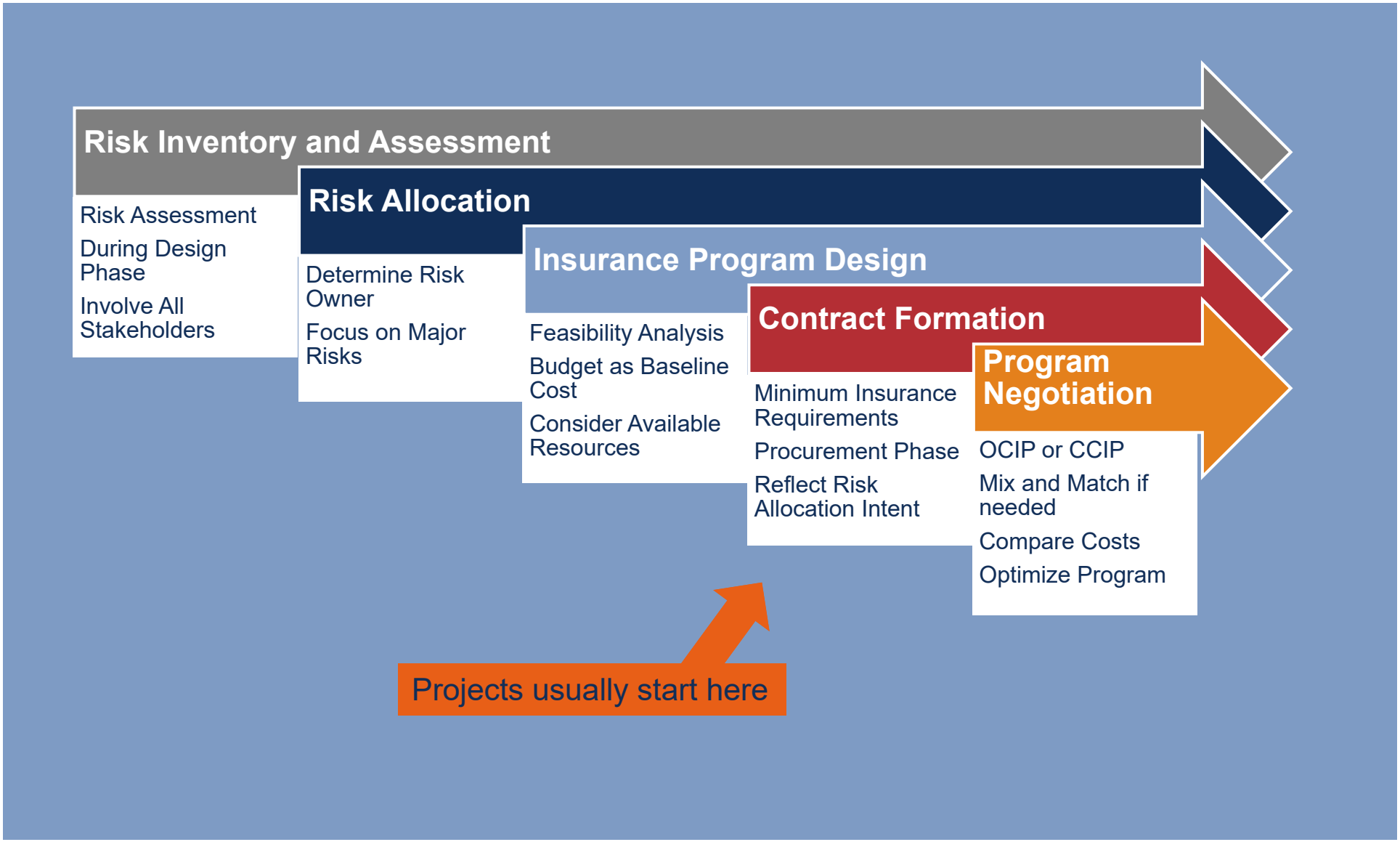


Act 1: Hot Topics and Interesting Stuff

propel INSURANCE

Construction Contracts, Risk & Insurance
Thursday, June 8, 2017

Building "Best Fit" Project Insurance Program



STEP 1: Risk Assessment



Simple Risk Assessment: Ask Critical Questions

- **What are we building?**
  - Has it been done before?
  - Are there available contractors with capacity to perform?
- **How can it impact the public?**
  - Traffic impacts
  - Business disruption
- **Can we contain cost?**
  - Is design mature (scope creep)?
  - What project delivery system should we use?
- **What issues will drive public impact and cost containment?**
  - Experience of the project team
  - Inspection/oversight experience

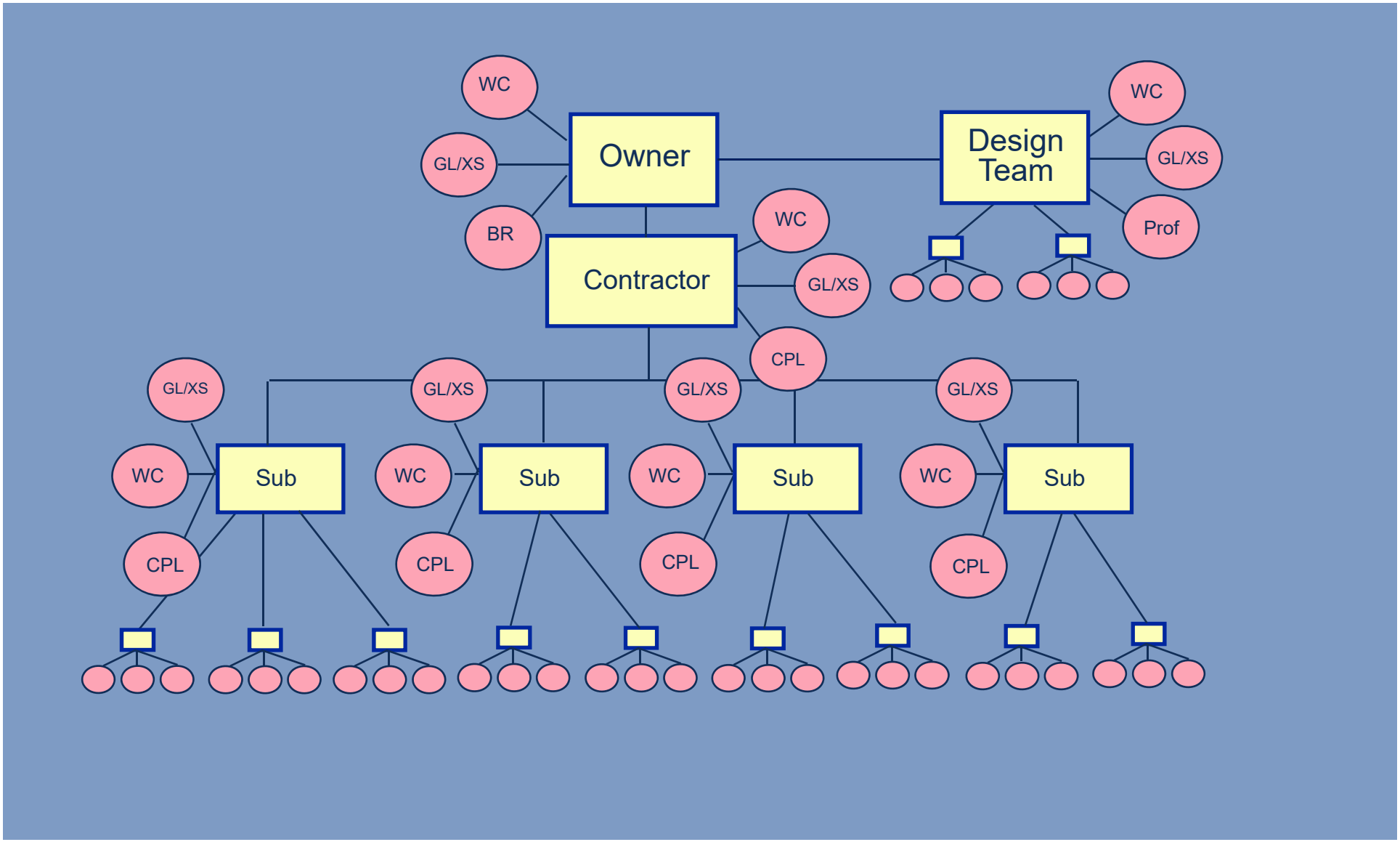
STEP 2:Risk Allocation



- Size of Developer, A/E and Construction Firms
- Nature of the Project
- The Contract Delivery System
- Environmental Implications of the Project
- The Potential Consequential Damages
- Insurance Mechanisms
- Financial Considerations

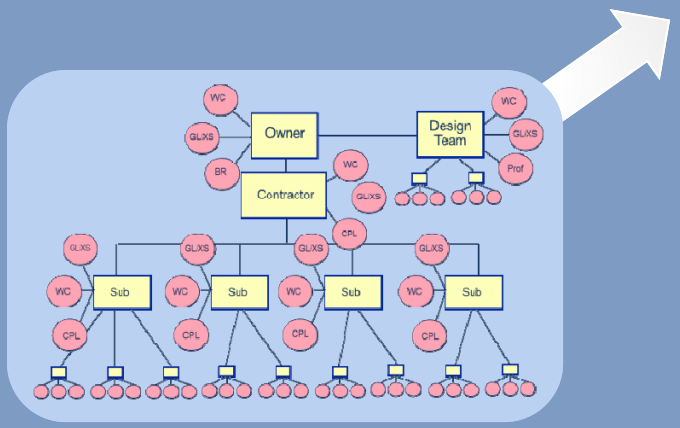
Risk = Cost

STEP 3: Insurance Design - Traditional Project Insurance



Wrap Up Program (aka OCIP or CCIP)

Optimized Program:
Simplified Structure
2 to 3 Insurers
Insures ALL Project Participants
Adequate Limits
Consistent Coverage
Decreased Cross Litigation



Excess Liability
$2M - $10M excess of primary
- Shared limit so need more than just primary
- Consider exposures and cost to set limit

Primary General Liability
$2M per Occurrence
$2M General Aggregate
$2M Product/Completed Ops Agg
- 10 yr Products/ Completed Ops Tail following project completion
- Wrap Administration
- 3rd Party QA/QC

Workers' Compensation

Builders' Risk
Limits dependent on Project Value

Pollution Legal Liability & Contractors' Pollution Liability

Project-Specific Professional Liability

(Optional Coverage)

What is a Wrap Up?



- Single, Project-specific insurance program
- Purchased and controlled by the owner (OCIP) or contractor (CCIP)
- Insures owner, general contractor, and all contractors performing work at the project site
- Typical coverages include: General Liability, Excess Liability and Builder's Risk
- Can include Workers' Compensation (projects over $90M in OR per ORS 737.602)
- Additional coverages may also be included

Wrap Up Advantages



- Isolates Construction Risk to Project-Specific Policy
- Known Coverage, Insurers & Limits
- Completed Operations Coverage through Statute of Repose (10 yrs OR)
- Unified Defense in Claims
- Control of Insurance Line Item (Cost of Insurance)
- Increased Scrutiny and Coordination of Safety
- Enhanced Bid Environment for Subcontractors
- Disciplined Review of Project Risk Exposures

STEP 4: Contract Formation



- Contract must be finalized to get bids
- Changes in risk allocation intent will change contract price/bid
- Match risk allocation intent and insurance program design
  - Modify indemnity language if appropriate
  - Modify insurance requirements if intended
- Keep an open mind for alternatives as long is it doesn't shift risk and cost

STEP 5: Project Insurance Procurement



- Large contractors have sophisticated insurance programs that operate as a profit center
- Contractors will retain risk and add cost of risk retention to the contract price/bid
- If resources are available, taking on some of the risk will limit the Contractor's profit and minimize Project cost
- If resources are limited, allowing the Contractor to enhance profit may be acceptable as long as they have a comprehensive program that can be validated