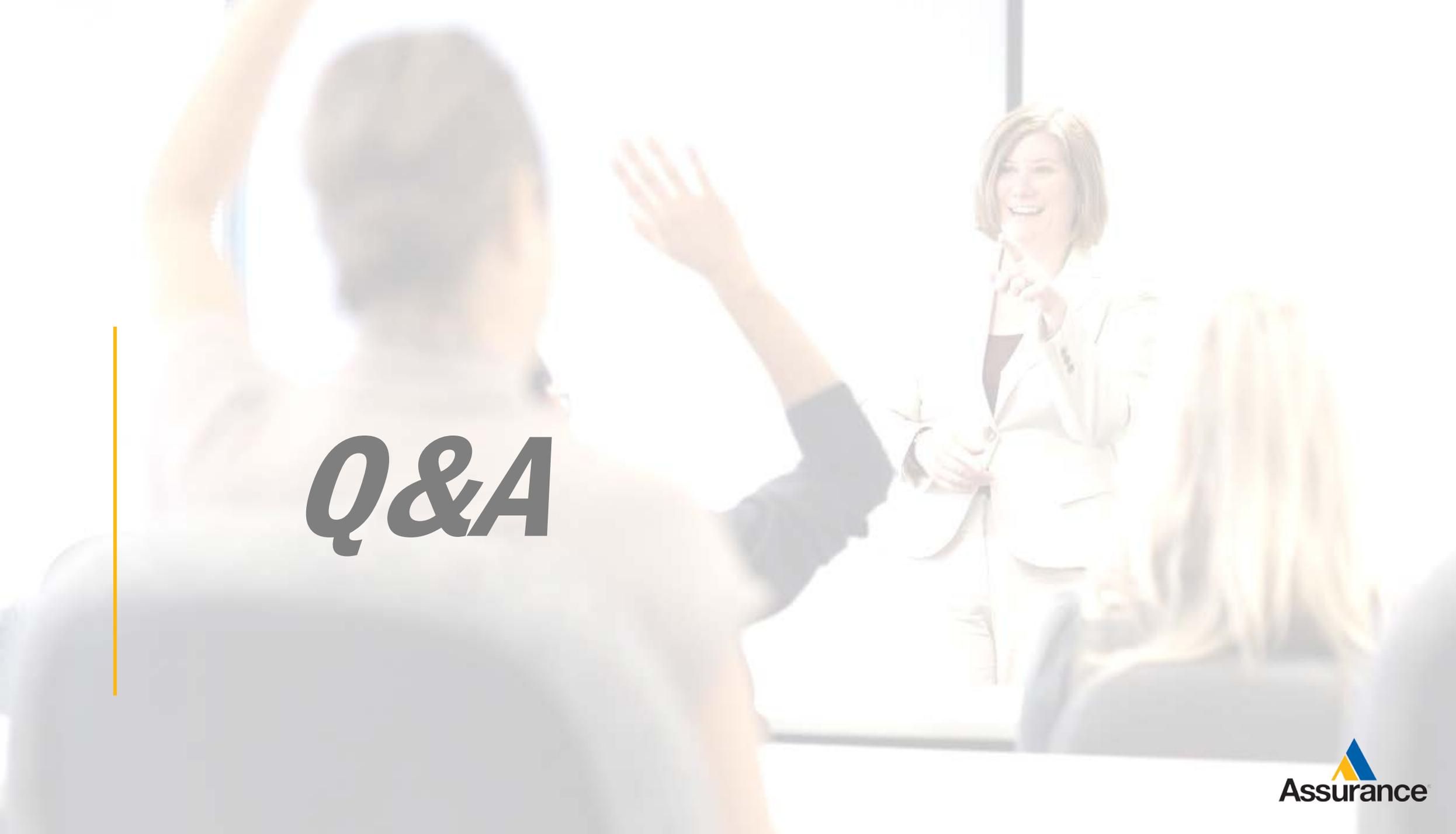
Comparison of Approaches

» Wrap-Up

- » Single policy or set of policies
- » Same coverage limits
- » Contractors “enrolled” in program
- » Coverage throughout statute of repose/limitation
- » Single primary GL target
- » Unified defense
- » Modified trade responsibility
- » No “fault”
- » Cross-suits eliminated

» Traditional

- » Numerous policies
- » Varying limits of coverage
- » Contractors add owner/ general as additional insured
- » Contractors must continue to provide completed operations
- » Each policy targeted
- » Fragmented defense
- » Each contractor pays for defense
- » Who is at “fault”?
- » Cross-suits are common

A woman with short blonde hair, wearing a white blazer, is smiling and gesturing with her right hand raised in a meeting. She is standing in front of a group of people whose backs are to the camera. The scene is brightly lit, possibly by a window. The text 'Q&A' is overlaid on the image.

Q&A