Identifying & Covering Risks – Current Trends

Presentation by:
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Managing Construction Risk

1. An Integrated Approach
2. Identifying Project Risks
3. Allocation of Risk
4. Economical Solutions to Risk
Key Point #1

A Method for Managing Construction Project Risks
Integrated Project Risk Management

Risk Financing
- Self Funded
- Owner Control
- Incentive Bonus

Loss Prevention
- Risk Identification
- Contract Formation
- Scheduling

Dispute Resolution
- On-Site Resolution
- Mediation/Arbitration
- Contractual
Integrated Project Risk Management – Builders’ Risk

Risk Financing
- Owner Buys?
- Cont. Buys?
- Build Risk?
- Delay of Opening
- Force Majeure

Dispute Resolution
- Allocation of Deductible
- How Does Claim Get Resolved?

Loss Prevention
- Risk ID
- Contract Wording
- Site Security
- Disaster Planning
Key Point #2

Identifying Project Risks
Risk Identification

- Project Type & Site
- Project Participants
- Project Delivery Method
- Budget & Financing
- Scheduling
- Legal
- Political
By Project Delivery Methods

**Agency CM or PM**
- Owner
- A/E
- Contractor
- Sub
- Sub
- Sub

**At-Risk CM or PM**
- Owner
- A/E
- At Risk CM or PM
- Sub
- Sub
- Sub

**Design-Build**
- Owner
- Design - Builder
- A/E
- Subcontractors

**Design-Bid-Build**
- Owner
- A/E
- Contractor
Key Point #3

Choice in Risk Allocation
Responsibility for Risk

By Law
- Statutes
- Regulations
- Common Law

By Contract
- Risk Shifting
- Insurance

By Default
- Denial of Responsibility
- Acceptance of Responsibility
Fair Allocation of Risk

✓ Which Party can best control risk
✓ Which party can best finance the risk
✓ Which party can best manage the risk
✓ Which party can more easily accept the consequence of risk
## Risk Matrix

<table>
<thead>
<tr>
<th>Risks</th>
<th>Owner</th>
<th>Architect/Engineer</th>
<th>Contractor</th>
<th>Subcontractor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injury to contractor’s employees</td>
<td>General Liability or owner’s protective</td>
<td>Professional liability or general liability</td>
<td>Workers’ compensation</td>
<td>General Liability</td>
</tr>
<tr>
<td>Injury to subcontractor’s employees</td>
<td>General liability or owners protective</td>
<td>Professional liability or general liability</td>
<td>General liability</td>
<td>Workers’ compensation</td>
</tr>
<tr>
<td>Injury to general public</td>
<td>General liability or owner’s protective</td>
<td>Professional liability or general liability</td>
<td>General liability</td>
<td>General liability</td>
</tr>
<tr>
<td>Physical damage to project during</td>
<td>Builder’s risk</td>
<td>Professional liability or general liability</td>
<td>Builder’s risk</td>
<td>Builder’s Risk</td>
</tr>
<tr>
<td>construction</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical damage to project after</td>
<td>Property policy</td>
<td>Professional liability</td>
<td>General liability (completed operations)</td>
<td>General liability (completed operations)</td>
</tr>
<tr>
<td>construction</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Approaches to Avoid and Reduce Claims

- Realistic Contractual Allocation of Risks
- Match Risk Allocation to Compensation
- Dispute Prevention through Incentive Programs
- Use Integrated Programs to Protect all Parties
Key Point #4

Economical Solutions for Construction Risks
Allocation of Insurance-Related Risks & Costs: Strategies

Construction Industry Institute Study (1993)

- Invest in Loss Control and Safety Programs
- Limited Indemnity by Contractors
- Less Insurance, More Risk Management
- Controlled Insurance Programs – Not New. What is New is increasing Utilization
Key Point #5

**Controlled Insurance Programs (CIP’s)**
Definition of Wrap-Up:
(or CIP, CCIP, DCIP, OCIP)

- The purchase of the following insurance coverages by one entity for all firms working at the jobsite(s):
  - Workers’ Compensation
  - General and Umbrella Liability
  - Professional Liability
  - Builders’ Risk
- Professional coverage begins when design starts, others when construction starts and all continue for three to five years after completion
Owner- or Contractor-Controlled Insurance Program

- Wrap-up Advantages
  - Cost Savings
  - Control
  - Public Relations
Wrap-up Feasibility

Bid Reductions

- Construction Hard Costs: $100,000,000
- Wrap-Up Cost: $1.5-3.5 MM
- Wrap-Up vs. Conventional: $2-3.5 MM

Cost Savings
Key Point #6

Project Professional Policies
Pitfalls in Professional Liability Insurance

- Problems – Low, Aggregated Limits
- Solutions
  - Good certificate of insurance backed by contract requirements
  - Buy project professional insurance on larger projects
  - Buy owners’ protective insurance
Owner’s Protective Professional Liability: Sample Program

Typical Professional Liability Limits

Design Firm Primary Limits

- $16
- $14
- $12
- $10
- $8
- $6
- $4
- $2
- $0

Arch. #1  Soils Eng. #2  Interiors #3  Arch. #4  Eng. #5  Landscape #6

Project No. 1  Project No. 2
Owners Protective Professional Liability Sample Program

$10M aggregate limit excess of Each individual underlying policy
Political Risk Modeling

Probability of Expropriation without compensation = P_1 \times P_4 \times P_9 + P_2 \times P_6 \times P_{11}