



The right people. The right results.®



LEADERSHIP, KNOWLEDGE, SOLUTIONS...WORLDWIDE.

# Primer for Managing Airport Construction Risk

ACI Conference  
Nashville

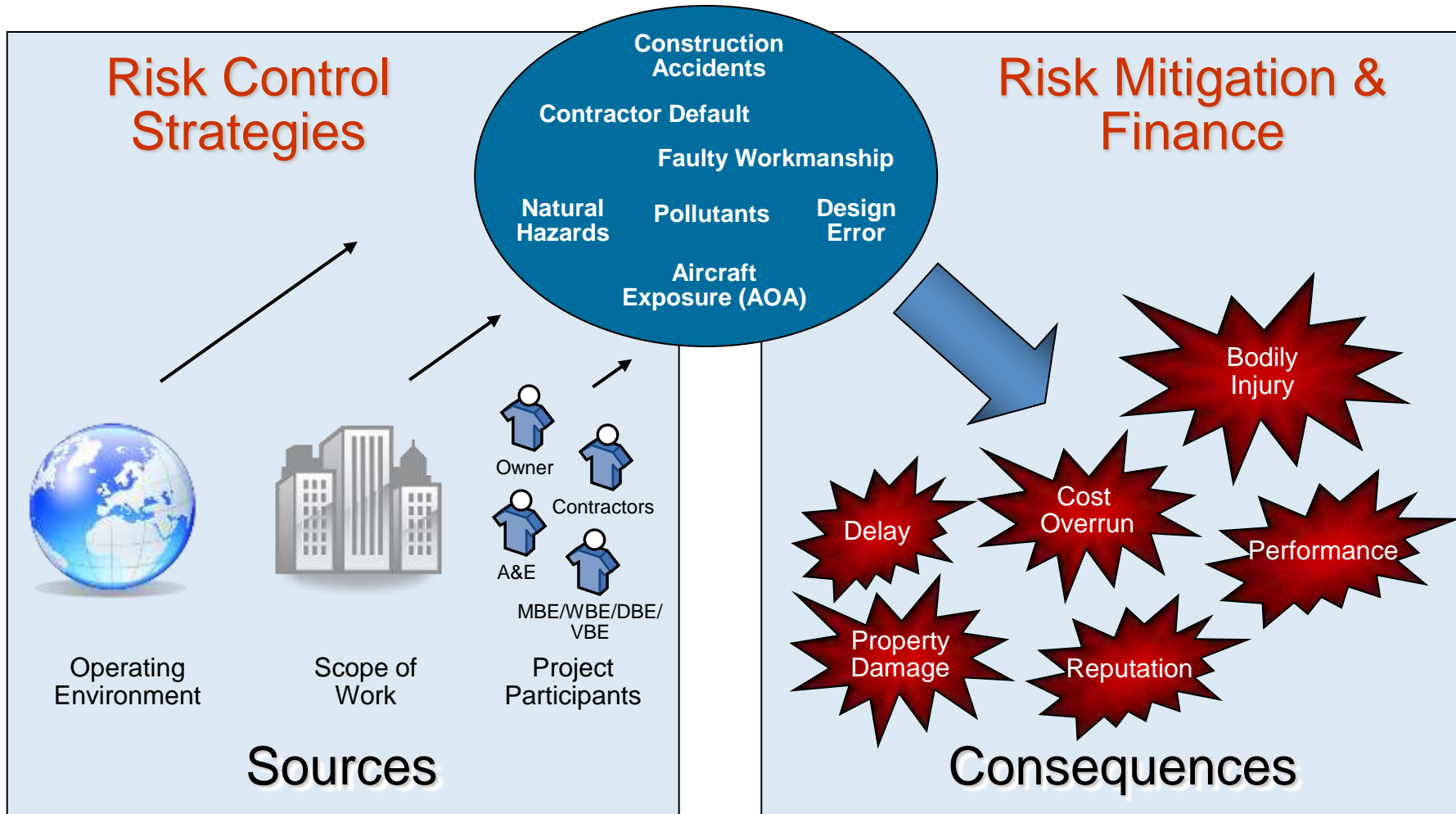
January 15, 2016

# Agenda

- Contract Issues
- Project Insurance Considerations
  - Controlled Insurance Programs (CIPs)
  - Project Specific GL/Excess
  - Course of Construction/Builder's Risk
  - Environmental: Pollution Legal Liability & Contractor's Pollution Liability
  - Professional

# Project Risk Overview

## Project Risks



## Contract Issues

- Contract must mirror Risk Transfer Options selected on Project (CIP, Builder's Risk, Environmental, and Professional)
- Define cost of work, including responsibility for deductibles from covered losses arising out of scope of work
- Limits required & Completed Operations extension must be stated
- Mutual Waiver of Subrogation

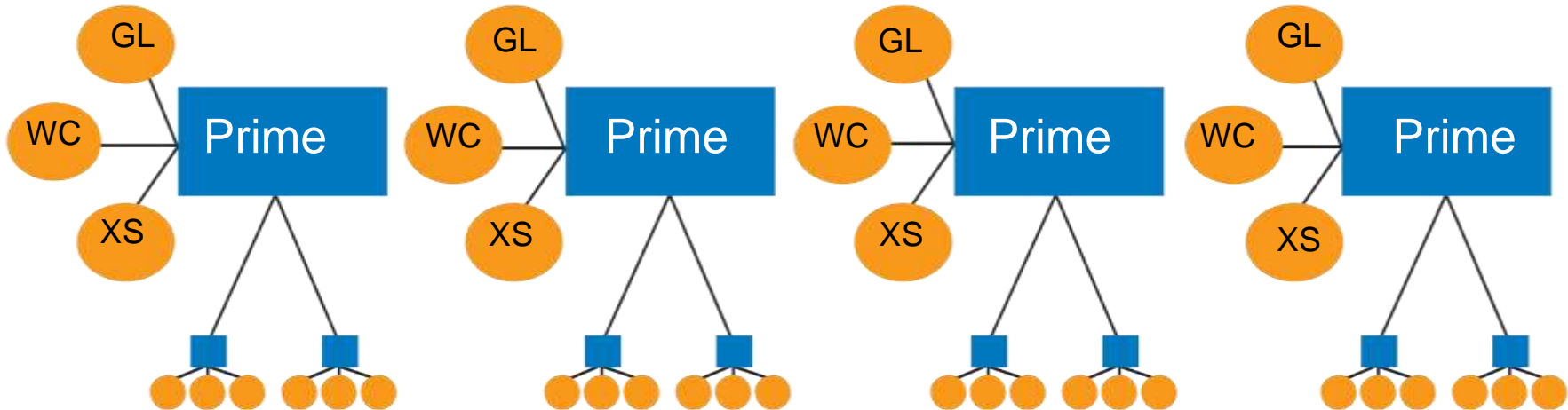
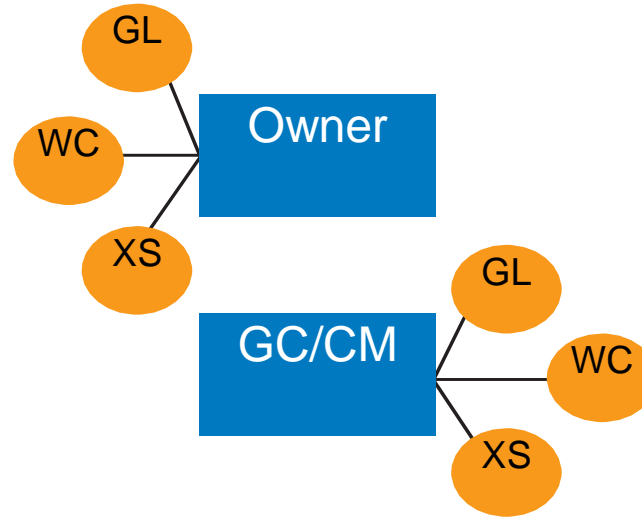
# What Does Insurance Do?

## Insurance is an Imperfect Solution

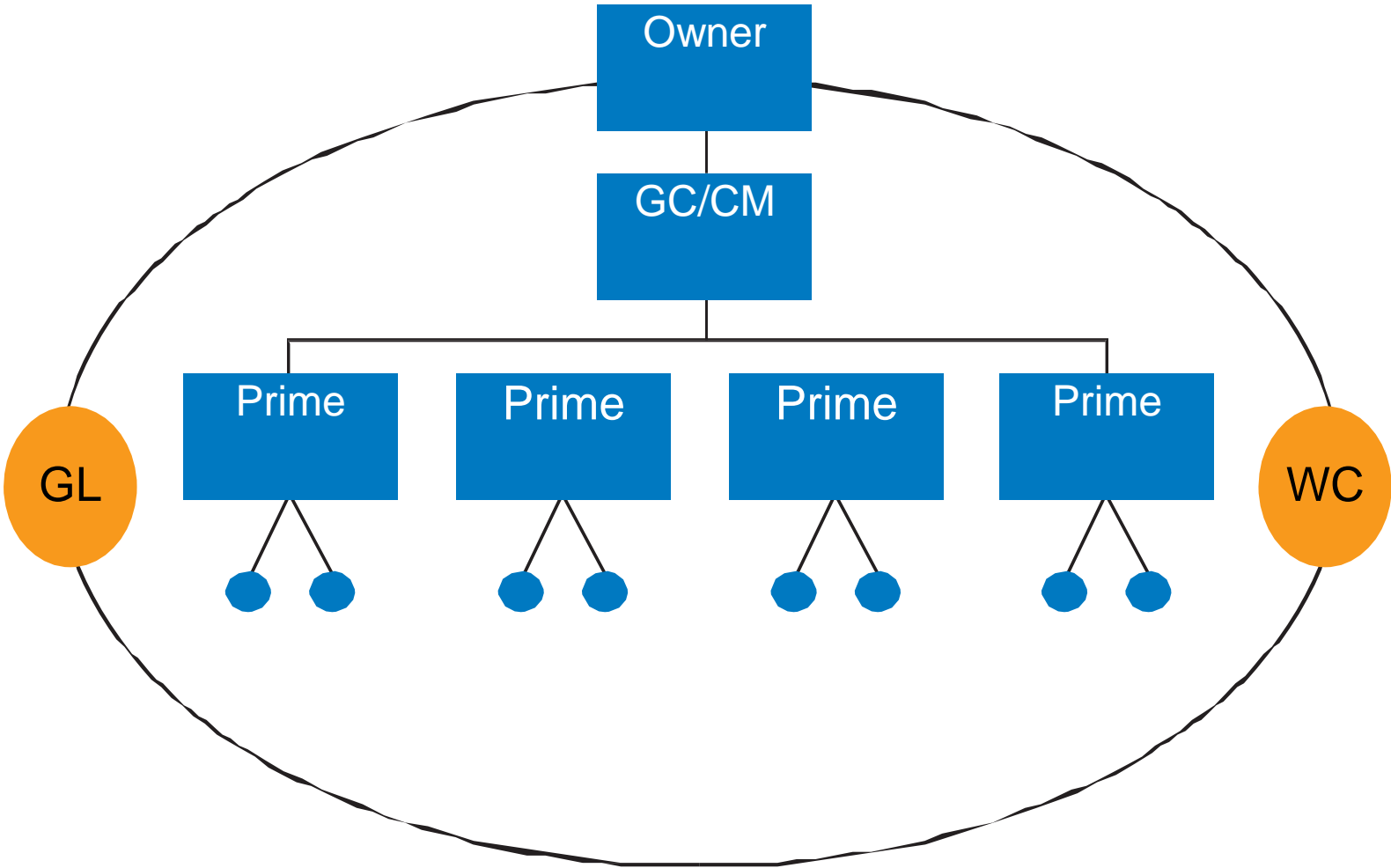


Charles De Gaulle International Airport, Terminal 2E  
May 23, 2004, 05:00 GMT

# Traditional Approach to Construction Risk Management

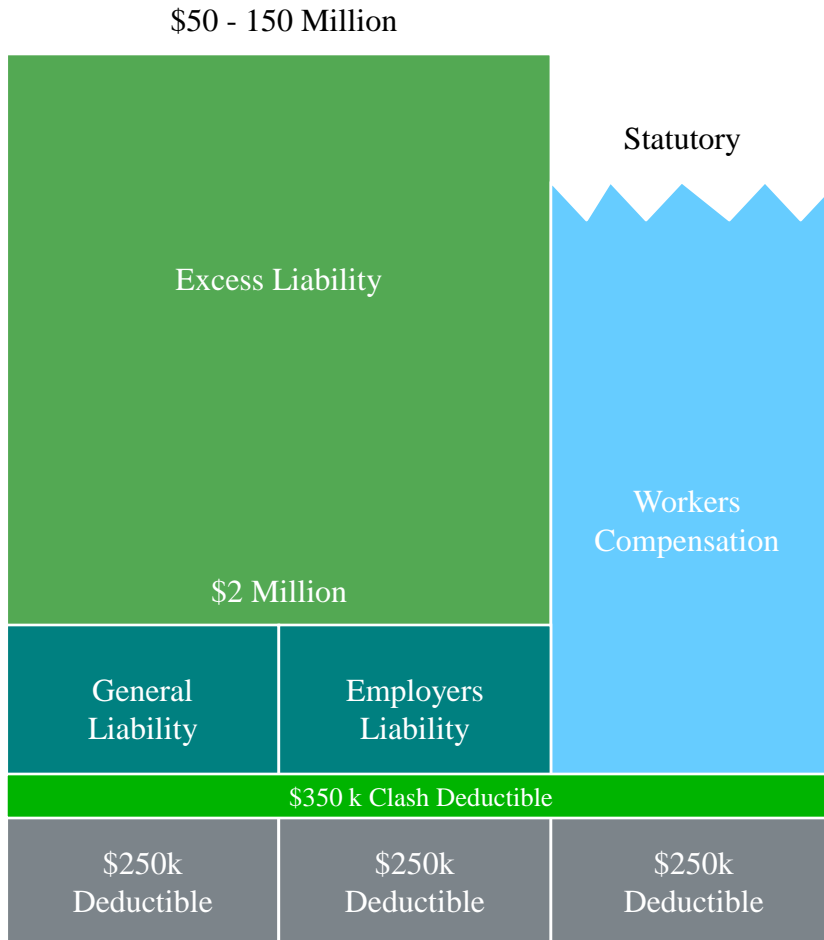


# Controlled Insurance Program



# Key Coverage Concerns

## Controlled Insurance Program



Typical Wrap-Up Structure



GL-Wrap



# Advantages of using a Controlled Insurance Program

- **Dedicated Limits** – Insurance is purchased for this program and limits may apply per project or location
- **Quality and Certainty of Coverage** - Sponsor custom designs and purchases coverage – subject to all stakeholder's approval.
- **DBE/MBE Participation** – Reduces barriers for firms to participate and encourages participation to meet or exceed goals.
- **Continuity** - Continual coverage at project start through completion with extension for Completed Operations to align with statute of repose.
- **Financial Stability** - Sponsor has control of carrier selection, with approvals.
- **Singular Defense** - One carrier handles claims for all parties to the claim (owner/contractors), eliminating cross-suits, and providing a unified defense, resulting in lower claim costs.
- **Mitigation of Negative Publicity** - Quick response to claims and return to pre-loss condition.

# Comparison of WC/GL CIP vs. GL-only CIP

## **Workers' Compensation + General Liability**

- WC/GL provided on a combined-lines basis from a single carrier, with excess tower above.
- Coverage would apply for all enrolled contractors and subcontractors for the course of construction.
- GL and excess liability coverages extend for up to 10-years of completed operations, to align with statute of repose, varies by state.

## **Advantages of WC/GL CIP**

- Greater economies of scale over GL-only approach.
- More comprehensive solution to third party action-over claims.
- May be only option in some states

## **Disadvantages of a WC/GL CIP**

- Greater administrative attention required for enrollment and tracking.
- More collateral is required to secure losses within the deductible.
- Greater claims activity due to frequency of workers' compensation claims.

- Higher CIP Administration Cost

## **General Liability only**

- GL provided from a single carrier, with excess tower above.
- WC coverage for project work remains the responsibility of the contractors (and is funded indirectly through labor costs).
- Coverage would apply for all enrolled contractors and subcontractors for the course of construction.
- GL and excess liability coverages extend for up to 10-years of completed operations, to align with statute of repose, varies by state.

## **Advantages of a GL-only CIP**

- Coverage certainty
- Lower, potentially no, collateral requirements.
- Lower administrative burden.
- Lower claims frequency.

## **Disadvantages of a GL-only CIP**

- Fewer economies of scale available

# The Owner's Role in Construction Safety

- Set safety as a criteria in contractor selection
  - Historical OSHA total recordable incidence rate (TRIR), Experience Modification Rate (EMR)
  - Qualifications of site safety staff
- Establish contractual safety requirements
  - Include safety in constructability review with architect
  - Site-specific safety plan, drafted by CM/GC
  - Full-time safety representative from CM/GC
  - Minimum training for workers
- Proactive involvement during construction
  - Monitor incident reports, site safety inspections, and injury statistics
  - Assign a full-time safety representative of your own
  - Support, fund, and participate in worker recognition, incentives, and safety training

## OCIP vs. CCIP



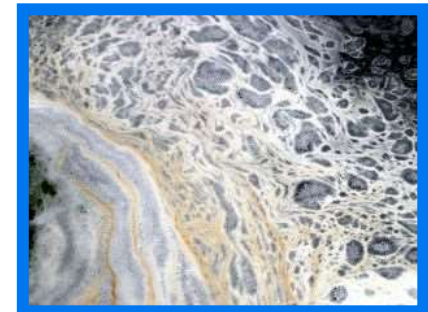
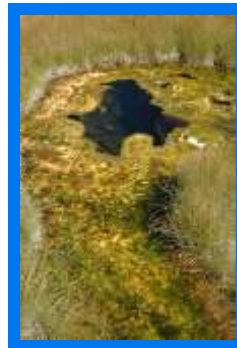
## **Dramatization**

## OCIP vs CCIP: Practical Considerations

- Coverage and price
- Accounting Issues – Timing of Close Out
- Risk / rewards
- Program administration
- Coverage for multiple contracts
- CIP from the subcontractors' point of view – Communication is paramount!
- Gain Named Insured Status for the Project Sponsor regardless of approach

# Contractor's Pollution Liability

- Covers Bodily Injury Property Damage & Clean-Up
- Covers contractor's exacerbation of pre-existing pollutants
- Covers new pollutant release
- Can be expanded to cover staging areas, fabrication shops, etc.
- Covers liability associated with transportation and off-site waste disposal
- Covers liability construction defects and installed products
- Project policy terms available to meet statutes of repose



# A/E Professional Liability vs. Project Specific

## **A/E Professional Considerations**

- Limits may be eroded or exhausted – defense costs and indemnity
- A design firm may be liable for more than 10 years after a project's completion date
- Retroactive date/extended reporting period

## **Project Professional and Owner's or Contractors Professional Indemnity (OPPI/CPPI) Considerations:**

- Dedicated limits including Completed Operations tail (for certain period post completion of the project)
- Cost vs. Coverage

## Builders Risk

- Pays losses for damage to buildings under construction and materials that will become a part of the building
- Provides coverage until permanent property policy takes over
- One party purchases for all parties with insurable interest
  - Owner
  - Contractor
  - Subcontractors of every tier
- Master Builder's Risk (MBR) vs. Project Specific



## Builders All Risk

- Named insured
- Mutual waiver of subrogation
- Policy limit = Contract value
- Transit/off-site sub-limits, exclusions
- Property carried over water requires ocean cargo policy
- Who pays for expenses that the insurer does not?
  - Deductible losses
  - Cost excess of sub-limit
  - Excluded causes of loss

## Delay/Business Interruption

- Soft Costs/Delay in Start-Up
  - Optional, covers exposure to loss of rents/revenues or extra expense
  - Can ensure debt service
  - Limit must be substantiated and purchased at policy inception
  - Loss must arise out of a covered loss
  - Force majeure causes
  - Expediting expense

# Emerging Construction Issues

## – Cyber Liability

- It's not only an IT problem
- Target breach was caused by a subcontractor working at one of their facilities
- Australian Secret Intelligence Organization
  - Hackers gained access of digital files of a prime contractor
  - Stole floor plans and other vital information related to data and communication systems.
  - Sensitive data is not limited to customer financial or personal data!

## – Drones

- Site photography and Site Security – Privacy Issues
- Ability to access jobsites remotely – 3<sup>rd</sup> party risk



Calvin Klein billboard, one of New York City's largest, sits at the busy intersection of Houston and Lafayette. A spray can was attached to a drone to commit vandalism.

## QUESTIONS?

- **Raymond Therrien** | Vice President  
**Marsh** | National Brokerage  
99 High Street, Boston, MA 02110, USA  
Office 617-385-0426 | Mobile 508-612-9987  
Raymond.P.Therrien@Marsh.com  
[www.marsh.com](http://www.marsh.com)

Eric B. Smith, CPCU Managing Director  
Managing Director  
Marsh Atlanta  
404-995-2952 (O)  
404-434-9150 (M)

- **Kerry Powers** **CIC, CRM, CRIS** Assistant Risk Manager
- D 317 227 7899 C 317 518 6071 [Kerry.powers@aecom.com](mailto:Kerry.powers@aecom.com)



The right people. The right results.®

