



FORUM ON OCIPS

Presented by

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Mention "OCIPs" or "wrap-ups" to a group of construction and insurance professionals, and more than likely you will get strong reactions from all sides. Designed partly as a cost-saving tool based on purchasing power and aggressive loss control, owner controlled insurance programs (OCIPs) have generated more controversy and strong emotion than almost any other construction insurance topic. Many will agree that historically, OCIPs failed to address certain contractor needs and considerations. However, disagreements remain regarding whether that fact has changed in recent years, whether OCIPs really save money, what is fair regarding contractor insurance credits, and whether the insurance industry is overselling wrap-ups with unrealistic savings projections. This session brings together a distinguished panel representing all of the affected industry segments, including a project owner, a general contractor, a subcontractor and a wrap-up broker. Attendees will leave with a better understanding of the other players' perspectives, the impact of the hard market on wrap-ups, and ways to improve everyone's overall satisfaction with the program. Participants in this session include a moderator, contractor, subcontractor, owner, and broker—all specialists on OCIPs.

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**Frank Keres
Risk Manager
Safway Steel Products Inc**

Mr. Keres is a panelist for Workshop P, "Forum on OCIPs." He is risk manager for Safway Steel Products Inc, the country's largest scaffold, shoring, and formwork enterprise, with more than 70 locations in North America and an average of more than 2,000 employees. Prior to joining Safway, he was with Aon Risk Service's Construction Group, working with contractors on developing risk programs and with owners of larger construction projects. He was one of the earliest construction risk managers when he worked for James McHugh Construction Co. in Chicago.

Mr. Keres believes in the full integration of loss control, claims, insurance, and operations to have a comprehensive and productive risk management program. He utilizes his legal training and background and his safety experiences to provide a unique focus to risk management. Mr. Keres is well recognized as a leader in the area of construction risk. Among the groups to whom he has made presentations are the National Safety Council, International Conference on Construction Safety and Health, National Inland Marine Underwriter's, Construction Safety Conference.

Mr. Keres holds a B.A. from the University of Notre Dame and a J.D. from John Marshall Law School.

**David G. Langton
Risk Management Consultant
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Mr. Langton is a panelist for Workshop P, "Forum on OCIPs." He is a construction risk management consultant, and formerly was Vice President, Corporate Director of Environment, Health & Safety, Bovis Lend Lease Holdings, Inc. He has more than 25 years of experience with Fortune 500 and ENR Top 400 companies.

His initial undergraduate studies were in England at Riversdale Polytechnic and Liverpool College of Technology, and he is a licensed Marine Engineer Officer. He has a Masters in Safety Engineering and is a graduate of the Executive Program for Advanced Management, University of North Carolina, Chapel Hill. He is a member of the American Society of Safety Engineers (past president Tarheel Chapter), Veterans of Safety (president 2000-2001 and 2001-2002), The World Safety Organization (past president Carolinas Chapter), and The Institute for Safety and Health Management.

He has National, North Carolina, New York, and Ohio Board of Commissions for Boilers and Pressure Vessels and has extensive experience in engineering and pressure vessel design. He was inducted into the Inaugural Edition of *Who's Who in the Safety Profession*.

He is also a Certified Safety and Health Manager, a Certified Safety and Health Professional in the State of Hawaii and an Approved Safety Source in the State of Texas.

Mary L. Stewart, ARM, CPCU
Vice President, Government & Institutions Sector
Aon Risk Services

Ms. Stewart is a panelist for Workshop P, "Forum on OCIPs." She is responsible for all wrap-up programs in the mid-Atlantic region for Aon Risk Services, located in Washington, D.C. She joined Aon Risk Services Construction Division in 2001 after having managed the owner controlled wrap-up insurance program (OCIP) for the Metropolitan Washington Airports Authority for 13 years. The OCIP won four national awards and a Certificate of Recognition from the Governor of Virginia for having reached a 0.91 injury rate.

She also helped the City and County of Denver to select and implement a wrap-up program for New Denver Airport, as well as six other major airports throughout the nation. She served on the American Airport Executives Insurance Committee, and was an active member of both RIMS and PRIMA. Ms. Stewart worked as a risk manager for more than 20 years and became PRIMA's Risk Manager of the Year for 2001.

Ms. Stewart holds a bachelor of science degree in psychology and a bachelor of arts degree in speech/theater from Indiana University of Pennsylvania, and a master of safety science management (MSSM) from the University of Southern California. She received the Associate in Risk Management (ARM) designation in 1987 and the Chartered Property and Casualty Underwriter (CPCU) designation in 1997.

John S. Alberici
Senior Vice President
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Mr. Alberici is moderating Workshop P, "Forum on OCIPs." He is senior vice president of Alberici Group in St. Louis, Missouri. Alberici is ranked the 53rd largest U.S. contractor by McGraw Hill's *Engineering News Record* publication.

Mr. Alberici is responsible for all corporate services including finance and administration, safety and risk management, human resources, and quality and management information systems. In related companies, he is vice chairman of Alberici Corporation, president of Hillsdale Insurance Agency, Inc., and president of two captive insurance companies, Contractor's Casualty Company of Vermont and New Century Casualty Corporation of Hawaii.

A graduate of the University of Dayton, Mr. Alberici is presently on the Board of Trustees of Saint Louis University, where he is a member of the Executive Committee and the Technology Development and Information Systems Committee, and is chairman of the Human Resources Committee. He is a member of the Advisory Board of Bank of America in St. Louis and is past president of the board of SSM Rehabilitation Institute. Currently a Life Director of the Associated General Contractors of America (AGC), Mr. Alberici is past chairman and an active member of the AGC's Surety and Risk Management Committees. He has served on Strategic Planning Task Groups at the local and national level of the AGC and he is past president of the AGC of St. Louis.

FORUM ON OCIPS

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II. Position OCIPs

- A. Contractor perspective
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- A. Do OCIPs really save money?
- B. What is fair regarding contractor insurance credits.
- C. Is the insurance industry overselling wrap-ups with unrealistic savings projections?
- D. What is the impact of the hard market on OCIPs?
- E. What are some innovative techniques that improve the effectiveness of OCIPs?

Notes

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FORUM ON OCIPs

An owner controlled insurance program (OCIP) is a centralized insurance program for large (e.g., \$100 million) construction projects under which the owner procures insurance on behalf of all the other parties (e.g., owner, general contractor, and subcontractors). This contrasts with the typical approach under which each party is responsible for purchasing its own insurance. OCIPs are growing in popularity, particularly during the last 10 years. These programs, however, remain controversial as many industry experts believe that OCIPs promise more than they deliver.

Many questions arise concerning OCIPs. For example, do they really save money for all the parties involved? How should insurance credits be applied? What is the best approach as far as safety is concerned? What are the weaknesses of OCIPs and what techniques and tools are available to mitigate these weaknesses? How has the hard market affected OCIPs?

In this session, a distinguished panel of OCIP experts will discuss these and other key wrap-up issues facing owners, contractors, and subcontractors. These panelists represent the principle parties involved in an OCIP—namely, the owner, contractor, subcontractor, and broker. Attendees will leave with a better understanding of the other parties' perspective within the OCIP, the pros and cons of OCIPs, practical techniques for improving an OCIP, and ways to implement an effective and successful OCIP.

In Their Words ...

In preparation for this discussion, we asked each of our panelists to summarize, from their unique perspective as an owner, contractor, subcontractor, or broker, the advantages and disadvantages of OCIPs. Their responses are presented below.



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Advantages of Wrap-Up Programs

The potential for cost savings is often the initial motivator behind an owner's decision to implement a wrap-up. However, if properly structured, a successful wrap-up provides many other advantages. From an owner's perspective, some of the significant advantages of using a wrap-up include:

- **Consistent Approach to Safety.** A wrap-up provides an owner with an excellent opportunity to manage the impact of construction on the public and minimize the number of job-related injuries. Establishing safety criteria to be used as part of the evaluation process for contract award, development of comprehensive safety standards that all contractors must adhere to, facilitation of enforcement by incorporating the job-site safety program as a contract document, mandatory safety meetings between the contractors and owner, periodic training opportunities for contractors and subcontractors, and approval of a contractor's primary safety personnel are ways that an owner can demonstrate their commitment to public and job-site safety.

- Control of Claims Handling Process. From the development of special handling instructions, selection of adjusters, and prohibiting claims between contractors covered by the program, an owner can significantly impact the quality and uniformity of the claims handling process. With the right structure, an owner can have considerable input into the litigation process as well. Selection of defense counsel, development of a defense strategy, sharing of experts, and utilization of joint defense agreements can reduce the cost of defending lawsuits arising out of construction activities.
- Increased Opportunities for Participation. Owners of projects that are funded, in whole or in part, by state or federal monies are strongly committed to the inclusion of minority, disadvantaged, or women-owned businesses in a major construction project. Due to their size, many of these contractors do not have the types of insurance or the limits needed to compete for this work. Likewise, prime contractors are unwilling or unable to enter into agreements with contractors that are not adequately insured. With a wrap-up, which provides the necessary coverage for all eligible contractors, small firms can actively seek subcontracting or joint venture opportunities on a major project.

Disadvantages of Wrap-Up Programs

While the benefits of a wrap-up are easy to identify, these programs do present an owner with some challenges that must be overcome if the program is to be successful. Some of the key disadvantages for an owner include:

- Lack of Support. To realize the maximum benefits of a wrap-up, an owner must be willing to make a substantial commitment of resources. Project staff, office space, and time must be dedicated to developing the program and putting processes in place for administration, claims handling, and loss control. Those responsible for the construction activities must actively support the program and be willing to make the administrative and safety requirements a top priority. Without total support within an owner's organization, a wrap-up may not be the appropriate risk management vehicle.
- Negative Perceptions. The number of contractors that have worked on projects covered by wrap-ups continues to increase. However, there are still those within the contracting community that view these programs as an impediment to fair competition. It may appear that wrap-ups put contractors with poor safety records on equal footing with those whose records are exemplary. That is why safety evaluation criteria are so important. There may also be some additional administrative requirements associated with working under a wrap-up. The trade-off for the contractor is higher limits, broader coverage, and the security of knowing that all their subcontractors have adequate coverage.



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Introduction

One of the main selling points of an owner controlled insurance program (OCIP) is construction cost savings, with uniform coverage eliminating gaps, overlaps, and many of the disputes associated with each contractor providing their own insurance. The OCIP will also establish dedicated insurance limits. In addition, it will result in a safer work site for all employees at the project. Unless the project has a safety program in place, the OCIP will not produce the projected cost savings.

An OCIP also provides greater opportunities for disadvantaged businesses to participate in the project since they are not eliminated from consideration due to lack of adequate insurance. Although this improves community relations for the project, it can create difficulties with the safety program.

Benefits of Wrap-Up Programs

From a safety perspective, there are two main benefits of an owner controlled wrap-up program.

- **Project-Specific Health and Safety Program.** All construction sites are multi-employer work-places. Because of this, a worker can be seriously injured or killed by actions that an employer, other than his own employer, perform or fail to perform. In addition to this, the workers' own employer may be unable to prevent such an occurrence. A successful OCIP recognizes this and maintains a project-specific health and safety program. According to the Bureau of Labor Statistics, the construction industry is an industry of small employers. OSHA statistics reveal that more than 40% of all fatalities and serious violations of the OSHA Act are committed by employers with less than 25 employees. An effective OCIP provides each contractor with a copy of the project safety plan in the bid documents, and requires each bidder to have a site-specific health and safety program covering their work.
- **Controlling Contractor.** The new OSHA Subpart R, Steel Erection, includes some broad language that states who the controlling contractor is on a project site. The OCIP contract documents will identify who this contractor is. If the project involves material other than steel, the same requirement applies. The subject of "controlling contractor" has been debated for several years, and has resulted in many so-called multi-employer OSHA citations, and proposed penalties.

Costs of Wrap-Up Programs

From a safety perspective, there are several costs to consider with an owner controlled wrap-up program.

- **Required system of coordinated safety management and oversight.** There are many costs associated with the management of the safety program. These include pre-construction safety planning to address (a) adhering to all OSHA (federal and state) regulation, (b) relevant environmental regulations, (c) hazardous activities such as steel erection, excavation, scaffolding, and the use of cranes, and (d) the timing of the activities to ensure that the activities of one subcontractor does not create hazards for the other. There are also costs involved in planning sessions with architects, engineers, and fabricators to design built-in ways to provide fall-protection anchor points. These sessions should also consider the possibility of the assembly of components on the ground thereby reducing the need for work at heights.
- **Minimum requirements for contractor site-specific safety and health programs.** One key consideration involves whether these requirements have the full support and buy-in of the contractor's management. The costs of continuing training as well as determining who performs the training should also be considered. Finally, verification that the labor force understands the program is essential.
- **Project Safety Coordinator.** There are costs associated with the hiring of a dedicated project safety coordinator. This individual should have the responsibility for the overall OCIP specific safety and health program. Each contractor will provide and establish the methodology for pre-planning, training, and hazard control. The coordinator will work with each contractor's designated job-site person on the safety issues.
- **Costs of other factors.** A qualified substance abuse program should be established. Who pays for the testing? What type of test? Will the test be completed prior to working on-site? An orientation program is also essential. Who will perform the orientation? Will it be conducted daily? Will the contractors perform their own orientation? Finally, the question and costs associated with a medical facility should be considered. Will the facility be on-site, with a nurse or a paramedic?



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From a subcontractor's perspective, there are many advantages and disadvantages of an owner controlled insurance program (OCIP) or wrap-up.

Advantages

- **Safety.** There is a combined, concerted, and controlled effort in the area of safety. On a non-OCIP project, each entity is doing its own thing. On a wrap-up, there is unity of effort. This effort is focused due to the financial considerations involved. Additionally, the wrap-up carrier/broker/owner provides control over the safety process.
- **Insurance/Financial savings.** These savings can be substantial. But in this hard market, there are more and more deductible/SIR programs. Under a wrap-up, these do not exist.
- **Education.** This is a catch-all phrase. The subcontractor is exposed to new procedures, methods, and ways of solving problems. Because of the items mentioned in safety above, the subcontractor can learn new methods and communicate this new methodology to other subcontractors. The goal in this whole effort is better coordination between general contractors (GCs) and subcontractors, resulting in improved productivity.
- **Indemnity.** This may be the most important area of wrap-ups to a subcontractor. The subcontractor does not have to worry about indemnity issues on a wrap-up, allowing them to focus on the construction process.

Disadvantages

- **Lack of Claims Information.** Once an accident happens, there is no information provided about that claim. This causes great problems with the subcontractors. For example, we often get last minute calls from the wrap-up claims people saying that an employee is ready to go back to work on light duty the next day. This causes problems. More importantly, we cannot track that employee's condition. That employee may be back working for us after treatment and we have no idea what medical care was provided. Also, a subcontractor has to fight to get loss runs. The experience modification rating is greatly affected by OCIP claims and we have no information to verify NCCI reports. Finally, an increasing number of subcontractors use information systems (IS) for claims tracking. A wrap-up does not allow us to enter all this data.
- **Credit Verification Paperwork Difficulties.** Every wrap-up has different formulas, computations, and forms to "enroll." This makes it very time-consuming and difficult for the subcontractor. Also, more subcontractors have complicated insurance programs that do not fit the formula. For example, a large deductible program or SIR is always challenged by the wrap-up administrator. Another factor involves cases in which the sub-subcontractor is working for the GC and perhaps one or two other subcontractors; the sub-subcontractor has to enroll several times in the same wrap-up. Finally, wrap-up administrators (most often the broker) do not understand Time and Material (T&M) work. They think that the enrollment form by the subcontractor is set in stone and that there will not be any changes in labor or scope or change orders.
- **Abuse.** I cannot come up with a better term. For example, most projects have change orders or extra work. The wrap-up administrator often does not know how to compute this or understand

this (see above). Thus, a subcontractor is often challenged on the credit for extra work. Also, it happens on projects that have gone over budget that the GC will “challenge” a credit on the final payout. They basically “hold up” the subcontractor. For example, assume that a \$100,000 final payment is due a subcontractor, but the GC challenges the insurance credit for \$15,000. The GC might urge the subcontractor to take \$85,000 as final payment or risk not getting paid anything. These abuses are a major problem.

Recommendations

I do not like to talk about disadvantages without offering suggestions for improvement:

- **Improved uniformity.** Uniformity of paperwork among carriers and brokers who administer the wrap-ups would be of great benefit. This would be beneficial even if the large brokers could use the same forms on “their” wrap-ups. There is not even uniformity in a brokerage house on which forms they use.
- **Expand knowledge of construction process by wrap-up administrators.** This would help on T&M credit calculations.
- **Improved information system accessibility.** Allowing downloads from the wrap-up IS program to those enrolled in the program would be beneficial. Also, allowing access to the claims IS system and to the adjuster on the claim would provide the subcontractor more helpful information.
- **Abuse prevention.** There should be limits on when a GC can challenge a credit.



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Advantages of Wrap-up Programs

Wrap-ups have become very popular in recent years. Private and public sector organizations implement these programs for a variety of reasons. From the broker’s point of view, the main advantages of a successful wrap-up are:

- **Savings and Cost Containment.** Generate maximum savings by reducing insurance premiums and minimizing claim experience. Wrap-up programs promote safety enforcement for all parties working on the construction project and help to develop or strengthen the contractor’s safety programs. Also, aggressive claims administration can further increase the program savings by monitoring all claims, implementing proper medical treatments, utilizing medical management services, and expediting claim payments to injured parties.
- **Adequate Insurance.** Protect the owner/developer and contractors of all tiers working on a dedicated project from construction exposures through broader, more comprehensive, and uniform coverages. Most wrap-ups provide higher insurance limits for less insurance premium. Wrap-up policies eliminate redundant costs and contractor “mark-ups,” yet offer flexibility and continuity to add other sites or protect special interests when they occur.

- Public Relations. Increase contractor participation from disadvantaged, women, and minority business enterprises by removing the insurance barrier (i.e., unavailable coverages or cost-prohibited insurance) from small contractors. Wrap-ups provide the necessary on-site insurance to ALL eligible contractors working on the project.

Disadvantages of Wrap-Up Programs

Without careful attention to the administrative details and required tasks early in the program, the maximum savings and coverage advantages that a wrap-up can offer may not be fully realized. The biggest disadvantages are:

- Lack of Compliance and Complacency. All parties associated with the project administration must agree to enforce the guidelines and procedures outlined in the insurance policies and contractor's manual. The enforcement must be the same on the first and last day and workers need to perform each day with the same care given during the greatest concentration of the work.
- Poor Communication. Wrap-up programs rely on detailed information to enroll contractors, to report claim and safety activity, to change policy coverages, to verify contractor payroll and rating information, to maintain databases, and generate comprehensive reports. Poor communication adversely affects the success of these programs.
- No Documentation. Similar to any project, documentation is necessary to report and record occurrences, to verify information, and to accurately portray the history of a particular project. Early identification of records management is key to guarantee each party understands their role in the process. In many cases, documentation including photographs and other important records are not considered in the program implementation. In other cases, the owner or prime contractor may assume another party will provide necessary documentation since there are multiple parties involved in the OCIP. Sometimes missing items are not identified until after it is too late, such as through a legal discovery process or project closure.