

Controlled Insurance Programs (CIP):

Proactively Avoiding Unintended Outcomes

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Wrap Strategies

Definitions

- ▶ **CIP** Controlled Insurance Program. Also known as wrap-up.
- ▶ **OCIP** Owner Controlled Insurance Program. A CIP sponsored by a project or facility owner.
- ▶ **CCIP** Contractor Controlled Insurance Program. A CIP sponsored by a general contractor or construction manager.

CIP Approach

Traditional Project Methodology

Potential Problems

Sponsor Buys Insurance From Contractors

Various rates

Different coverage and limits

Different carriers & brokers

Various safety approaches

Litigation among parties

CIP Approach

Potential Solutions

Sponsor Buys Insurance For Contractors

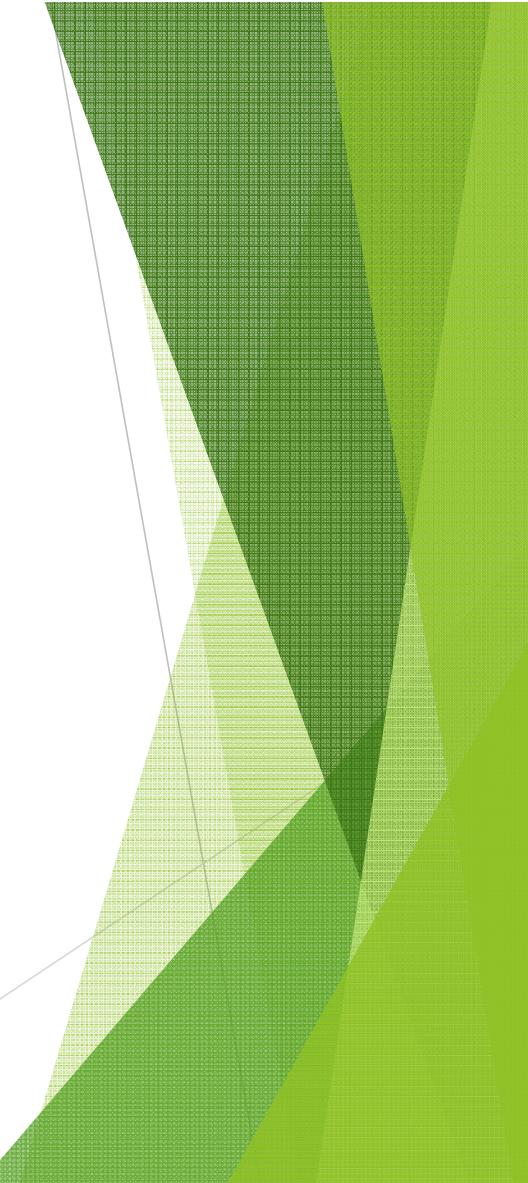
One rate*

Uniform coverage and limits

One carrier & broker

Unified safety approach

Streamlined litigation



Definitions

- ▶ **Feasibility Analysis**- The process of considering, analyzing, and developing a detailed understanding critical components, both non-financial and financial, to help determine the probable feasibility of a controlled insurance program (CIP).
- ▶ **Pro Forma or Financial Pro Forma**- A wrap-up pro forma provides a projection of the expected financial outcome(s) of a CIP using data estimated for the project. A pro forma typically includes estimates for some or all of the following components.

[What the Sponsor would have paid using the traditional method]

minus

[What the CIP costs]

equals

[CIP Benefit or Not]

Some Involved Parties

- ▶ CIP Sponsor
- ▶ CIP Carrier(s)
- ▶ Broker
- ▶ Administrator
- ▶ Project or Facility Owner
- ▶ General Contractor
- ▶ Enrolled Contractor/Contractor Participants
- ▶ Excluded Contractor

Potential Issue Areas

- ▶ Motivation
- ▶ Reliance
- ▶ Non-disclosure
- ▶ Failure to Communicate

Motivation

2 Types of CIPs

Combined Line

includes:

- ▶ Workers' Compensation
- ▶ General Liability
- ▶ Excess Liability

General Liability Only

includes:

- ▶ General Liability
- ▶ Excess Liability

Motivation

Types of Projects

Combined Line

- ▶ Large Commercial
- ▶ Mixed Use
- ▶ Facilities

General Liability Only

- ▶ For-sale Residential
- ▶ Commercial Residential
- ▶ Commercial

Motivation CIP Models

► Savings Model

- Combined Line
 - Large Commercial
 - Mixed Use
 - Facilities
- Feasibility study
- Pro forma

► Coverage Model

- GL Only
 - For-sale Residential
 - Commercial
 - CCIP
- Typically no feasibility study conducted

Motivation

Program Goal Examples

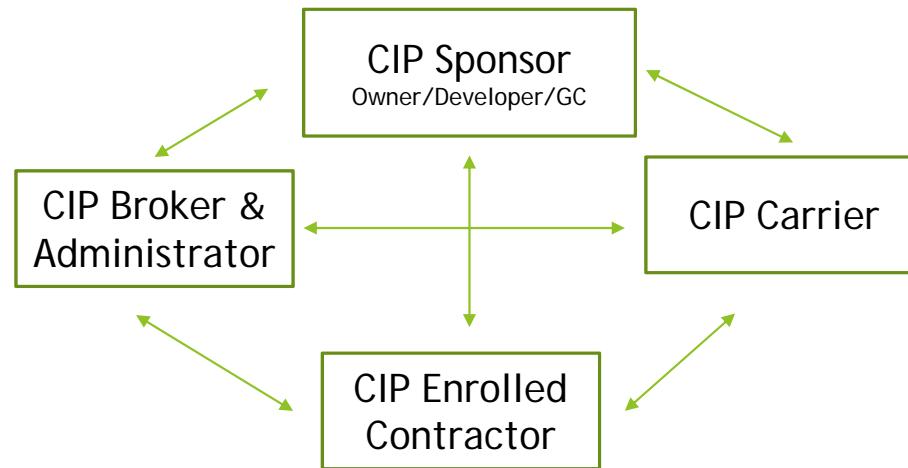
• Coverage certainty through statute or repose	• Lowest possible program cost
• Improved coverage	• Conflict-free claims resolution
• No or minimal litigation	• High limit in the event of catastrophic loss
• Effective and streamlined administration	• Safe project
• Ability to use small and DBE contractors	• Zero or very low injuries or losses
• Buy-in from general contractor and participants	• Max/stipulated amount of contractor credits obtained
• Positive or improved public relations	• Speedy program close-out
• Project completed on time	• Project completed on budget

Reliance

- ▶ Generally project risk and its allocation stays the same in a CIP
- ▶ Sponsor relies on carrier, placing broker and administrator
- ▶ Enrolled contractor relies on sponsor, carrier, placing broker and administrator
- ▶ Broker and administrator, if separate, rely on each other for information disclosure

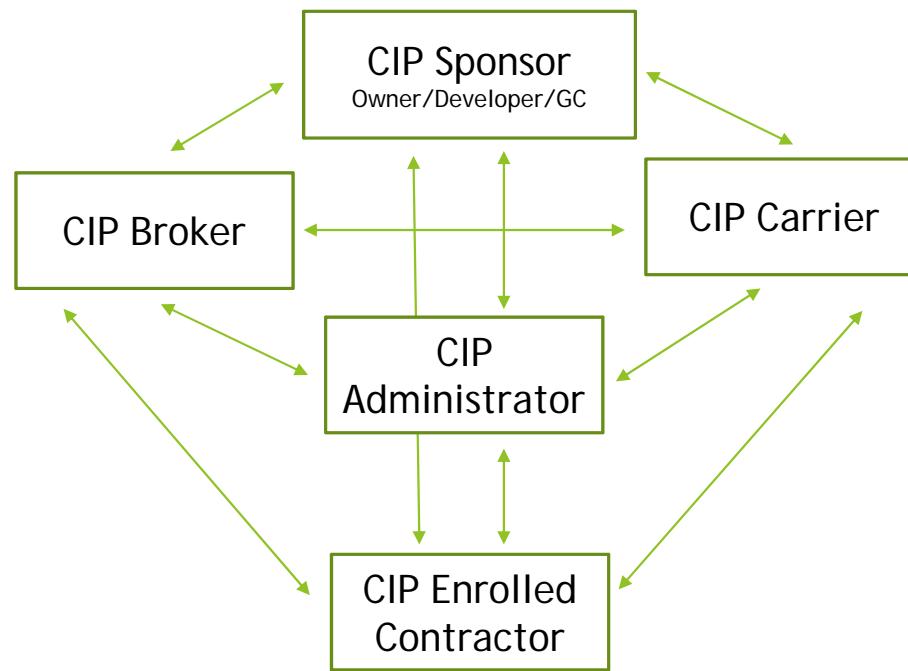
Reliance-Administration Models

Broker/Administrator Same Party

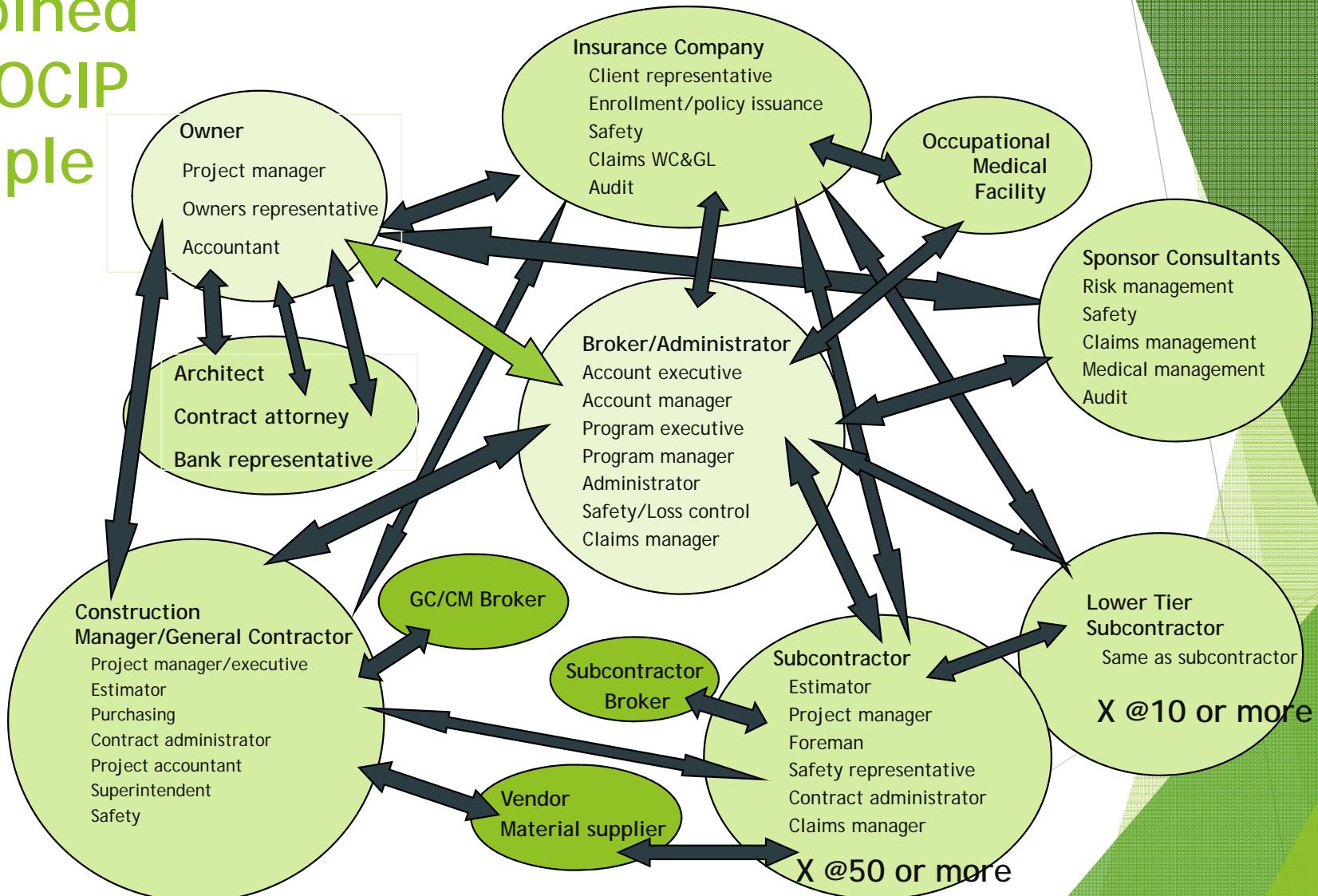


Reliance-Administration Models

Separate Broker & Administrator



Combined Line OCIP Example



Non-Disclosure & Failure to Communicate

- ▶ CIP Documents
- ▶ Meetings
- ▶ Ongoing communication

Unintended Outcome Examples

#	Unintended Outcome(s)	Potential Cause(s)
1.	Failure of CIP to perform financially	▶ Motivation
2.	Insufficient limits	▶ Non-disclosure
3.	Coverage insufficiency or absence	▶ Reliance
4.	Failure to procure	▶ Failure to Communicate
5.	Misrepresentation	
6.	Non-enrollment of participant	
7.	Issues with collateral holds & close-out adjustments	
8.	Issues with SIR & deductible allocation or contribution	

Potential Combined Line CIP Disadvantages

Financial:

- ▶ Program savings may be overestimated
- ▶ Failure to recognize all program administration costs
- ▶ Upfront cash outlay requirement
- ▶ Variable/unknown final cost due to:
 - ❖ Final program audit (Payroll or CV)
 - ❖ Claims activity
- ▶ Cost of administration
- ▶ Deductible obligation-When loss fund is not pre-paid
- ▶ Long-term funding requirement
- ▶ Long-term claim liability
- ▶ Uncertainty as respects contractor insurance credits

Administrative Burden Due to:

- ▶ Feasibility, marketing and procurement process
- ▶ Meetings with program administrator/team
- ▶ Potential conflicts with contractors regarding insurance credits
- ▶ Claim activity review
- ▶ Deductible payment review
- ▶ Safety involvement to ensure successful program
- ▶ Safety meetings
- ▶ Safety awareness efforts
- ▶ Training /orientation efforts

Risk Management/Other:

- ▶ May negate ability to collect insurance proceeds from enrolled contractors
- ▶ May affect sponsors ability to be an advocate for third party claimants against enrolled contractors
- ▶ Potential increased responsibility/liability to enrolled contractors as respects the program structure, limits and coverage terms and conditions

CIP Disclosure

- ▶ Full copies of the program policies or specimen copies
- ▶ At minimum, the program summary should include the following information:
 - ▶ Insurer names and name of broker and administrator
 - ▶ Coverage description, restrictions, and cancellation provision
 - ▶ Limits and aggregates, including reinstatement, applicability, how shared and treatment of defense expenses
 - ▶ Term and duration of ongoing operations coverage and completed operations extension and how completed operations are triggered
 - ▶ Deductibles or SIRs and their applicability, duration and allocation methods
 - ▶ Details regarding any applicable fines and penalties
 - ▶ Anticipated number of participants, projects, dwellings or units to be covered by program
 - ▶ Premium contribution amount or allocation method and amount or premium credit tracking method and close-out formula
 - ▶ Safety requirements and claims reporting requirements

Potential Mitigation

#	Unintended Outcome(s)	Potential Mitigation
1.	Failure of CIP to perform financially	Disclose all potential variables, provide alternate scenarios, examine any bias of broker toward CIP
2.	Insufficient limits	Conduct risk assessment, provide alternate limit quotations, purchase high limits, disclose how limits are shared
3.	Coverage insufficiency or absence	Always provide copies of policies, disclose material coverage or admin items
4.	Failure to procure	Disclose material coverage items
5.	Misrepresentation	Provide copies of policies, refer to policies in all documents, manual as procedural document
6.	Non-enrollment of participant	Implement gatekeeping procedures-no work can start without enrollment
7.	Issues with collateral holds & close-out adjustments	Full disclosure of program details
8.	Issues with SIR & deductible allocation or contribution	Full disclosure of SIRs and allocation

Proactive Mitigation

What can I do for each model?

Combined Line

- ▶ Conduct a non-biased feasibility study
- ▶ Purchase adequate limits
- ▶ Review & understand coverage
- ▶ Always provide policies
- ▶ Disclose non-standard program terms

GL Only

- ▶ Purchase adequate limits and coverage
- ▶ Review & understand coverage
- ▶ Always provide policies
- ▶ Disclose material program terms, especially non-standard items

More Proactive Mitigation

- ▶ Full program disclosure before bid
- ▶ Adequate coverage and limits
- ▶ Reasonable participant deductibles and SIRs, if used
- ▶ Complete, well written and consistent documentation
- ▶ Available and knowledgeable administrators
- ▶ Reasonable and obtainable insurance requirements in addition to wrap-up (off-site, automobile and other coverages)

Thank You

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Article Links:

<https://www.irmi.com/articles/expert-commentary/revisiting-wrap-up-feasibility>
<https://www.irmi.com/articles/expert-commentary/controlled-insurance-program>
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Florida CIP Statutes*

Public: State, counties, cities, and all public agencies are authorized to use OCIP's when the following thresholds are met:
any single project - \$75 million;
any project for the renovation or construction of two or more public schools - \$30 million;
any project for the construction or renovation of a single public school - \$10 million.
(Florida Stat. § 255.0517).

In addition, any public works OCIP must maintain completed operations coverage for at least 10 years; the bid documents must identify the coverage provided under the program; the bid documents must specify any minimum safety requirements; and the contractor or subcontractor must be permitted to purchase additional insurance for their own protection. (Florida Stat. § 255.0517).

Multiple projects can only be combined to meet the \$75 million threshold if they are part of a capital improvement project being performed by a single prime contractor, or part of an interrelated capital improvement program relating to the housing or transportation of cargo or persons arriving via airport or seaport. (Florida Stat. § 255.0517).

The maximum deductible or self-insured retention permitted on a public works OCIP is \$1,000,000 per occurrence. Contractor and subcontractor payrolls can be combined for workers' compensation premium calculations as long as the minimum deductible is \$100,000 or more and the standard estimated premium for the construction project is \$500,000 or more. (Florida Stat. § 255.0517(2)(f)).

Florida DOT is authorized to implement an OCIP for any project. Florida Stat. § 255.0517(4)(a) and § 337.11.

Florida CIP Statutes*

Private: Wrap-up programs, including OCIP's and CCIP's are permitted on private projects.

A private wrap-up program may include a deductible of up to \$100,000 for workers' compensation claims only if:

standard workers' compensation premium for all entities under the wrap will exceed \$500,000; the estimated cost of construction to be performed at each worksite under the wrap exceeds \$25 million; the insurer is obligated to pay the first dollar of any workers' compensation claim, as if the policy had no deductible, and is obligated to seek reimbursement from the sponsor; the insurer complies with all filing and reporting requirements of the NCCI.

(Florida Stat. § 627.4138).

website: www.myfloridacfo.com

***Information Excerpted from:**

FIFTY STATE OCIP / CCIP
LAWS & REGULATIONS
ALLIANT INSURANCE SERVICES, INC.
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Los Angeles, California

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