

TO:	CHAIR AND MEMBERS FINANCE AND ADMINISTRATION COMMITTEE MEETING ON WEDNESDAY, NOVEMBER 30, 2011
FROM:	JAMES P. BARBER CITY SOLICITOR
SUBJECT	CONTRACTOR-CONTROLLED INSURANCE PROGRAM

RECOMMENDATION

That, on the recommendation of the City Solicitor and on the advice of the Risk Manager Civic Administration **BE DIRECTED** to amend insurance coverage requirements for construction projects to improve coverage consistency and reduce the potential for project insurers' to be placed in an adversarial position should claims arise.

REASON FOR THIS MATTER BEING CONSIDERED IN CAMERA
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None

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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None

BACKGROUND

Purpose

The purpose of this report is to inform Council of the change to insuring construction projects performed by third party contractors on behalf of the City.

Insurance on Construction Projects

Traditionally, municipalities have required that contractors purchase insurance coverage for their operations while working on municipal projects. The City of London has also followed this process. Contractors are obligated under the contract to carry the required types and amounts of insurance stipulated and to provide evidence that the stated insurance is in force. Terms and conditions of construction project insurance are reviewed on a regular basis and up-dated as risks are identified and coverage becomes available.

Even with the required documentation on file the City may find when a claim occurs, that a particular peril or event is not insured. Lack of coverage may result from an exclusion in the policy, omission of the coverage or some other condition which eliminated coverage for that particular claim.

Civic Administration has investigated opportunities to improve construction project coverage. The program which best meets this criteria is a 'Controlled Insurance Program' (CIP). Improvement is found in three ways:

1. consistency of coverage,
2. breadth of coverage, and
3. effective, efficient claims handling.

The following chart outlines differences the traditional and CIP programs.

A Controlled Insurance Program (CIP)	
Traditional Approach	CIP Method
<ul style="list-style-type: none"> • Each separate party purchases their own insurance • Difficult to know exactly what every contractor’s insurance policy covers, or where there are coverage ‘gaps’ • May be difficult for smaller contractors to provide required insurance limits. • Indemnification fully dependent on the financial ability of the party responsible for the loss to pay. • Uncertain how Courts will interpret indemnity clause. • May require legal action to determine who/how many parties are responsible for the loss and proportion financial cost to each. • Coverage begins on the date the insurer agrees to provide insurance. • Coverage continues beyond the end of Substantial Completion. • Claims-handling involves the City, the contractor, potentially both insurers and legal counsel. 	<ul style="list-style-type: none"> • Coverage applies to the named project only and the Owner, contract managers, general and sub-contractors are all insured. • Coverage is enhanced over stand-alone insurance purchases. • The amount of insurance is restricted to the project and cannot be used for other work the contractor(s) are doing. • Reduced potential for legal action because fewer insurers are involved. • Coverage begins upon award of contract. • Coverage continues beyond the end of Substantial Completion. • Claims-handling assigned to a single adjuster who keeps insurer and City informed of claim progress. • Contractor continues to buy regular insurance on all work <u>outside</u> of the project.

Alternative CIP Methods

A Controlled Insurance Program can be implemented as either an ‘owner-controlled’ or a ‘contractor-controlled’ program. Civic Administration has reviewed both methods. Both alternatives provide the potential for minor cost savings in insurance premiums. The contractor-controlled alternative also provides for improved claims-handling and increased claimant satisfaction by reducing the number of persons a claimant must deal with to get their claim resolved.

The London District Heavy Construction Association has indicated that their members prefer the contractor-controlled program. In particular, their objection is with loss of control over the claims-handling process with the owner-controlled method.

Conclusion

That effective January 1, 2012, the City will require that a Contractor-Controlled Insurance Program be placed on City construction projects. In conformance with standard risk management practices this CIP will be reviewed on a regular basis and revised as needed.

PREPARED BY:	RECOMMENDED BY:
R. JOY JACKSON - MANAGER, RISK MANAGEMENT	JAMES P. BARBER CITY SOLICITOR

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