

Construction Services Group

The New Option.

Visibly Different.



Design Build of America

June 7, 2018



Owner's Insurance & Surety for Design Build Projects

Alliant

Discussion Points

Insurance and Bonding for DB Projects

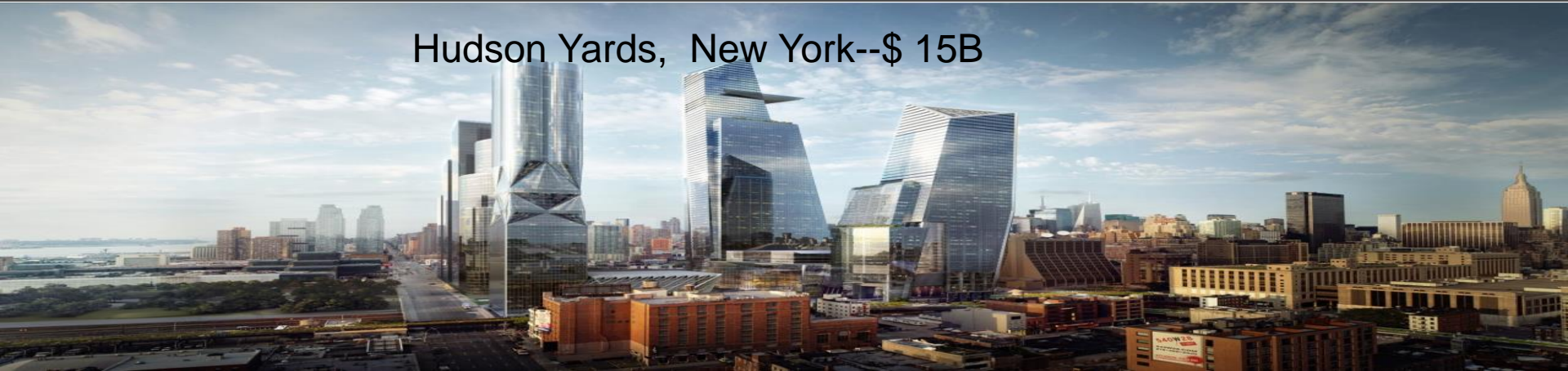
1. Variations in Design Build Structure
2. Owner's Contractual Risk Transfer
3. Owner's Insurance Program Options
4. Lines of Coverages and Plan Options
5. Surety/Bonding Options



THE SPECIALTY BROKER

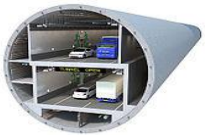
Providing Service, Expertise and Risk Solutions to our Clients

Hudson Yards, New York--\$ 15B



Alliant's Construction Services Group

National Construction Platform:



800+ Construction Professionals
\$1B+ in Premium
3500+ Clients
#1 Construction Surety in Country
National Leader in Project Insurance



Alaskan Way Viaduct
REPLACEMENT
PROGRAM

California's Leading Public Entity Broker

➤ We Produce Insurance Requirements In Contracts (IRIC) Manual used by thousands of Public Entities throughout California



RISK ADVISOR FOR THE BIG 3...



Largest **Private Project**

Hudson Yards, New York, NY - \$15B



Largest **Public Project**

California High Speed Rail - \$9B to \$60B



Largest **PPP Project**

LaGuardia Airport, New York, NY - \$4.0B+

Commitment to Excellence. Strong Execution.

Discussion Points

Insurance and Bonding for DB Projects

1. **Variations in Design Build Structure**
2. Owner's Contractual Risk Transfer
3. Owner's Insurance Program Options
4. Lines of Coverages and Plan Options
5. Surety/Bonding Options



Variations in Design Build Structures



Understand New Relationships

1. Design Build Combines Functions---Design & Construction
2. Risk is Shifted from Owner to The Design Build Contractor / Entity
3. Understand New relationships of Parties and Industry Sectors
 - Industrial Projects.....Bridges, Roads, Central Plants, Solar/Wind, Power...etc.
 - Commercial Projects.....Airports, Office, Educational, Correctional Facilities...etc.
4. There will be Different Legal Structures Depending on The Project
 - The Lead Entity can be an Engineer-Procure Construct Team with the lead being a Contractor
 - A Consolidated Project Specific Team Under a Jointly & Severally Agreement
 - A Design - Build - Own - Operate - Transfer Team



Discussion Points

Insurance and Bonding for DB Projects

1. Variations in Design Build Structure
2. **Owner's Contractual Risk Transfer**
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Owner's Construction Contractual Risk Transfer

1. Risk Transfer Through Contract language

- Hold Harmless Agreements
- California Senate Bill 474 Implications***

2. Insurance and Surety Bond Protection

3. Additional Insured's Status vs Named Insured...."A Seat at The Table"

4. Insurance Requirements in Contracts



Owner's Construction Contractual Risk Transfer

California Senate Bill 474***

- California Senate Bill 474, which generally provides that in all construction contracts for private commercial projects entered into on or after January 1, 2013, any indemnity obligations (including the cost to defend) arising out of the active negligence or willful misconduct of the indemnified party are void and unenforceable.
- This new law will dramatically affect risk allocations in construction projects, and also lead to a likely increase in insurance-related litigation and associated costs.
- Under current practice, California developers and general contractors typically use what is referred to as a “Type I” indemnity provision in construction contracts. “Type I” indemnity allows one party (usually owners, developers, and general contractors) to require the other party (typically subcontractors) to indemnify them for their own active negligence or fault.
- SB 474 extends these protections to commercial projects.

Discussion Points

Insurance and Bonding for DB Projects



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3. **Owner's Insurance Program Options**
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Owner's DB Construction Insurance Options



OPTION # 1 – Traditional Insurance

- General Contractor and All Sub-Contractors Provided



OPTION # 2 – Owners Controlled Insurance Program-

- OCIP-Coverage Provided by Owner for All Enrolled Contractors



OPTION # 3 – Contractors Controlled Program

- CCIP
- Project Specific Program

CCIP Insurance Manual



WHO BUYS A OCIPs & CCIPs.....?



Energy - Oil & gas/chemical



Manufacturing



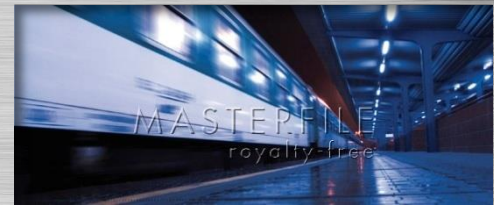
Power & Utilities



Heavy Industry



Mining



Transportation



Paper & Pulp Processing



**High Rise Residential /
Large Institutional / Stadiums
/ Arenas / Gaming/ Education**



Pipelines



Heavy Civil (roads & bridges)

Who Uses OCIPs---Over The Last 40+ Years

- **Owners with construction values at \$150 - \$200 Million for a single project**
- **Owners with multiple construction projects over a 5 year period where the construction values of many projects exceeding \$150 Million and ranges to Multi-Billion Dollar Programs**

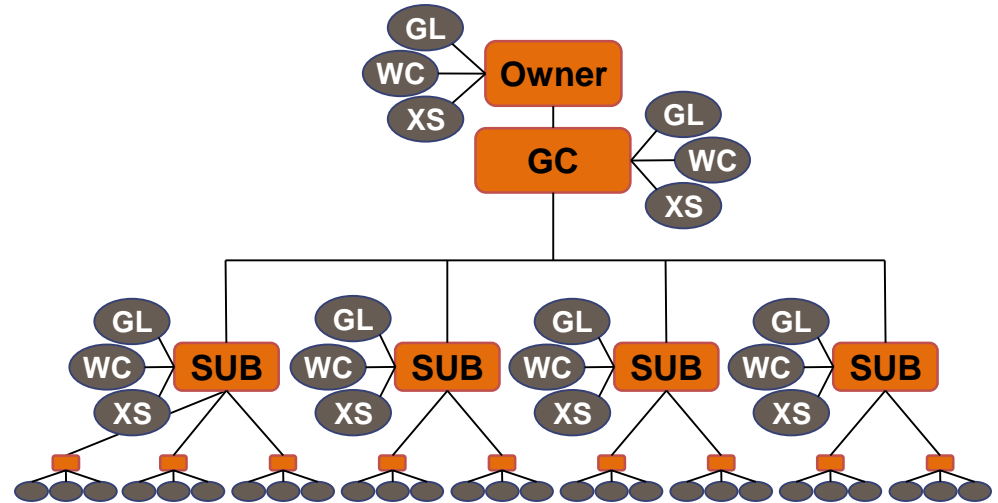
Airports
Light Rail
Bridges & Tunnels
Highway Construction
Heavy Construction
School Districts
University & College Systems
Community College Systems
Convention Centers
Correctional Facilities
Water & Waste Water
Renovation Projects
Pipeline Projects
Ports
Dams
Flood Control
Power Transmission
Stadiums & Arenas
National Energy Laboratories
Veterans Facilities
Etc....

High Rise Condominiums
Oil Refineries
Chemical Processing
Steel Mills
Mining
Power Generation
Solar & Wind
Pharmaceuticals Facilities
Manufacturing Facilities
Skyscrapers
Casino Complexes
Hotels
Healthcare
Office Complexes
Data Centers
Semiconductor-Chip Manufacturing
Residential Developers
State and Local Agencies
Commercial Developers
Etc....

What is an OCIP /CCIP ?

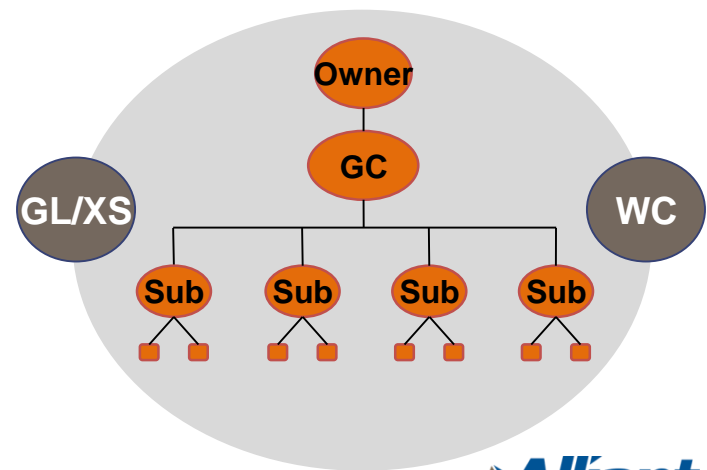
Traditional Program

- ❑ Multiple Insurers
- ❑ Inadequate Limits
- ❑ Gaps in Coverage
- ❑ Uninsured Subcontractors
- ❑ Cross Litigation



OCIP

- ❑ Control
- ❑ Cost Reduction
- ❑ Elimination of Redundant costs and contractor mark-up
- ❑ Higher Limits
- ❑ Consistent Coverage
- ❑ Coordinated Claims and Loss Control
- ❑ Minimize Cross Litigation/ Subrogation
- ❑ Public Relations
- ❑ Larger Contractor Pool



Owner's Appetite

OCIP, CCIP, Traditional—Making an Informed Decision



1. There are advantages to OCIP and certainly the same is true of CCIPs. This is not to say that in every instance a CCIP is favorable over the OCIP or vice a versa.
2. In the spirit of partnership, all parties should decide beforehand, which is the best way to proceed.
3. Many owners may be quite comfortable assuming the risks inherent in procuring the OCIP
4. They might even be willing to share a portion of the savings with the contractors for a job well done.
5. By the same token, the contractor may be willing to do the same under a CCIP.
6. Regardless, this does not have to be adversarial.
7. Pick the most logical approach given the specifics of the project/s. It can be a win-win for all parties



Owner's Appetite

OCIP, CCIP, Traditional—Making an Informed Decision



Key Factors

- **Cost Savings--Reduced Project Costs--Owner or Design build Entity..?**
- **Protection of Brand---Safety Oversight**
- **First Named Insured vs Additional Insured**
- **Claims Settlement...."Seat at The Table"**
- **Dedicated Coverage to Your Project-Coverage Certainty**
- **No Delayed Settlement on Determination of Fault (Traditional)**
- **SB- 474**
- **Not Every Design Build Entity Has a CCIP**
- **Owner's Administration Staff Availability**
- **Design Build Contractor Separation**
- **10 Year Completed Operations to All Participants per CA. Statute of Repose**
- **Master General Liability Only OCIP...No Workers Compensation or Cost Savings**
- **Improved DBE Participation**
- **Single Project or Rolling Program with Multiple Projects & Sites**
- **Insurance on P3 Design Build Projects Should Stay with the P3 Entity**

Discussion Points

Insurance and Bonding for DB Projects

1. Variations in Design Build Structure
2. Owner's Contractual Risk Transfer
3. Owner's Insurance Program Options
4. **Lines of Coverages and Plan Options**
5. Surety/Bonding Options



Design Build Insurance Lines of Coverages

OCIPS, CCIPS or Traditional



Major Insurance Lines of Coverages

- **Workers' Compensation....For the Construction Workers**
- **General Liability...Third Party Property Damage and Bodily Injury...(PD &BI)**
- **Excess Liability....Umbrella Limits Predicated on Project Size and Risk**
- **Master Builder's Risk—Course of Construction**
- **Contractors Pollution Liability....Affords Mold Protection**
- **Professional Errors & Omissions...Dedicated or Project Specific**
- **Optional Owners Protective Professional Indemnity (OPPI)**



Owner Options & Solutions



1. Owner's OCIP with Worker's Compensation, General Liability and Excess Liability

- Project Specific
- Master Program



2. Master General Liability Only

- Project Specific
- Master Program

3. Traditional Insurance

- A Single Project at a Time



4. Contractor's CCIP

Option 1—Owner's Multi-Line OCIP



Worker's Compensation, General Liability & Excess

Key Client Concerns

1. Determining Project Dates and Construction Values
2. Adequacy of Staffing
3. In House Resources
4. Safety
5. Claims

Option 2—Owner's GL ONLY-OCIP



General Liability & Excess

ADVANTAGES

1. Simple to Execute
2. Provides Protection for Major Incidences-Quality of Insurance
3. Single Project or Master Program
4. Provides City & County with Control When Needed—Coverage Certainty & Uniformity
5. Higher Limits that Contractor/Subs Can Provide
6. Coverage Provided Through Statute of Repose
7. Saves Money Over Contractor's/Subs Pricing
8. General Liability Claims---No Worker's Compensation
 - Covers Property Damage-PD
 - Covers Bodily Injury-BI
8. Minimum or No Collateral Obligations



Option 2—GL ONLY-OCIP

General Liability & Excess



What Can Happen...?

1. It Is Construction----One of the Most Hazardous Sectors In The Insurance Industry...!
2. The Smallest Contractor Can Made The Biggest Mistake
3. Example:
 - Client Spends Years Coaching and Managing Small Contractors to Know Their Business---Often Through Master Services Agreements or Part of The GC's Team
 - A High Quality...Pre Approved...Pre Qualified Contractor Has a Pipe Breakage
 - Floods Two Levels of a Building, destroying a Three Years Case Study on a Stem Cell Research Project
 - Contractor's Limits are Insufficient
 - Contractor Goes Bankrupt
 - Owner Has to Step In



Option 3—CCIP



Worker's Compensation, General Liability & Excess

Possible Solution

- 1. Design Build Entity in Control of Insurance and Administration**
- 2. Contractor Handles Claims**
- 3. Contractor Handles Safety**
- 4. Design Build Entity Recoups the Savings**
- 5. Ease of Administration for Owner and Staff**
- 6. Owner Still Should Set Minimum Safety Standards**

Option 4—Public Entity CSAC -EIA

Worker's Compensation, General Liability & Excess



- 1. California State Association of Counties Excess Insurance Authority is the largest JPA in The State of California.**
- 2. Founded in 1979, CSAC EIA has 239 members with a total of approx 1800 + public entities accessing the program for over 30 years.**
- 3. Directly or indirectly, 94 % of the counties and over 60 % of the cities in California are provided coverage through CSAC EIA.**
- 4. In the past 5 years, members have saved over \$ 363 million.**
- 5. Headquartered in Folsom**

Option 4— Public Entity -CSAC -EIA



Worker's Compensation, General Liability & Excess

1. CSAC EIA Master OCIP Program was originally developed in 2008

2. In January 2013, the CSAC EIA Public Entity Team developed and redesigned a new proprietary program for CSAC EIA's Master OCIP

- **Open to Any Public Entity in The State**
- **Allows Owners to Enroll a Complex Project When it Arises....!**
- **No need to Determine 3 or 4 Year List of Projects**
- **No Minimums**
- **No Up-Front Costs**
- **Simple Application to CSAC EIA to Enroll**
- **One Project at a Time Solution**
- **Less Than a Month to Participate**
- **Tower 1 for Projects +\$100 M**
- **Tower II for Projects Under \$100M**
- **Tower II Can Be a Series of Projects with Dedicated Limits to The Owner**
- **Website....<https://www.csac-eia.org/>**



BUILDER'S RISK

First party coverage for owner and contractors during the course of construction

Provides all risk coverage, including the perils of flood, earthquake and coastal windstorm.

Includes fixed and mobile equipment

Delay in start-up

Recommendation :

AOP: Full Value

Quake/Flood)

Delay in Start-Up



PROFESSIONAL LIABILITY

Owners Protective Professional Liability

Alternative to costly project professional liability coverage

Excess coverage sits above designers' policies

Coverage is triggered when designers' policies are exhausted

Project Term plus extended reporting period

Recommendation: TBDL



ENVIRONMENTAL COVERAGE

Contractors Pollution Liability

Provides coverage for pollution conditions caused by covered construction operations, including subcontractors

Applies to sudden and accidental pollution conditions

Covers third party claims for bodily injury / property damage and clean up from on-site or off-site pollution conditions

Limits available up to \$200 Million

Recommendation: TBDL



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Discussion Points

Surety / Bonding for DB Projects



Surety Bonds...Performance and Payment

1. Traditional Surety Between the Owner and Design Build Entity
2. Optional Contractor's SubGuard Program...Subcontractor Default..(SDI)
3. Optional Owner's Guard....Combination of Risk Mitigation & SDI Insurance

***** Important to Specify That the Bond Includes the Contract's Entire Costs**



Discussion Points

Surety / Bonding for DB Projects



Surety Bonds...Performance and Payment

1. **Traditional Surety Between the Owner and Design Build Entity**
 - **Ranges Approx. 2% of Construction Costs**
2. **Optional Contractor's SubGuard Program...Subcontractor Default..(SDI)**
 - **Ranges From Approx. 1% to 1.5% of Construction Costs**
3. **Optional Owner's Guard....Combination of Risk Mitigation & SDI Insurance**
 - **Approx. 1% of Construction Costs**
 - **Provides Immediate Solution to a Contractor Default**
 - **Provides Utilization of Contractors with Risk Mitigation Efforts**

Discussion Points

Professional Errors & Omissions



Design Build Project Errors & Omissions

1. Project Coverage vs Practice Policy

➤ Limits Spread Out over All Projects vs Your Project Only



2. Risk and Exhaustion of Limits

- Industrial, Commercial, Construction Value, Entities...?
- Project Specific....Or Specify By Contract Dedicated Limits to Your Project
- Optional Owners Protective Professional Indemnity (OPPI)

Questions



Q & A

Contact Information



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