



Should Design Firms Be Covered Under Wrap-Up Insurance Programs?

Design professionals are often asked to participate in insurance programs designed to accommodate owner's insurance requirements for a project(s). These programs provide advantages and benefits to owners and contractors, but generally do not address the predominant risks that arise from the services provided by design firms. Dealey Renton & Associates (DRA) provides some background information about 'Wrap-Up' insurance programs and discusses what Design Professionals should know before executing enrollment forms.

WHAT IS A WRAP-UP?

Essentially the term 'Wrap-up' is insurance industry jargon referring to an effort to provide all-encompassing insurance policies for a construction project(s). More specifically, a **Wrap-Up** is a **Controlled Insurance Programs (CIP)** where one party, usually the Owner or the Prime Contractor, procures insurance on behalf of most if not all the parties performing work on a construction project. A CIP purchased by the Owner is known as an **Owner Controlled Insurance Program (OCIP)** and if it is purchased by the Prime Contractor it would be a **Contractor Controlled Insurance Programs (CCIP)**. CIPs are most often used on very large new construction projects, but also can be crafted to cover multiple construction projects on an on-going basis, known as a rolling wrap-up. Typically, the coverages provided under CIP programs include commercial general liability (CGL), workers' compensation, umbrella liability policies and possibly builders' risk. Commercial automobile coverage may also be included although it will usually apply in excess of each participant's primary policy. Most important for design professionals, professional liability insurance is rarely provided under traditional CIP programs.

IMPORTANT CONSIDERATIONS FOR DESIGNERS

- ▶ Carefully review the CIP manual and enrollment form as architecture and engineering services and payroll classes are often excluded from CIP requirements.
- ▶ Requests for proposals and professional services contracts will often indicate 'project insurance' has been procured although it is common that professional liability coverage is not provided in the insurance program. A project specific professional liability policy that is intended to insure the design team's professional liability exposure is a complex insurance program which typically requires an extensive application process.
- ▶ CGL policies included under a CIP are sometimes amended (endorsed) to provide 'limited' professional liability coverage usually intended to cover the incidental design work performed by the construction team members for claims arising from bodily injury and tangible property damage. Design professionals should not assume that this coverage will be an appropriate substitute for the coverage provided under his or her firm's professional liability practice policy as this coverage likely does not insure the most common professional liability claims covered by a typical professional liability practice policy. Information about such coverage should be referred to the design's firm insurance professional for vetting.
- ▶ Furthermore, the CGL coverage will usually include a large deductible that all parties will be contractually obligated to pay or share with other insureds. The CIP's terms and conditions can require the design firm to pay this deductible according to a fixed allocation, or it may be proportional to the project fees received, or allocated according to the design firm's discipline or practice type. These CIP deductible obligations will not benefit most design firms since the firm's annual CGL policy does not include a deductible.
- ▶ CIP enrollment procedures assume that all subconsultant/subcontractor CGL policies are auditable. Auditable CGL policies allow an insured to 'save' premium if a project is not insured under the firm's annual CGL policy, and CIP enrollment forms include tools for calculating the amount of CGL premium that can be saved and deducted

from the firm's fee. Since the vast majority of design professionals' CGL policies are provided at a fixed annual cost with no definable rate, there would be no premium reduction if coverage is provided under a CIP. As such, design firms will not be able to complete CIP enrollment forms as they are typically written.

- ▶ Since CIP programs are designed to cover on-site risks that typically fall within CGL and workers' compensation coverages, design firms would not benefit from being included in a CIP unless they are providing significant on-site services.
- ▶ Unfortunately, there is a potential downside to being excluded from the CIP. When the designer is not included in the CIP program, the program participants (usually the contractor(s)) or the CIP insurer can attempt recovery from design team members for claims paid by the CIP insurer.

CAN INCLUSION UNDER A CIP BENEFIT A DESIGN PROFESSIONAL?

- ▶ When the designer's services include significant on-premises work such as site surveying, on-call inspection, materials testing, or other similar work that requires its employees to spend a large portion of their work days on a jobsite, having CGL and workers' compensation covered under a CIP could be beneficial. For Worker's Compensation, the premium cost could be lower if the firm has a high experience modification rate (EMR) or the firm is not large enough to qualify for an EMR.
- ▶ If a large number of the design firm's staff is working on-site, the firm could benefit from the claims reporting and risk management services provided by the CIP administrator.
- ▶ When the project owner or contractor requires high liability insurance limits that are unavailable to the designer or the cost of the higher limits only required for a specific project does not make financial sense.

ABOUT DEALEY, RENTON & ASSOCIATES

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