



Building A Successful Construction Wrap-Up Program

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Introduction

Proactive construction companies strive to continually improve safety and more effectively manage insurance and claims costs. Wrap-up programs offer an attractive choice to help achieve those goals. Of course, safety is an essential consideration on any construction project, but in a highly competitive marketplace, companies also need to manage their costs - including the costs of insurance. Today, construction companies generally retain a considerable portion of the risk through large deductibles, meaning that any incident or claim will result first in costs to the company. That makes it in everyone's interest to enhance safety and reduce accidents and claims, and thereby reduce costs.

Under a wrap-up program, an owner, developer or general contractor procures insurance on behalf of all the parties working on a project, instead of each subcontractor purchasing its own insurance and indemnifying the contractor. Wrap-up programs not only help to manage a project's insurance costs and potentially reduce litigation among insureds; they also provide an effective tool to enhance safety for everyone on the job site by providing a consistent set of safety requirements. For that reason, it's crucial that the wrap-up insurer have the underwriting, risk engineering and claims expertise necessary to understand the extent of the risk.

Wrap-ups: More Than Just an Insurance Policy

A wrap-up program involves more than just the purchase of an insurance policy—it requires that all the participants work together, from the sponsor to the broker and insurer, including the claims department and the underwriters.

Communication and coordination among all parties is key to ensure that everyone is working toward the same goal—a successful project.

Wrap-ups are most common on single-site construction projects, but they can be used for contract maintenance or for multiple-site construction projects. In a wrap-up program, the sponsor typically solicits two quotes from contractors: one that includes the insurance cost and one that excludes it. This is to determine whether there will be savings from eliminating the mark-up for insurance in each contractor's bid. Since projects may have a large number of subcontractors, eliminating the individual purchases of insurance may substantially reduce the sponsor's overall insurance cost. In addition, a wrap-up enables a sponsor to deploy a consolidated, coordinated strategy with regard to coverages, claims and litigation. Wrap-ups can be complex, but they provide significant benefits, including a single general liability contract, a coordinated litigation strategy and a comprehensive approach to safety.

Most importantly, a wrap-up sponsor needs to build a strong safety culture throughout the organization, to work to continually enhance safety on every project and to enforce the same discipline in all of its contractors. This investment in safety pays off in terms of retaining a skilled workforce, enhancing quality, and avoiding costly delays and negative publicity. A reputation for safety is a valuable asset that makes a company more attractive to clients and insurers.

Because most wrap-up programs require substantial deductibles, they represent a significant commitment from both the sponsor and the insurer. The sponsor should work with an insurer that has significant expertise in underwriting construction projects and managing



construction claims and litigation. For its part, the carrier will want to work with a sponsor with a track record that demonstrates a solid commitment to safety and that is able to provide clear, detailed information about the project, including construction methods, and subcontractor safety records. Once a risk is bound, a successful wrap-up requires constant communication with the claims department, and cooperation on claims and litigation strategies.

Together, these steps can help to enhance safety and ensure the wrap-up continues to run smoothly toward a successful conclusion.

Put Safety First and Foremost

Safety plays an essential role in the success of any construction project and wrap-up program. The sponsor of a wrap-up assumes a good deal of the risk through the deductible, but gains the opportunity to enforce uniform safety standards across a project. Before the contract goes out to bid, sponsors should identify the safety requirements and then only hire subcontractors with a proven commitment to safety. Every worker should have the proper exposure to safety tools and training, including but not limited to training on fall prevention and substance abuse. Safety performance should be actively monitored, and sponsors should hold everyone involved with the project accountable, and not just those working on site.

A commitment to safety is essential in a high-hazard industry like construction. The industry represents about 5 percent of the private sector workforce¹ but accounts for nearly 18 percent of the fatal injuries.² There were 775 fatal work injuries in the private construction industry in 2012, which was down about 37 percent since 2006.³ The decline,

however, comes as employment in construction has fallen by about 25 percent from its pre-crisis high. Nearly 2 million fewer people were employed in construction in April 2013 than during the same month in 2006, when employment hit a seasonally adjusted peak of 7.7 million.⁴

To enhance safety through a wrap-up program, the sponsor should be actively engaged and involved in promoting safety from the project's beginning all the way through to completion. This sends a powerful message to everyone involved that the safety expectations are high and that failure to comply will not be tolerated.

The safety requirements and expectations should be clearly identified and incorporated into the wrap-up manual and the contract specifications prior to putting the work out to bid. This ensures that all contractors are aware of the requirements and bid on a level playing field. Trying to incorporate or change safety requirements that may be more stringent than the federal or local regulations after a contract has been awarded can turn out to be a costly endeavor.

Because accountability has a significant effect on safety performance, wrap-up sponsors and their risk management teams should set fair, yet stringent, expectations and goals and make them clear to all contractors and subcontractors. In order to ensure that the goals are met, safety performance should be monitored throughout the project life cycle. Good performance should be acknowledged and rewarded. Poor performance, or what may be perceived to be indifference, should not be tolerated. By holding management and labor accountable, the sponsor sends a clear message that the safety and well-being of all workers and everyone who

may come into contact with the project is important. Recognizing success sends an equally powerful message that safety is a valuable goal.

Look for Contractors with Strong Safety Records

The success of a project depends on subcontractors with reputations for quality work and a strong record of safety. Since the wrap-up sponsor assumes the cost of insurance, it's crucial to select subcontractors that have strong safety cultures and safety performance records. The lowest bidder may not be the cheapest, if they have a poor safety history.

Just as contractors routinely pre-qualify subcontractors based on their experience and financial background, a wrap-up sponsor should pre-qualify subcontractors based upon their safety performance. The criteria should include the subcontractor's experience modification rate over the past few years, its Bureau of Labor Statistics recordable and loss time incident rates, its Occupational Safety & Health Administration (OSHA) citation record and overall company safety culture and procedures.

Sponsors should consider requiring subcontractors to staff their operations with full-time dedicated safety representatives. At a minimum, every subcontractor should be required to provide a qualified, competent person to implement and ensure compliance with safety requirements. In situations where a subcontractor is employing 40 to 50 or more workers at a site, a full time, dedicated safety representative should be required. Consideration should be given to increasing the safety staff as the project increases in manpower and magnitude according to set thresholds.

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Implement a Project-Specific Safety Manual

Before the project gets underway, a project-specific safety manual should be developed and implemented. The manual should contain the safety expectations and criteria established by the sponsor and its risk management team at the start. The safety manual should be the common governing safety program for the project for each subcontractor, although they may choose to establish stricter standards. At no point should the safety manual be less stringent than federal, state or local safety requirements; ideally, it should be more stringent in its expectations and requirements.

The safety manual must clearly outline the wrap-up sponsor's safety policy statement, and the roles and responsibilities of all parties involved with the project. It should provide detailed safety requirements for construction-related activities and operations and establish the disciplinary procedures that will be enforced for a failure to abide by the terms of the safety policy. The manual should cover new employee orientation and substance abuse testing.

Before work begins, all contractors should be given a copy of the safety manual, and they should familiarize themselves with it. To ensure that each contractor has a clear understanding of the safety goals and expectations, the construction manager should meet with the principals of each subcontractor before they start work.

Manage for Safety

A safe project requires the participation of everyone from the chief executive to the workers on the site. To make sure that everyone understands the safety requirements, an employee orientation program should be developed that is specific to the project. Everyone involved in construction or having access to the site should be required to take the orientation course. The orientation should provide an overview of the project, an in-depth review of the safety requirements and expectations, fall management procedures and requirements, along with emergency evacuation plans and procedures. It should cover the disciplinary policy and procedures and substance abuse testing policy. Consideration of a multilingual work force should be addressed, and it may be necessary to provide the orientation in more than one language.

A safety committee that includes management and labor should be established from the beginning to address the safety aspects of the project. A team that includes both management and labor sends the message that a proactive safety culture is important. The committee should meet regularly, but at least once a month throughout the course of the project. The committee should review safety inspection reports to ensure hazards are addressed and corrected, to evaluate the effectiveness of the safety program and to discuss recommendations for improvement. At each meeting, the committee should review any accidents and near misses that have occurred since the last meeting, along with the project loss analysis to determine if there may be trends and to identify where improvements can be made.

To ensure a project will be built safely, safety pre-planning should be incorporated into each construction operation. Performed correctly, pre-planning enables the contractor to address each work activity and to identify potential exposures that could lead to accidents.

Prevent Falls

Because falls are the leading cause of fatalities in the construction industry, it is essential to eliminate or control potential fall exposures. About 36 percent of the 775 fatal construction industry accidents in 2012 were due to slips and falls compared with 14 percent for roadway accidents and 10 percent for being struck by an object or piece of equipment.⁵ Falls resulting in fatalities or serious injuries result in high costs. According to OSHA data from 36 states that comprise about one-third of total workers compensation benefits, the average cost of a fall from elevation by a roofer was \$106,000 in the three years 2005-2007, about two-thirds of that for medical care.⁶

Fall exposures can be addressed through planning, communication, engineering, training and execution. A simple planning process should evaluate the work activity, identify the fall exposures, determine who may be exposed and detail the methods of fall protection. Ideally, fall exposures should be addressed through engineering controls or alternative work methods. Since not all fall exposures can be eliminated in construction, fall protection is a necessity, as is training for workers on those measures. Every contractor whose workers will encounter potential fall exposures should be required to submit a fall management plan.

Uniform fall management standards should be set across all trades on the project to avoid having varying rules for different groups. The wrap-up sponsor should set a minimum height for the fall management program. Although the sponsor may choose to set a lower height, a fall exposure of six feet and greater should require that workers be protected, regardless of trade or activity. Even falls from lower elevations can be dangerous. In 2011, falls accounted for 541 fatal work injuries across all industries. Of those cases where the height was known,

57 percent involved falls of 20 feet or less,⁷ and about one in four were falls of 10 feet or less.⁸

Rescue and retrieval are often overlooked. Every fall management plan should address the means and methods to safely rescue and retrieve workers who may be suspended from the fall arrest system after a fall.

Combat Substance Abuse

Safety requires a workforce unimpaired by drugs or alcohol. Because construction often involves complex equipment and significant heights, companies need to actively combat substance abuse, which remains a widespread problem in the industry. Among 19 major industries, construction had the second highest rate of illicit drug use at 13.7 percent, behind accommodations and food service at 16.9 percent.⁹

With a large number of high-risk and safety-sensitive positions within the construction industry, the likelihood for work-site accidents and injuries increases when workers are under the influence of drugs, alcohol or other substances. A wrap-up sponsor should require, as part of its Drug Free Workplace Policy, the implementation of a substance abuse testing program on the project, including pre-employment, random and post-accident testing.

The inclusion of a substance abuse testing program should be established at the initial stage of the wrap-up program, and the policy should be evaluated to make sure it complies with local regulations. In union environments, the wrap-up sponsor should engage in early discussions with union officials in a collaborative effort to address incorporating a substance-testing protocol into the project labor agreement.

Train for Safety

Safety isn't just common sense. Controlling accidents requires a workforce that is trained and educated about safety. There are numerous safety regulations and a wide variety of equipment that require training and education to ensure workers are aware of the requirements and knowledgeable about safety equipment procedures.

The wrap-up sponsor should mandate that each worker be provided with the appropriate safety training. Contractor field management personnel should be required to have completed in-depth safety training, including, but not limited to OSHA 30-hour training certification obtained within the last three years. In addition, each worker should also be able to produce documentation of appropriate safety training, such as OSHA 10-hour training certification obtained within the last three years. Specialized training specific to exposures associated with each worker's job should be required and verified. Examples include training for fall protection, confined spaces, scaffolding, excavation and personal protection equipment.

Because construction is an industry that has a high concentration of non-English speaking workers,¹⁰ it is essential that new employee orientation training as well as ongoing safety training and communication be designed with a multi-lingual workforce in mind. The U.S. Department of Labor cites language barriers in high-risk industries, particularly construction, as an issue in ensuring workplace safety.¹¹ Sponsors should verify that contractors have both the written and oral capabilities to ensure that non-English speaking workers are provided with information that they clearly understand in order to perform their tasks safely.

Monitor and Plan for Safety

Once the project is underway, the sponsor should actively monitor safety performance by holding risk management meetings on a regular basis throughout the project life cycle. The meetings should be used to review not only claim activity, but more importantly, the overall safety performance and culture on the project as observed by those performing safety audits. The sponsor should actively participate in these meetings with the construction managers, senior field management personnel and brokers and insurance carriers to monitor the safety and claims activity. Loss runs, however, do not provide the complete picture of a project's safety performance. Merely because an accident did not occur does not mean that unsafe acts or conditions did not exist. Accidents don't occur every time a safety infraction takes place.

Pre-planning is an essential part of any successful construction project, and keeps the project on schedule and on budget. To ensure a project will be built safely, safety pre-planning should be incorporated into each construction operation. Performed correctly, pre-planning enables the contractor to address each work activity and to identify potential exposures that could lead to accidents. The contractor can then determine the appropriate controls to address the exposures and identify the necessary safety equipment, material and procedures needed to perform their work safely.

By contract, each subcontractor should be required to develop and submit a job safety task analysis to the sponsor and its construction manager for review. No contractor should be allowed to start work without a signed contract, nor should they be allowed to start work without submitting a job safety

task analysis and reviewing it with the construction manager.

Investigate Accidents, Reward Success

Accidents should never be accepted as a part of routine business. A sponsor needs to take the view that every accident is preventable. Each accident or near miss should require that a detailed accident investigation report be completed by the respective contractor and provided to the project safety manager. The contractor's senior field manager should be required to meet with the wrap-up sponsor and the project safety manager to discuss the incident in detail and provide corrective actions being taken to prevent re-occurrence. This sends a clear message that accidents or near misses are taken seriously and that all measures possible are taken to prevent future accidents. The benefits of effective accident investigations include reducing worker injuries by preventing similar accidents and identifying the root causes so that corrective actions can be taken.

While an effective safety culture must include a thorough assessment of mistakes, it's also important for the wrap-up sponsor to recognize and promote successful results and milestones. For instance, when a project reaches a predetermined number of man-hours without a lost time accident or completes a full year with an incident rate that meets or exceeded the established goal -- that achievement should be recognized. All individuals involved in meeting those goals should understand their accomplishment and its impact on the overall success of the project. The money spent recognizing these efforts will pay dividends in the future.

Help Workers Get Back on the Job

No construction worker intends to get injured on the job and lose the ability to work. Unfortunately, accidents do occur and often prevent workers from performing their normal assigned tasks. It is important to remember that although workers recuperating from injuries may not be able to perform their normal assignments, they may be able to assume other responsibilities. A return-to-work program should be established whenever possible. Returning injured workers to the project in a modified activity not only helps to control claims cost, but also keeps workers productive. Statistics show that the longer a worker is out of work due to an injury, the longer it takes to get that individual to return, and increases the potential for third party or general liability claims to arise. Return-to-work programs have been shown to reduce costs for workers' compensation, medical and indemnity, wage replacement and worker replacement, among other financial benefits for employers.¹² Such programs also help workers to recover better, leading to less time off and helping to avoid the medical, psychological and economic impacts associated with long stretches of disability.¹³

Find the Right Expertise

While safety is essential, a successful wrap-up depends on working with brokers and insurers experienced in the construction marketplace. The sponsor should work with a broker and carrier with expertise in wrap-ups and a track record of successful programs. An insurer with underwriting, risk engineering and claims expertise in construction can bring to bear the macro perspective gained from a wide variety of programs to a sponsor's specific project. That may include identifying best practices as well

as potential problems in a project and providing guidance such as information about differences in local regulations, building techniques or safety measures.

Because construction is a specialized business, the carrier's claims department should be thoroughly knowledgeable about the industry and in handling critical areas within construction risk. A claims department with expertise in construction will help to reduce the cost per claim and also enhance the project overall. An experienced claims department can provide guidance on trends in various jurisdictions, changes in statutes and how they may affect a particular project, while also offering insights into how potential coverages might apply in practice for a given project. The same kind of scrutiny a sponsor gives to potential contractors should be applied to evaluating an insurer. Due diligence should include evaluating the carrier's expertise in the construction industry, assessing its experience in all types and phases of construction projects, and asking questions about prospective scenarios that could impact the ultimate success of the project and the wrap-up.

Provide Clear, Detailed Information

To make the best use of the insurer's expertise, it's crucial to understand and address the concerns of the underwriters. Among those concerns will be questions related to the sponsor's experience in wrap-up programs. The sponsor should expect underwriters to ask a number of detailed questions. Providing accurate and detailed information is a key step in moving the wrap-up forward.

Sponsors should be diligent in providing detailed information about the overall project, the construction methods, the

location and the contractors that will perform the work. The ultimate success of the wrap-up program will depend to a significant degree on the contractors involved. The weakest link may be a subcontractor whose standards fall short, making it difficult to conclude a safe, efficient project. To avoid that, the underwriters will want to see every sub-contractors workers' compensation experience modification rating. The location of the project may present issues; if, for example, a prime subcontractor has never worked in that area before and is unfamiliar with local labor standards and regulations. The building methods will need to be explained and evaluated. For instance, if new techniques will be used in a building, the sponsor should be able to explain the advantages of those techniques, how the work will be performed and how it will enhance the safety of the project. Clear, detailed information provides underwriters with a better framework to evaluate the risk and to develop the terms, conditions and price that provide the best fit for the insurer, program and sponsor.

Communicate with Claims

Because even the most safety-focused company cannot prevent all accidents, it's crucial to have a unified claims strategy. Once the initial wrap-up program is put in place, its future success will depend heavily on the claims department maintaining the relationship between the sponsor and the insurer. The consolidated, coordinated approach to claims offered by a wrap-up program helps to better manage claims and litigation costs.

A key step in maintaining communications is to establish quarterly claims review meetings. These serve several important purposes, from



reviewing existing claims and their causes to developing plans to prevent similar losses in the future. A quarterly claims review meeting provides an opportunity for the sponsor, brokers and insurer to review the status of current claims, discuss strategy, review claim reserves and make sure that the sponsor is fully up to date on all activity.

Quarterly meetings also provide an early look at the lessons that can be learned from a claim. Risk engineers can provide insight into the cause of the loss based on the investigation at the site. That offers an opportunity to look at the processes and procedures involved in the loss and how they may be adapted going forward to mitigate the risks. The meetings also provide an important early forum to develop an agreed plan of action for the claim, including litigation strategy when necessary.

Communication shouldn't be limited to quarterly claims review meetings. Keeping in regular contact with the broker and insurer as the project progresses helps to make sure that unexpected problems don't arise and that potential exposures are addressed. It provides the opportunity to identify new

exposures before a new phase of work begins and to offer guidance on how to mitigate those risks. Projects are fluid and involve many changes. For instance, the coverage territory may need to be expanded to accommodate an off-site staging area for steel deliveries. A change in plans from a steel high-rise project to a concrete one will present very different exposures. If a wrap-up spans multiple locations, sponsors must communicate with claims and the underwriters before expanding into a new area with a significantly different risk profile, differing statutes and labor rules.

Coordinate on Litigation

Litigation management is a crucial part of the claims handling process and may have a significant impact on claims costs. Litigation management should not begin when a legal action is filed, but rather when a loss occurs, to evaluate whether legal action is likely and what may be the best defense if necessary. One of the advantages of a wrap-up is a unified strategy with respect to claims that may involve litigation. A large project may include more than 100 insureds, from the owner to the general contractor all

the way to third-tier subcontractors. A coordinated strategy is crucial to avoid having various subcontractors hiring counsel to act independently, which adds confusion and, ultimately, unnecessary costs. Because claims are handled centrally under a wrap-up, there should be one coordinated response. An experienced claims person can provide important guidance to the defense of a case or on proposed settlement terms.

For instance, a sponsor may want to simply settle a case to avoid the distraction, but the carrier may believe that a proposed settlement is not appropriate. It may be that an offer to settle a case at an unnecessarily high price increases the risk of being exposed to overly aggressive settlement demands in the future. Addressing the legal and practical issues on the individual merits of the claim and defending appropriately can have a positive impact on future litigation and settlement demands.

The selection of defense attorneys is critical in litigation management. The defense team should be highly experienced in construction cases, and be familiar with the laws, custom and practice of the jurisdiction in which the action is pending. A defense team knowledgeable about prior cases that have been successfully defended in a particular jurisdiction may help to

influence the outcome of the litigation at hand. While it is always necessary for litigation counsel to be admitted in the court in which the litigation is pending, it may be beneficial to use local counsel experienced in the particular jurisdiction. The reporting protocols for the attorneys should be decided ahead of time so that there is clear communication on the case from start to finish.

The bottom line in litigation management is to ensure that there is clear communication among all of the parties involved.

Build a Successful Risk Wrap-Up

In a successful wrap-up program, all of the participants must work together to eliminate or dramatically reduce potential exposures. Those exposures include everything from conditions that may pose threats to safety, as well as risk engineering exposures, claims handling and litigation coordination. Addressing those exposures requires clear communication from the very inception of the project through its completion; collaboration with underwriters and claims specialists to identify and mitigate exposures; and coordination to work as a team throughout the project and the conclusion of the wrap-up.

A successful wrap-up begins with a dedication to continually improving safety as part of an organization-wide safety culture. That dedication to safety must be reflected in the selection of contractors whose track record demonstrates that same level of commitment. A robust safety culture not only helps to protect workers, avoid costly accidents and expense delays, it also safeguards a company's hard-earned reputation and avoids negative publicity that may cause lasting damage to the business. Just as owners and developers take care to hire the best subcontractors, they should also seek to work with experienced insurers that can offer guidance in identifying and mitigating all of the exposures associated with construction projects, from safety risks to statutory issues in the appropriate jurisdictions, through to claims and litigation management. A construction wrap-up program provides a comprehensive strategy to manage the risks associated with a project and to drive savings in the costs of those exposures. The keys to a successful wrap-up program are communication, coordination and collaboration.

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