

Emerging Issues in Safety Management and Coordination of Risk Control Services for Owner Controlled Insurance Programs (OCIPs)

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Introduction

A Controlled Insurance Program (CIP) or Wrap-Up is an effective way to improve the safety and reduce insurance costs of large, multiple-contractor, construction projects. With a wrap-up, a single sponsor (either an owner or construction manager/general contractor) purchases insurance to cover the owner, construction manager and every contractor and subcontractor working on a project. Professional liability insurance and other coverages for engineers, architects and consultants is generally excluded. As is asbestos abatement, hazardous materials remediation and demolition. These activities are considered high risk and are often associated with long term exposures.

A wrap-up offers a structured way to consolidate risk, translating into significant cost savings. The Return On Investment (ROI) comes from efficiencies created through simplified program administration, reduction of overlapping coverage, improved safety and claim management and streamlined operations from a single-point-of-contact. Additionally, a wrap-up offers the opportunity to Disadvantaged Business Enterprises by removing the standard insurance requirements which may not otherwise be attainable from smaller contractors.

The average insurance cost on projects with individual contractor's providing their own coverage is between 3 to 4 percent of hard dollar construction costs. With a wrap-up, that average is closer to 2.5 percent. So, whether your construction costs are \$100 million or \$2 billion, you should see significant savings.

In many cases, the General Contractor or Construction Manager will finance the insurance for a project. These are referred to as Contractor Controlled Insurance Programs (CCIPs). Although the concept is similar to a wrap-up, this paper discusses only the aspects of OCIPs.

Parties included in the OCIP are the Owner, Insurance Broker, Insurance Carrier(s) and the controlling contractor (either a Construction Manager or General Contractor). The roles of each party will be discussed later in this document.

Bid process, Contract Documents and Safety Prequalification

It is important to establish safety rules during the bidding process. Safety plans and OCIP manuals must be included in the bid requests and as they will eventually become contract documents. This sets a level playing field for all bidders and locks contractors into following job specific safety rules.

The bid process is also the time to weed out contractors with poor track records for safety. Pre-qualifying contractors generally involves requiring bidders to submit three years of Experience Modification Rating (EMR) and five years of OSHA injury logs along with a citation history. This information is normally reviewed by the Construction Manager with assistance from the Insurance Broker. However it is always advisable for the Owner to take an active role in this process.

It is common for insurance carriers to require specific guidelines for these projects such as a six foot fall rule for all work. The six foot rule for construction is required by OSHA in 29 CFR 1926 Subpart M. However, OSHA standards for steel erection, pre-cast concrete construction and scaffold erection/dismantling allow for deviations from the 6 foot rule under certain circumstances. If this rule is going to be required on the project it MUST be stated clearly in the bid documents.

The Health and Safety plan should include language such as this:

Employees shall not be exposed to fall hazards greater than six (6') feet. When an employee observes a fall hazard, they will notify their supervisor of the hazard. The responsible Contractor will immediately correct the hazard. 100% continuous fall protection, for fall hazards greater than six (6') feet, shall be implemented on this Project - including steel erection and scaffold erection/dismantling.

Each Contractor is responsible for addressing fall protection requirements in their Site Specific HASP.

Each Contractor is required to evaluate ALL fall exposures and must develop a Fall Protection Plan, which outlines methods, procedures and/or devices used to prevent falls including the location, number, and type of anchor points to be used.

Each Contractor is responsible for implementing the requirements to achieve fall protection in accordance with all Federal, State, local rules, regulations, the OCIP Safety and Health Guidelines, and The Construction Manager's Site Specific Environmental Health & Safety plan / Subcontractor Procedures Manual.

All fall protection systems used on this project shall comply with OSHA regulations, 29CFR1926.502. Fall protection systems must provide a positive means of protection. Controlled Access Zones and Safety Monitoring Systems are not considered positive means of fall protection and will not be permitted. Any employee exposed to a fall greater than six (6') feet shall use

approved fall protection equipment or devices. Fall protection is required, as a minimum, under the following examples:

- Formwork and reinforcing steel. Each employee on the face of formwork or reinforcing steel shall be protected from falling 6 feet (1.8 m) or more to lower levels by Personal Fall Arrest Systems, safety net systems, or positioning device systems.
- When working from a telescoping, articulating, or rotating type lifts, personnel shall wear a safety harness with shock absorbing lanyard, secured to an approved anchorage point.
- When working on a ladder higher than six (6) feet from a solid surface, if the employee's torso extends past the side rails or if a vertical ladder extended a total of 20' or greater.
- When working on a platform or other support not equipped with an adequate guardrail, which is higher than six (6) feet from a solid surface.
- When working from a crane-suspended work platform, a safety harness with shock absorbing lanyard secured to an approved anchorage point is mandatory.
- When an employee may have to be lowered into or raised from a confined space, a personal fall arrest system must be worn. The employee should be supported by an approved platform or a boatswain's chair, with certified hoisting device and fall arrest device.
- When working adjacent to an unguarded floor opening or sloped roof, a lifeline system is desirable for mobility. A positive means of fall protection must be provided.
- When working adjacent to an excavation, pit or trench when a fall exposure of 6 ft. exists. Barricade tape is not adequate fall protection.

The Fall Protection Plan shall detail in writing when fall protection is required and exactly how this protection is to be provided. This written plan is required for any Contractor exposing workers to falls six (6) feet or greater.

Similarly, most insurance carriers will require or at least push for a proactive drug and alcohol testing program that includes, at the very least, post accident testing for all trades. It should be understood that drug and alcohol abuse is prevalent in the construction industry and stringent testing programs are used on most large projects. Such a program must be supported by the Owner and the Construction Manager at the onset of the project and must be enforced uniformly. An effectively run testing program is possibly the most effective tool in preventing accidents and deterring abuse.

Site Specific Health & Safety Plans should be developed with input from all parties. As a minimum, this document should include the following sections:

- Policy Statement
- Introduction
 - Project Directory
 - Construction Safety Guidelines
- Contractor Responsibilities
 - Compliance
 - Requirement for a Safety Representative
 - Contractor Responsibilities
- Construction Safety and Health Guidelines
 - Purpose and Scope
 - Scaffolds and Work Platforms

- Walking and Working Surfaces
- Fall Protection
- Confined Space Entry
- Employee Ground Transportation
- Housekeeping
- Project Electrical Requirements
- Cranes and Hoisting Equipment
- Rigging
- Heavy Equipment, Motor Vehicles and Lift Trucks
- Hazard Communication Program
- Job Safety Analysis (JSA)
- Substance Abuse Policy
- Instruction and Training
- Site Access and Security
 - Protection of the Public
 - Site Visitors
- Recordkeeping
- Safety Meetings
- Accident Reporting and Emergency Response Procedures
 - Evacuation & Emergency Procedures

On Site Safety Management

Just like anything else, safety management should be left to the professionals. A qualified Site Safety Manager should be assigned to the project during the bid process. This individual should have 5 – 10 years' experience working on projects of similar size and scope with extensive knowledge of OCIPs and worker's compensation law.

Ideally, this individual will be employed by the Owner to oversee all aspects of safety on the project and will work along with the Construction Manager (CM) or General Contractor (GC) to enforce site rules. Involvement at this level from the financier of the project can be very effective at sending a clear message to all involved parties that safety is a top priority.

More often the Safety Manager is employed by the CM or GC and reports directly to a Project Executive or General Superintendent. Many large construction companies have sophisticated safety programs and employ highly qualified Safety Professionals that are very capable of managing the process. Owners should consult with their Brokers at a very early stage to determine the exact needs for this very important position.

Depending on the size of the project, additional Safety Professionals may be needed. These individuals may be employed by the Owner, CM/GC or Subcontractors. Staffing and qualification requirements for Subcontractor safety personnel must be specified in the Site Specific Health & Safety Plan.

Often times Subcontractors will assign this duty to a Foreman or Project Manager. The problem is, these individuals often have other duties that may conflict with safety compliance or usually have no experience in safety management.

Factors to consider when requiring Subcontractors to supply safety professionals (often referred to as Safety Officer) are the nature and scope of work and crew size. Generally speaking, more dangerous tasks and larger crews will require a more experienced full-time Safety Officer.

In some cases, the Insurance Broker or Insurance Carrier may provide a full-time Safety Manager. This individual will report directly to the owner and may only act as a “watch dog”. More often, the Broker and Carrier will visit the project periodically to conduct safety audits. These audits should be conducted along with the Safety Manager, Subcontractor Safety Officers and a management representative from the CM/GC (other than the Safety Manager).

Audit results will generally produce recommendations from the Insurance Carrier that will be communicated to all parties, including the Owner. Most Insurance Carriers require a written response to recommendations which is normally generated by the CM/GC with input from the Broker. These audits are an important part of safety management and must be taken seriously. Failure to respond to Insurance Carrier recommendations may lead to problems with insurance coverage.

Accident Reporting, Medical Care and Claims Management

On a multi-employer work site, like an OCIP, accident reporting can become complicated especially during the early stages of a project. Subcontractors often fail to properly communicate procedures to their employees and lower tier contractors. When this happens, injured employees may go to medical providers that are not qualified by the Insurance Carrier and the claim will go unreported.

Accident reporting procedures for an OCIP need to be established and communicated early and often to all levels of contractors and employees. The process must require workers to report injuries to their supervisor or foreman immediately. If necessary, the injured worker’s employer will usually provide transportation to an approved Occupational Health Clinic or hospital. For traumatic or life threatening injuries, an ambulance should be called.

To control the quality of care for injured workers, it is imperative to establish a relationship with a qualified Occupational Health Clinic in the vicinity of the project. A list of such clinics can be provided by the worker’s compensation insurance carrier. The name and location of this clinic must be provided to Subcontractors and site personnel during orientation.

Whenever an injured worker arrives at the clinic, the Site Safety Manager, Site Medic (where applicable) and Claims Administrator must be notified by the clinic.

Oftentimes on large projects a medical unit may be established on site. This is usually a centrally located trailer staffed with an EMT, paramedic or nurse. The on-site medical trailer can treat workers with minor injuries who would otherwise need to travel off site to see a doctor. It also ensures that someone with life-saving capabilities is on site at all times. A properly managed medical trailer can also administer a drug and alcohol program and assist with claims management. This service can be expensive but usually pays for itself on a large project.

Conclusion

If properly managed from the beginning, OCIPs can save owners a great deal of money on construction and insurance costs. The added benefit is a safer project, which is good for everyone.