

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

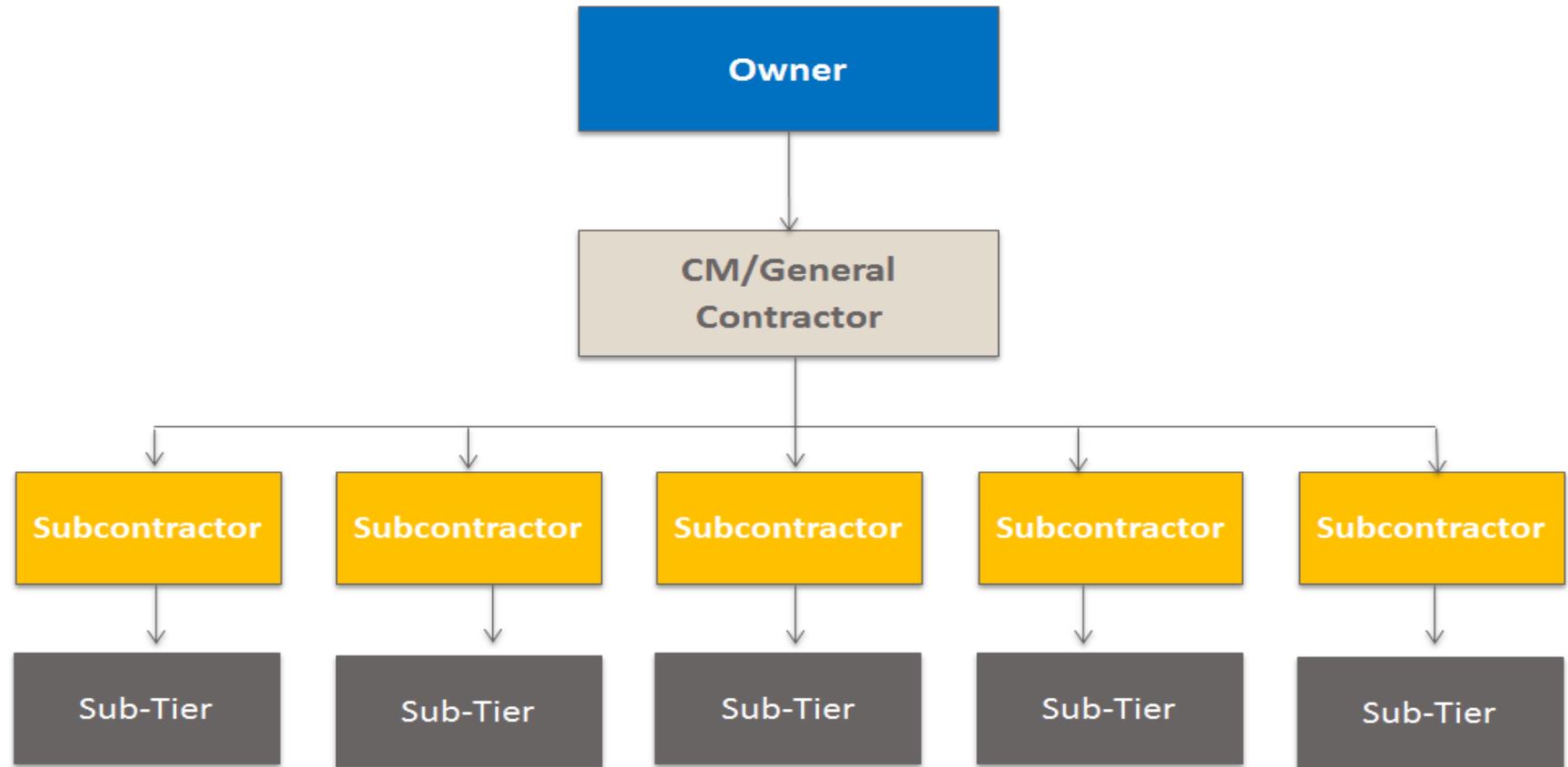


Risks – Traditional Approach

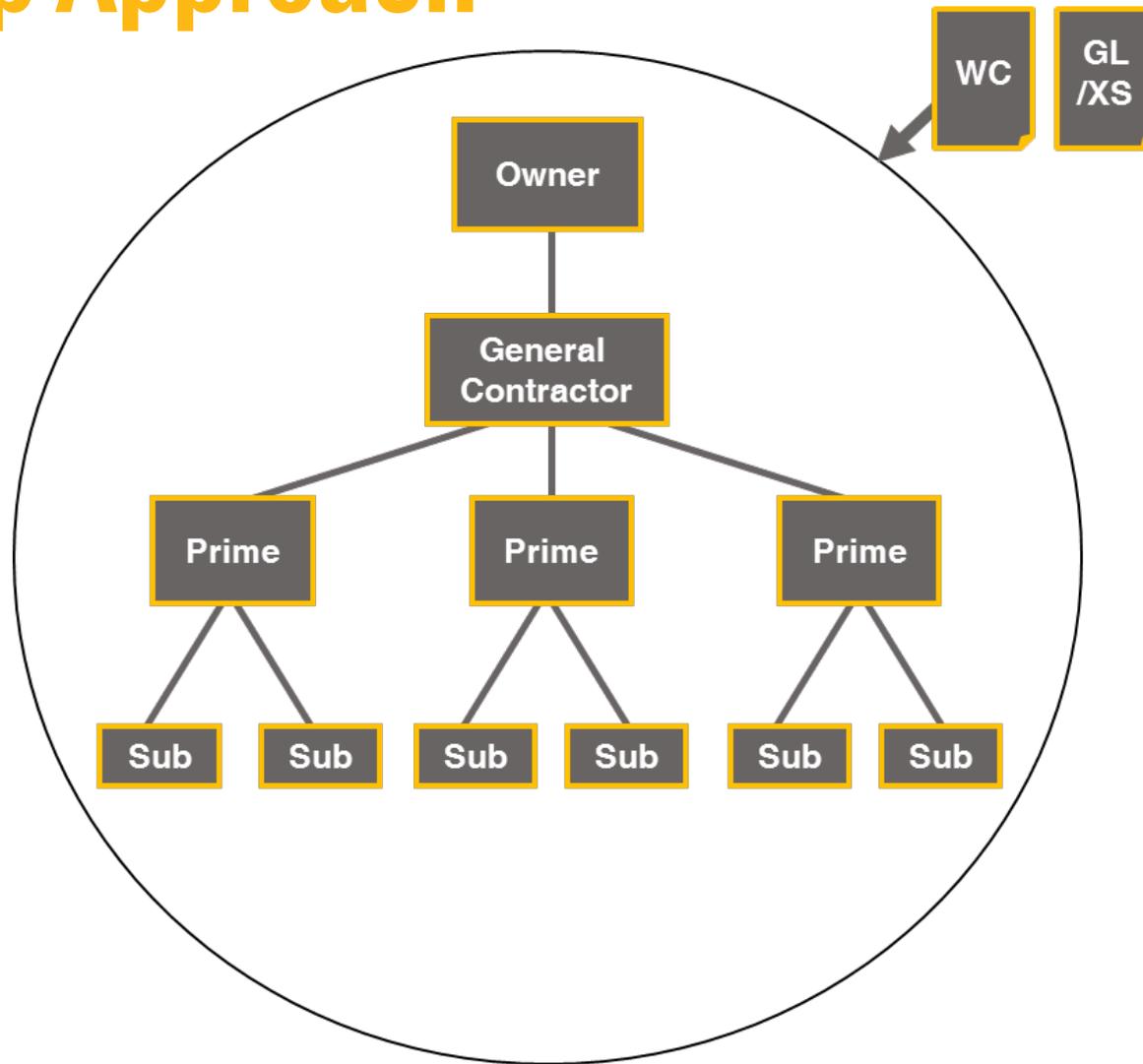
- » **Exposes owner to CGL claims under its insurance due to:**
 - » Partial or contributory negligence
 - » Inadequate contractor insurance
 - » Coverage exclusions
 - » Improper additional insured endorsements
 - » Contractor/insurer insolvency
 - » Discontinuation of coverage (e.g., JV)
 - » Reservation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

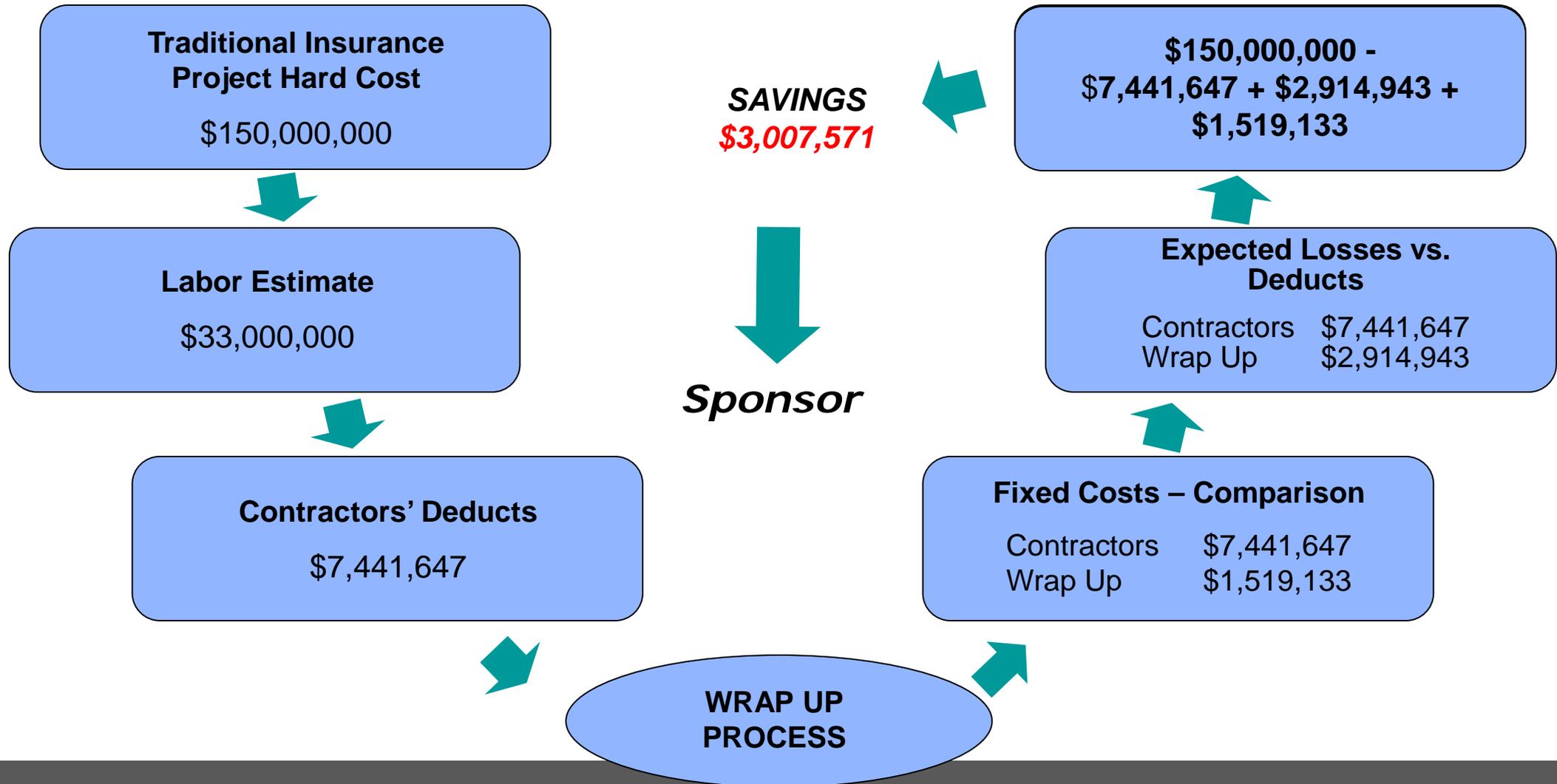
Minimum Cost

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



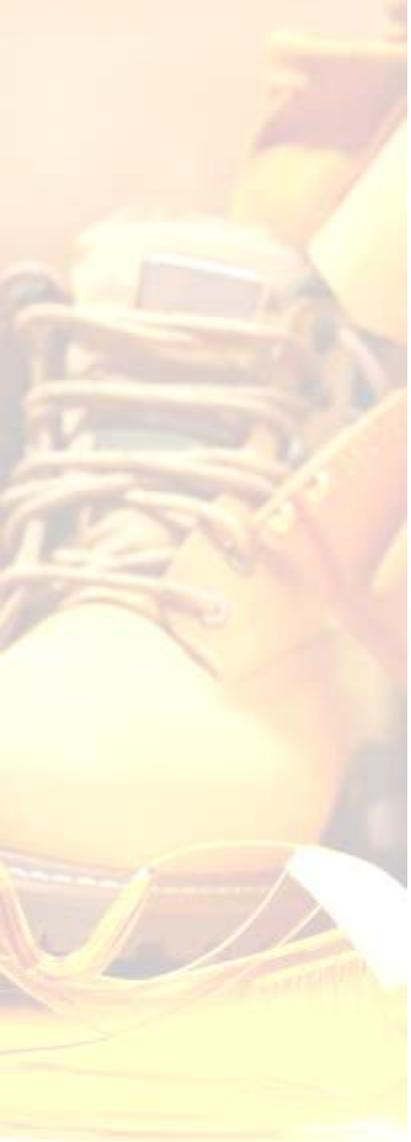
Contractor Concerns

- » 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.

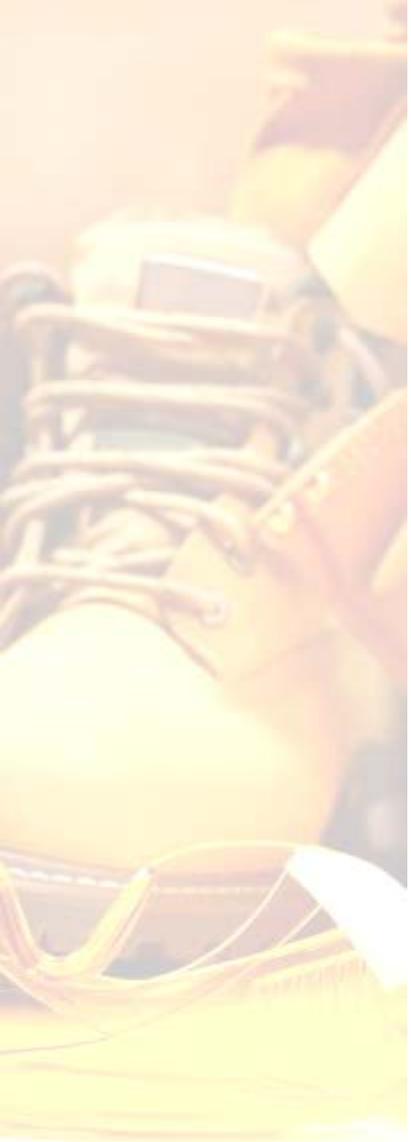
Contractor Coverage Issues

- » 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***

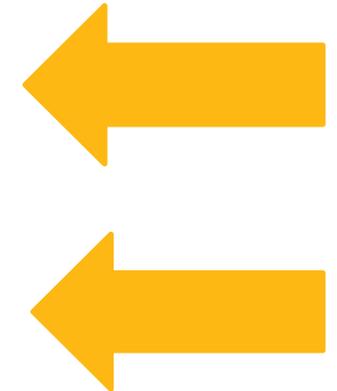
Types of Bid Credits (Deducts)

- » 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: <u>6</u>		
				Modified Premium (line C4 x C6): <u>7</u>		
				Employers Liability Premium: <u>9</u>		
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:

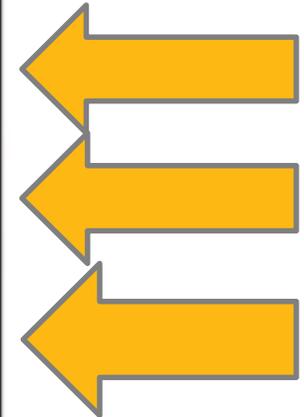
Name: _____ Date: _____
(please print)

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:

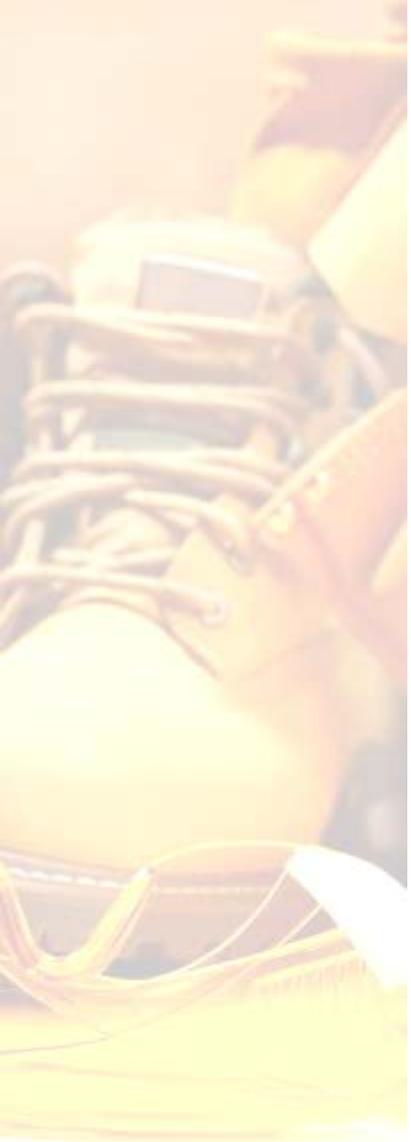
<input checked="" type="checkbox"/> Schedule of Values	<input checked="" type="checkbox"/> General Liability declaration and rate pages
<input checked="" type="checkbox"/> Workers' Compensation declaration and rate pages	<input checked="" type="checkbox"/> Umbrella/Excess Liability declaration and rate 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



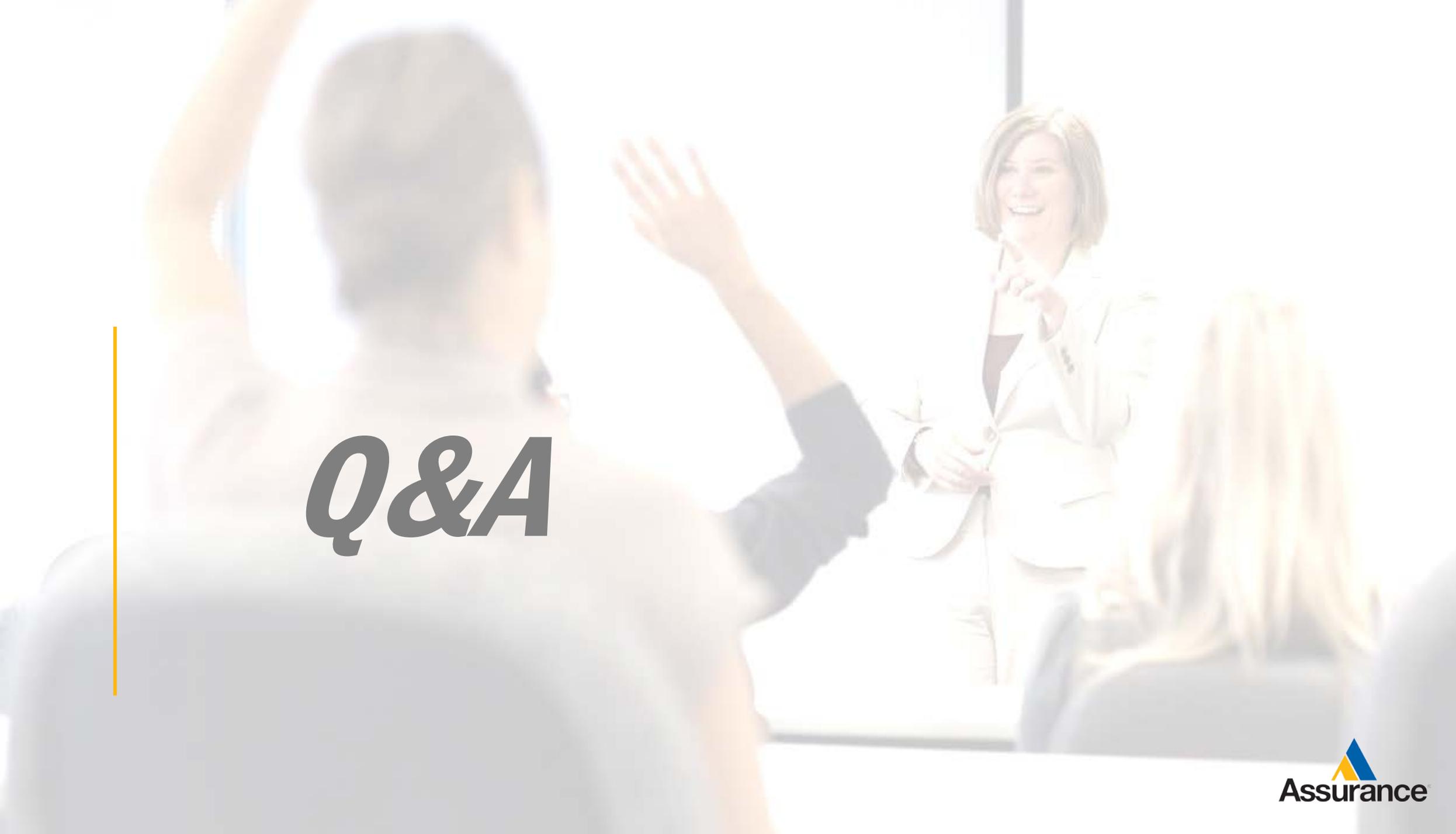
Comparison of Approaches

» 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 and facing a group of people whose backs are to the camera. The background is bright and out of focus.

Q&A