AGC Guideline on Wrap-Up Insurance Programs (OCIPs)

AGC recognizes that both Private and Public Owners wrestle with various market pressures including rising insurance costs and the desire for comprehensive project risk management strategies. Sometimes project Owners can benefit from utilizing “Wrap-Up” Insurance Programs for their projects.

A “Wrap-Up” Insurance Program is one or more insurance policies designed to cover certain risks of the Owner and substantially all of the Contractors and Subcontractors on a Construction Project. Typically the Owner sponsors and pays for the Wrap-Up (called an “Owner Controlled Insurance Program, or “OCIP”), and the other covered parties are asked to contribute to the costs by discounting their contract amounts to exclude their usual insurance costs for the coverage furnished by the OCIP. A sibling of the OCIP is the CCIP, where a Contractor sponsors and pays for the Wrap-Up program. The principals below apply to both programs.

The Wrap-Up Insurance program should assure the needs of all affected parties are adequately understood and properly addressed by the “Wrap-Up” insurance policies. This responsibility must fall on the sponsor of the Wrap-Up, who must take into account the needs of all the parties. A properly written “Wrap-Up” program should comply with all laws, including California Civil Code Section 2782, and shall include the following features, in either the insurance policies or construction contracts:

- **Bid Documents** – The Project bid documents should include a complete “Wrap-Up Program Manual” and describe in detail the intended Wrap-Up Program. Contractors and Subcontractors should be given full disclosure and should be allowed to give their own insurance professionals a full written description of the Wrap-Up plan to evaluate all of the program components.
- **Insurance Companies** – All policies should be written by domestic insurance companies rated at least A-7 by AM Best Insurance Rating Service.
- **Administrative Services** – The sponsor will provide clear and detailed instructions on how the program will be administered, including claims and loss control services, and they should be outlined in the Wrap-Up Program Manual.
- **Policy Deductibles** – AGC recommends that any policy deductibles should be paid by the Owner. However, if the Owner intends to pass any part of a deductible expense to the contractor and subcontractors, the deductible amount should be clearly stated in the bid documents, and the sum of all deductible contributions from all parties shall not exceed 100% of the claim deductible listed on the policy. In addition, there must be some clearly stated formula for determining when a party is liable for a deductible, including a dispute resolution process.
- **Credits for Insurance Premiums** – All credits should be determined at bid time using a stated deductive amount or a stated rate based on a measurable base that is disclosed in bids. The program documents should clearly define the process, including any reconciliation process at the end of the project.
- **Proof of Coverage** – All parties enrolled and actually insured under any Wrap-Up program should be given proof of coverage, including a full copy of each policy, if requested by the insured, in writing.
- **Contract Indemnity Language** – Any contract Indemnity Language should apply only to claims that are not covered by the Wrap-Up policies. All parties should waive their rights to subrogate insured claims against each other. The contractor’s liability should be limited to the insurance coverage provided by the wrap up.
- **Failure of Wrap-Up** – If the Wrap-Up program fails because of a bankrupt insurer or because the Owner has not paid all premiums when due, the Owner should be liable for purchasing a replacement policy or payment of any claims that would have otherwise been covered by the Wrap-Up.
- **General Liability Insurance** (If included in the Wrap-Up)
  - **Policy Limits** – The policy limit for General Liability Insurance should be at least 50% of the Market Value of the Project, subject to commercial availability.
  - **Rolling Wraps** – If policy covers more than one project, then provisions should be made to maintain policy limits dedicated for the subject project.
  - **Policy Period** – Should cover the entire construction period, including possible delays and extensions for added work.
  - **Warranty Work** – Should cover the ongoing operations of the contractors performing work during a warranty period.
  - **Completed Operations Tail** – The policy must provide a completed operations tail for all parties for all applicable statutes of limitations/repose for potential construction defect and bodily injury claims.
  - **Offsite Coverage** – In addition to covering the work at the project site, the Wrap-Up should also cover the contractor’s and subcontractors’ activities at adjacent storage yards and off-site fabrication locations that are dedicated solely to the project.
  - **Insured vs. Insured Exclusion** – The policy should not exclude property damage or personal injury claims by one insured against another insured.
  - All work included in the project should be covered by the policy, including:
    - **Subsidence** should not be excluded from the policy.
    - **EIFS** should not be excluded from the policy if the project includes EIFS product.
    - **Etc.**
  - **Mold Contamination** and **Accidental Release of Hazardous Materials** should not be excluded, or should be covered by a separate pollution policy.
  - **Professional Liability Exclusion** should have an exception for “construction means, methods, techniques” employed in connection with contractor operations.
  - **Professional Liability Exclusion** should also be expanded to afford Bodily Injury and Property Damage (CG 2280).
  - **Defense Costs** should not erode policy limits.

- **Worker’s Compensation** (If included in the Wrap-Up)
  - **Policy Limits** – The policy limit for Workers Compensation Insurance should be at least the statutory benefits plus $1,000,000 Employers Liability coverage.
  - **Policy Period** – Should cover the entire construction period, including possible delays and extensions for added work.

- **Other Policies That Might be included in the Wrap-Up Program**
  Other coverages may be considered:
  - **Excess/Umbrella** (Following form of the above policies with a drop down in the event that the primary insurer becomes defunct)
  - **Builder’s Risk** (See AGC’s policy on Builder’s Risk Insurance)
  - **Installation Floater**
  - **Pollution Liability**
  - **Professional Liability Insurance**
  - **(Auto, Owned and Rented Equipment and personal property insurance are not generally included in Wrap-Ups.)**

Any such policies should be careful to provide industry-standard coverages with quality insurance companies adhering to the principals listed above.

**Contract Documents** – The prime contract documents, as well as all subcontract documents, will need to be reviewed by counsel to properly integrate and coordinate with the Wrap-Up Program. Special attention should be given to indemnity clauses, waivers of subrogation, and “other insurance” sections of any contract.

All parties should review all insurance requirements with their legal and insurance counsel. Contractors should be aware that supplemental insurance may be required to adequately protect each contractor.