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**Appendix A**  
**Working Group Agendas and Minutes**

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September 19, 2002 Agenda and Minutes

October 3, 2002 Agenda and Minutes

October 17, 2002 Agenda and Minutes

October 31, 2002 Agenda and Minutes

November 21, 2002 Agenda and Minutes

December 5, 2002 Agenda and List of Outstanding Recommendations

December 19, 2002 Agenda and List of Outstanding Recommendations

Subcommittee Meeting Schedule and Participants

# CCSF OCIP Working Group

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## Agenda

September 19, 2002

Thursday, 4:00 to 5:30 PM

City Hall Room #316

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|--|------------------------------------|
| 1. Welcome & Introductions                       | Errol Fitzpatrick<br>Todd Rydstrom |
| 2. Goals, Project Scope, Deliverables and Timing | Todd Rydstrom                      |
| 3. OCIP at a Glance                              | Linda Yeung<br>Corina Monzón       |
| 4. Review of CCSF OCIPs – Past & Present         | Department Representatives         |
| 5. Proposed Agenda Items for Future Meetings     | All                                |
| 6. Proposed Future Meeting Dates & Times         | All                                |

## Participants

1. Risk Manager – Errol Fitzpatrick
2. Controller's Office – Todd Rydstrom, Monique Zmuda, Linda Yeung, Corina Monzón
3. Airport – Leo Fermin, Ralph Stewart
4. MUNI – Gigi Harrington, Luz Cofresi-Howe
5. PUC – Bill Berry, Kingsley Okereke
6. City Attorney's Office – Joanne Hoeper, George Wong

# 1<sup>st</sup> OCIP Working Group Meeting Notes

## September 19, 2002

### Members Present

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Errol Fitzpatrick, Risk Manager's Office  
Todd Rydstrom, Controller's Office  
Leo Fermin, Airport  
Ralph Stewart, Airport  
Joanne Hoeper, City Attorney's Office  
George Wong, City Attorney's Office  
Monique Zmuda, Controller's Office

Linda Yeung, Controller's Office  
Corina Monzón, Controller's Office  
Luz Cofresi-Howe, MUNI  
Gigi Harrington, MUNI  
Bill Berry, PUC  
Kingsley Okereke, PUC

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### Goals and Outcomes for the Working Group

- Policy statement with respect to OCIPs.
- How best to manage the City's risk exposure – OCIPs and alternatives.
- Establish standards or benchmarks that future OCIP should meet.
- Guide for the development of OCIPs so that departments do not have to reinvent the wheel.
- Necessary and sufficient conditions as to when an OCIP is the best alternative.
- Tools for evaluating proposals.
- Ongoing protocols for claims and site management.
- Boilerplate contract language for brokers' responsibilities because negotiating the contract after the broker has been selected is difficult.
- Over the next three months, have four to five meetings highlighting where we have been, where we are going and planning out key OCIP functions

### Approaches for Evaluating OCIPs

- Three levels of control:
  - i. Assessment of the risk—establishing the correct risk coverages for the program.
  - ii. Documentation of broker and carrier contracts—how do they form the framework such as construction contract language (incentives and disincentives) and broker contract deliverables.
  - iii. Administration, monitoring and enforcement of contracts and ongoing measurement of the program.
- Look at the program from the following perspectives:
  - i. Risk Management
  - ii. Financial
  - iii. Programmatically
- The working group should work out the big issues and then focus on issues of implementation. Whether the concept of OCIP is workable should be discussed before best practices.

### Evaluative Criteria

- Costs and/or savings
- M/WBE participation (how is this social benefit quantified? Is insurance the barrier or the bonding?)
- Broader coverage
- Higher limits of coverage

- Minimize overlapping claims and disputes among insurance companies
- Minimize fraud and collusive behavior among contractors
- Compliance with Charter requirements and ordinances such as Equal Benefits

### **Measuring the Success of OCIPs: Issues to be Considered**

- Accounting for OCIP costs using the city's financial tools—including direct and indirect costs.
- Development method for comparing different limits of liability.
- Take the insurance market into account when measuring success or making comparisons.
- How do you measure the intangible benefits like broader coverage and keeping to Management's deadlines?

### **Learning from the Airport Experience**

- Master Plan costs \$2.8 billion and started in 1993-94. Included infrastructure projects under OCIP. Some 400 contractors were covered. OCIP is wrapping up this month.
- The most significant lessons learned with the Airport's OCIP program was the internal control structure. The progress of the program was not routinely monitored and recorded. Management was not advised of the program's status in real time. Management should have had an annual report of the work, including the documentation of savings.
- The safety program was not well documented. Not clear what type of safety activities were implemented. For example, safety personnel should have attended management meetings.
- There is a collection of claims, but it is not clear if the behaviors that led to those claims were ever addressed. Could we have corrected it then?
- Key questions to ask is whether there are enough safety personnel available to manage the risk. Are there enough safety representatives in the field?

### **Learning from the MUNI Experience**

- MUNI's project costs \$270 million, \$7 million in Payroll. \$100 million of contracts have already been awarded. Currently only one workers' comp claim filed.
- Their RFP took seven to nine months to complete.
- Their motivation was the Transportation Authority's positive experience in late 2000.
- Project is limited to a particular area and the issue of social equity is very important.

### **Learning from the PUC Experience**

- 60% of the RFP focused on program savings.
- PUC projects are scattered over a wide area.
- Focused on safety programs to achieve savings.
- Safety personnel are responsible for going to the job sites and have the authority to stop the work if unsafe conditions are found.

### **Deliverables**

- What the working group is trying to accomplish should be clear.
- A policy analysis that includes alternative approaches to risk management and the criteria to evaluate those alternatives.
- Boilerplate contract language and administrative guidelines.

# CCSF OCIP Working Group

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## Agenda

October 3, 2002

Thursday, 10:00 AM to 12:00 PM

City Hall Room #316

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|--|-------------------|
| 1. Deliverables and Process                        | Todd Rydstrom     |
| a. Draft Outline of Deliverables                   | 20 minutes        |
| b. Outcomes Matrix                                 |                   |
| c. Total Maximum Cost Illustration                 |                   |
| d. Group Discussion                                |                   |
| 2. Where We've Been – Airport                      | Leo Fermin        |
| a. Overview  | Ralph Stewart     |
| b. Audit   | 30 minutes        |
| c. What Worked Well                                |                   |
| d. Lessons Learned                                 |                   |
| e. Group Discussion                                |                   |
| 3. Office of Risk and Insurance Management         | Linda Yeung       |
| a. Ron Rakich Report                               | Corina Monzon     |
| b. Group Discussion                                | 20 minutes        |
| 4. Planning for Operational Topics                 | Errol Fitzpatrick |
| a. Feasibility Analysis, Bid and Contract Document | 20 minutes        |
| b. Insurance Program Design                        |                   |
| c. Safety and Loss Control                         |                   |
| d. Administration                                  |                   |
| • Document Control,                                |                   |
| • Information Management,                          |                   |
| • Accounting,                                      |                   |
| • Audits and Inspections                           |                   |
| e. Claims Management and Adjudication              |                   |

## **2nd OCIP Working Group Meeting Notes from October 3, 2002**

### **Members Present**

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Errol Fitzpatrick, Risk Manager's Office	Linda Yeung, Controller's Office
Todd Rydstrom, Controller's Office	Corina Monzón, Controller's Office
Leo Fermin, Airport	Luz Cofresi-Howe, MUNI
Ralph Stewart, Airport	Gigi Harrington, MUNI
Joanne Hoeper, City Attorney's Office	Carlos Jacobo, PUC
George Wong, City Attorney's Office	
Monique Zmuda, Controller's Office	

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### **Airport Experience**

#### ***Background***

- Origin of the Airport OCIP is the early 1990s when Keith Grand was the City's Risk Manager.
- Lobbied the California Legislature to pass legislation to allow the Airport to implement an OCIP.
- OCIP was viewed as a way to keep all activity under one umbrella.
- Selected Marsh and Merriwether for broker services.
- The Master Plan became a six-year plan.
- The OCIP extended for two additional years and became an eight year program altogether.
- Final cost of the program is \$74 million—more than the cost of a conventional insurance program because of high worker's compensation costs and high administration cost.

#### ***Lessons Learned***

- Assess the Risk
  - Define which projects will be brought into the program.
  - Determine types of coverage limits and deductibles
- Assign the Risk
  - Write contracts to ensure appropriate levels of risk management. Assign risk to contractors and other participating partners. Align the interest of the insurance carrier, contractor and owner.
- Cost Control/Monitoring
- Joint ventures may be a way for contractors to get around the issue of the experience factor—the loss ratio is wiped out.

### ***Loss Ratios***

- Loss Ratios were high at the Airport because there wasn't an adequate construction management program. Administration was poor. There was an unwillingness to establish performance criteria for construction managers. The increase in injuries should have yielded a response from management.
- More people were hurt and claims were not resolved as rapidly as they could have been.
- Builders Risk had a \$100,000 deductible (90% Airport and 10% Contractor). The deductible for General Liability totaled \$10,000, whereas Worker's Compensation only had a \$500,000 stop loss limit per incident, so there wasn't a lot of incentives for the carrier to aggressively manage the claims.
- According to Ralph Stewart if the Airport participates in another OCIP, they will need to mitigate the potential excess loss over and above the expectation so that the contractor shares in the loss. This will encourage the contractors to properly manage their programs.

### ***Pre-qualification of Contractors and Retention***

- According to George Wong (City Attorney's Office) the City can pre-qualify contractors.
- Mr. Wong also stated that if the City is too strict then M/WBEs and other DBEs will be at a disadvantage. For example, at the Airport the contracts were so huge that the pool responding was going to be small on that basis alone.
- Ralph Stewart (Airport) suggests that to get around this, the City form contracts to include appropriate language that primes provide legitimate participation for local, M/WBEs and small businesses. The pre-qualification can apply only to the primes. The issue of the size of the contracts at the Airport only had a marginal impact on small businesses because there are only a few contractors large enough to handle the Airport's projects. The Airport broke the program into 13 parts to get more participation but the problem was that the biggest piece of business worth \$450 million was put out to bid first. The Airport ended up with only two primes. There may have been 600 contracts but there were not 600 contractors.
- According to Mr. Stewart if the City wants to help small businesses then the 10% retention that the primes withhold from the subs should be released once their work is complete, not at project completion. Small subs should not be financing the subs.
- According to Mr. Wong there would need to be a change in the City's Administration Code to accomplish this.

# CCSF OCIP Working Group

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## Agenda

October 17, 2002

Thursday, 10:00 AM to 12:00 PM

City Hall Room #316

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|--|--------------------------------|
| 1. Welcome and Review of Minutes<br>for Previous Meeting | Todd Rydstrom<br>Working Group |
| 2. MUNI: Lessons Learned                                 |                                |
| a. Third Street Light Rail                               | Luz Cofresi-Howe               |
| b. Group Discussion                                      |                                |
| 3. Subcommittee Planning and Deliverables                | Todd Rydstrom<br>Linda Yeung   |
| a. Feasibility Analysis, Bid and Contract Document       | Leo Fermin                     |
| b. Insurance Program Design                              | Nancy Johnston-Bellard         |
| c. Safety and Loss Control                               | Carlos Jacobo                  |
| d. Administration  | Luz Cofresi-Howe               |
| • Document Control,                                      |                                |
| • Information Management,                                |                                |
| • Accounting,  |                                |
| • Audits and Inspections                                 |                                |
| e. Claims Management and Adjudication                    | Jo Hoeper                      |
| f. CCSF Legal Environment                                | Jo Hoeper                      |
| 4. BART  | Linda Yeung                    |
| 5. Port of Oakland                                       | Linda Yeung                    |
| 6. Last Minute Items                                     | Working Group                  |

### 3rd OCIP Working Group Meeting Notes from October 17, 2002

#### Members Present

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Luz Cofresi-Howe, MUNI	Corina Monzón, Controller's Office
Gigi Harrington, MUNI	Todd Rydstrom, Controller's Office
Joanne Hoepfer, City Attorney's Office	Ralph Stewart, Airport
Carlos Jacobo, PUC	George Wong, City Attorney's Office
Nancy Johnston-Bellard, Risk Manager's Office	Linda Yeung, Controller's Office
Marge Layne, PUC	Monique Zmuda, Controller's Office

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#### *Discussion regarding Construction Managers and Safety*

Department	Construction Manager—Yes or No
SFO	Yes
MUNI	No
PUC	No

- Wong inquired about the role of the construction manager (CM).
- According to Stewart, the construction manager should assume some responsibility for safety on behalf of the owner by producing a safety program for the owner. There should be safety audits of the CM overseeing construction activities. If the safety program is not running well, then the CM and the contractor must participate in excess losses.
- According to Stewart, the CM is in the field and has inspectors that document daily activity. It is their responsibility to make sure construction is being performed on time and according to specs. The Airport relied on the CM and inspectors to document unusual events and stop contractors from working; If the CM did not meet their obligations they could be fined by the Airport.
- Hoepfer stated that she thought that at the Airport, safety responsibilities were administered by Airport staff and the broker.
- Cofresi-Howe stated that at MUNI, safety responsibilities are shared between the contractor, insurance carrier and MUNI.
- Stewart commented that how safety is managed on individual projects depends on the size of the program, the number of crafts persons on site, and whether activity is concentrated or dispersed. His experience with a \$6 billion project over a two square mile site had a safety manager, project manager and construction manager that participated in site walk-throughs and safety audits. On smaller projects the safety responsibility fell to the construction manager or to the safety department. If the contractor assumed responsibility for safety, they attended all construction management meetings. In some cases the work could not begin until the safety personnel were on site. However, the economics must also be taken into consideration.

- According to Stewart it is important to have contractor performance tied to safety.
- Layne talked about stop payment and that this is the tool to hold the contractors' feet to the fire.
- Rydstrom commented that the authority to stop work and sharing in the deductibles are other tools.
- Wong asked if construction managers were a part of OCIP at the Airport.
- According to Layne construction managers were a part of professional liability; therefore the City was insuring itself against them. In addition, safety was not a part of their contract.
- Stewart stated that the Airport has many contractors and the operation went on 24 hours seven days a week. Work was done above the general public which on two occasions collapsed. The work was broken up into so many pieces that there were 13 construction managers. The construction managers were so immersed in administrative duties that the inspectors were seen on the job site only occasionally. The OCIP team at the Airport only had two safety personnel. The safety program required a careful thought out safety plan that was borne by the contractor including incentives and disincentives and construction managers should have been obligated to perform on safety.
- Johnston-Billard commented that it sounded like a problem of coordination.
- Wong stated that he was always under the impression that the OCIP team at the Airport was ultimately responsible for safety.
- Layne clarified the point that the contractor is ultimately responsible. The OCIP program required the contractors to have a certain number of safety staff.

### ***MUNI 3<sup>rd</sup> Street Light Rail and a Discussion about Worker's Compensation***

- Cofresi-Howe gave an overview of the 3<sup>rd</sup> Street Light Rail OCIP. The OCIP covers \$290 million worth of constructions. There's an aggregate deductible of \$4.6 million and a per incident deductible of \$250,000.
- Hoeper pointed out that very few claims against the City are over \$250,000.
- Cofresi-Howe explained that Muni is expected to hit \$2.3 million in claims, not \$4.6 million.
- Hoeper commented that the carrier did not seem to have an incentive to keep claims low.
- Johnston-Billard stated that claims control is in two parts. (1) Safety and (2) Claims Adjusting which is in the hands of the carrier or a Third Party Administrator (TPA). Somebody needs to review those claims to make sure that they are managed properly. The adjusters do not necessarily have the same attitude we do.
- Hoeper expressed concern with the fact that there is no process now outside of their existing budgetary appropriation to pay for additional OCIP oversight by the City Attorney's Office.
- According to Layne the City Attorney's Office is involved with Builder's Risk and General Liability. Worker's Compensation is statutory therefore the owner has to be

aggressive in monitoring how the TPA is administering the worker's compensation claims.

- Johnston-Bellard commented that worker's compensation is the most difficult aspect of the program and the most expensive. Someone with worker's compensation experience is needed to oversee. While the City Attorney's Office can manage general liability claims, worker's compensation requires a specific expertise.
- Wong asked if there was abuse at the Airport.
- Layne said yes, there were attempts, but the claims were denied.
- Hoeper expressed concern over the fact that not all fraud will be caught.
- Layne talked about how the PUC safety program is stringent and that it has support from the project management team. In addition the PUC has created a larger deductible as part of the contractor's responsibility. The deductible goes up to \$25,000 on the liability side. No deductible on the worker's compensation.

#### ***BART and Port of Oakland and a discussion about Pre-Qualification***

- Yeung gave a brief overview of BART's loss sensitive program with an aggregate deductible and Oakland's guaranteed cost program.
- A discussion about pre-qualification and the potential impact on sub contractors followed.

#### ***New Sub-Object and Other Miscellaneous***

- Rydstrom talked about a new sub-object in FAMIS to help departments track total costs.
- Stewart will provide Yeung with a contact at BART's Millbrae office to get information about the safety program at the West Bay extension.
- Harrington will track down the APTA report.
- The subcommittees were formed and it was agreed to start meeting the week of October 21, 2002.

# CCSF OCIP Working Group

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## Agenda

October 31, 2002

Thursday, 10:00 AM to 12:00 PM

City Hall Room #479 (New Location!)

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- |  |                                |
|--|--------------------------------|
| 1. Welcome and Review of Minutes<br>for Previous Meeting | Todd Rydstrom<br>Working Group |
| 2. PUC   |                                |
| a. OCIP Program  | Kingsley Okereke               |
| b. Group Discussion                                      | Marge Layne                    |
| 3. Subcommittee Reports                                  |                                |
| a. Feasibility Analysis, Bid and Contract Document       | Leo Fermin                     |
| b. Insurance Program Design                              | Errol Fitzpatrick              |
| c. Safety and Loss Control                               | Carlos Jacobo                  |
| d. Administration  | Corina Monzón                  |
| e. Claims Management and Adjudication                    | Nancy Johnston-Bellard         |
| f. CCSF Legal Environment                                | Jo Hoeper                      |
| 4. Deliverables and Process: An Update of the Journey    | Todd Rydstrom                  |
| 5. Last Minute Items and Future Agenda Items             | Working Group                  |
- Working Group #5 – November 21 10:00 (CH316)  
Working Group #6 – December 5 10:00 (CH316)

## 4th OCIP Working Group Meeting Notes from October 31, 2002

### **Members Present**

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Errol Fitzpatrick, Risk Manager's Office	Linda Yeung, Controller's Office
Nancy Johnston-Bellard, Risk Manager's Office	Corina Monzón, Controller's Office
Todd Rydstrom, Controller's Office	Gigi Harrington, MUNI
Ralph Stewart, Airport	Marge Layne, PUC
Joanne Hoeper, City Attorney's Office	Carlos Jacobo, PUC
George Wong, City Attorney's Office	Kingsley Okereke, PUC
Monique Zmuda, Controller's Office	

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### **PUC's OCIP Program**

#### *Overview*

- Marge Layne handed out an informational packet on the PUC's OCIP program.
- Layne stated that the PUC pursued an OCIP for three reasons: (1) to save money, (2) to have uniform insurance limits and (3) to promote M/WBE participation.
- The OCIP includes Worker's Compensation, Builder's Risk, General Liability, Excess Liability and Professional Liability. Environmental coverage is not provided in the OCIP because it was not financially feasible to include it.
- The estimated cost of the insurance for a three-year period is \$5 million. The policy is for three years but there is a tail to cover the end of the project at four years.
- The total cost of the OCIP program is funded by the project. A system is being developed to come up with accurate accounting of all costs including premiums, losses, and in-house OCIP staff. These costs have not been captured in past OCIP programs.
- The OCIP program covers projects all over Northern California.

#### *Safety*

- According to Layne the PUC has the most stringent safety program in the City. The PUC's safety program is stand-alone. She would like to see a uniform safety program regardless of OCIP.
- The project management team (inspectors, resident engineers, project managers) all participate in mandatory 16-hour safety training. The training includes OCIP education, health and safety, and a 10-hour OSHA construction course.
- Currently, the broker provides a part-time safety representative. The value of the contracts covered by OCIP (\$220 million) do not warrant a full time safety professional. The broker's safety representative handles all safety issues outside of San Francisco. The PUC's in-house safety expert handles all jobs within the City's limits.
- The insurance carrier provides 100 hours of safety. The PUC uses those 100 hours for training.
- On November 5<sup>th</sup> the PUC will be adding additional safety professionals.

- If the \$1.6 billion bond passes on November 5<sup>th</sup>, then the PUC will ask the insurance carrier and the broker to each provide one safety representative. In addition, in-house PUC safety staff will increase by two or three.
- According to Kingsley Okereke, the number of in-house safety experts hired will depend on the success of the safety program. The PUC is eligible for refunds if it demonstrates a good safety record.
- George Wong stated that he thought one of the primary arguments for OCIP is safety. He asked how the number of additional safety personnel are analyzed because it seemed to him that the cost of the safety program could eliminate any savings realized from the OCIP program.
- Okereke stated that the PUC would consult with the broker on the number of safety hours necessary by project. He's not sure how the broker makes that determination but noted that they are the experts.
- Wong commented that the PUC may not save money.
- Layne responded that this is the reason the PUC has placed controls to capture costs by sub-object in FAMIS. This is the first time costs have been captured in this way and it will help PUC determine if money is being saved.
- Monique Zmuda commented that the safety program is a cost the City is paying to reduce incidents and wondered what risk the contractor or insurance carrier are taking.
- Layne responded that the contractor participates in the deductible and that the deductible the contractor is responsible for is higher at the PUC than at MUNI or the Airport.

### ***Calculating OCIP Savings***

- Zmuda asked what the difference is between premium costs the City pays compared to a conventional program.
- Errol Fitzpatrick commented that the comparison is difficult because the limits are so different. For example, the limits for general liability under OCIP are \$50 million while most contractors have limits that range from \$1 million to \$5 million.
- Jo Hoepfer asked if a study was done.
- Okereke stated that the conversation regarding the PUC's OCIP program started with Bechtel as part of the Water Alliance. They made a presentation to pull in the insurance either under OCIP or CCIP. The assumption was that there would be savings because of economies of scale. However, he has not seen a study that does a comparison.
- Zmuda commented that she assumes the City can buy a better policy but wondered if savings were looked at.
- Layne responded that after the program's first year the PUC will have information about savings because they are capturing the costs in FAMIS. It will be possible for the PUC to produce monthly reports.
- Okereke explained that the PUC asks contractors to provide insurance costs. That number is compared to the allotted cost of the OCIP program. The difference is either savings or cost.
- Wong asked if there was a feasibility study to determine whether there would be savings.

- Okereke responded that Warren McVeigh, an independent insurance consultant, advised the PUC.
- Fitzpatrick clarified that McVeigh was asked about OCIP compared CCIP, not OCIP compared to a conventional program.
- Ralph Stewart commented that Warren McVeigh also performed the Airport's feasibility study.
- Todd Rydstrom pointed out that the savings calculation is only known for one year because the PUC does not collect information on the contractor's annual renewal.
- Stewart raised the concern about change orders and the incremental costs associated with them.
- Hoeper asked for clarification about the PUC's process for calculating savings.
- According to Okereke, the contractor fills out a form detailing what insurance would have cost them. The broker receives the information and determines if the number is reasonable by asking the contractor to provide an insurance certificate and policy declarations. Layne stated that the declaration pages for the period show the rate per payroll and that rate is used by the broker to estimate the contractor's insurance cost.
- Layne further explained that the broker develops one composite rate for all the insurance coverages the PUC is providing. The contractor's composite rate is compared to the City's composite rate to estimate the savings.
- Hoeper asked about the savings associated with the contracts currently covered by OCIP.
- Layne explained that determining savings for the five contracts that are currently under OCIP is difficult because three of the five contracts were let prior to the implementation of OCIP. The PUC is going through a reverse change order request to back out those insurance costs. The other two contracts are very small.
- Okereke stated that the methodology to compare OCIP to traditional is a fundamental question and that the Working Group needs to come up with a reasonable response.
- Hoeper commented that the PUC gives three reasons for implementing OCIP. She would like to see empirical evidence that supports at least two of those reasons.

## **Subcommittee Reports**

### ***Subcommittee F: Legal***

- Hoeper stated that an attorney in her office is looking into the issues.

### ***Subcommittee A: Feasibility, Bid/RFP, Contract***

- Stewart stated that construction programs have unique characteristics and it is important to know the real risks and exposures to cover potential costs.
- According to Stewart, there are other exposures in addition to General Liability, Excess Liability, Worker's Compensation and Professional Liability that must be evaluated including business interruption. Business interruption is particularly important for a revenue producing business like the PUC. The value of the insurance versus the risk should be considered.

- Okereke commented that Stewart's comment about business interruption piqued his interest because it is not an insurance usually provided by contractors.
- Stewart stated that he believes that the City's contract language should be more specific about consequential damages.
- Okereke responded that he would like to buy that type of insurance but that he is struggling to determine if it should be considered under OCIP.
- Stewart stated that a feasibility study should describe the project and the risks associated with that project as opposed to describing the approach. It is important to know what the risks are before determining the approach.
- Zmuda commented that feasibility sounds a lot like insurance program design.

### ***Subcommittee B: Insurance Program Design***

- Fitzpatrick handed-out a draft write-up on insurance program design. He explained that there are three types of programs. Guaranteed Cost (Port of Oakland), Loss Sensitive (Airport) and a hybrid which has a stop loss aggregate deductible (PUC and MUNI).
- Fitzpatrick talked about incentive programs.
- Layne stated incentive programs only work if there is also a disincentive like a deductible.
- Fitzpatrick noted that if the deductible is too big the contractor will buy insurance to cover it and pass the costs on to the owner.
- Wong asked for an example of another disincentive program.
- Layne gave the example of charging the contractor if losses per 100 man hours reach a certain threshold.
- Layne stated that Airport management did not allow a disincentive program per the advice of the City Attorney's Office.
- Layne stated that she wants the PUC to do both an incentive and disincentive program.
- Fitzpatrick asked if the City Attorney's Office would support that.
- Wong said definitely. He also stated that the reason the City Attorney's office advises against disincentive programs is that you can't assess liquidated damages if there isn't an incentive.
- Layne commented that safety incentives like jackets and belt buckles don't work.
- Rydstrom walked through the matrix that outlines the interests of different participants.

### ***Subcommittee C: Safety and Loss Control***

- Carlos Jacobo talked about Subcommittee C's approach. The committee is comparing PUC's safety manual to the safety manuals of other OCIP programs such as at the Port of Oakland, BART and the State of California.
- Zmuda commented that safety and loss control is dependent on the type of insurance and that there's a cost to the safety program.
- Okereke stated that in a guaranteed cost program safety is less important than in loss sensitive program.
- Layne commented that when a loss occurs on a City owned site the primary person featured on the news is the City. Under Cal OSHA the City is dealing with multi-

employer, therefore as an owner the City shares in the responsibility of that injury and loss.

- Stewart noted that the construction manager and project manager should share in the risks.
- Layne stated that multi-employer does not depend on OCIP. Contractors are required to submit a site specific safety program and IIPP.
- Wong noted that if it's in the contract then there is an obligation to enforce it.
- Gigi Harrington stated that there is conflicting advice from the City Attorney's Office regarding safety. MUNI was advised to leave certain things out of the contract.
- Nancy Johnston-Bellard commented that if the City has a contractor working on a sidewalk the City can get hit, with or without a safety program.
- Wong clarified that the activity would have to be inherently dangerous.
- Rydstrom noted that the indirect costs of OCIP are not part of the sub-object in FAMIS—only premium costs are included.

#### ***Subcommittee D: Administration***

- Corina Monzón provided the Working Group with the draft administration flow chart that the subcommittee is working to complete. The flow chart identifies key processes, documents and audit points.

#### ***Subcommittee E: Claims Management***

- Johnston-Bellard explained that the working group has spent time clarifying what is claims processing and what is not. According to Johnston-Bellard the subcommittee is working towards an ideal process for managing claims.
- Johnston-Bellard explained that Worker's Compensation is already codified in state law. She noted that General Liability may follow a similar process to Worker's Compensation.
- Johnston-Bellard stated that the group had a long discussion about fraud. Fitzpatrick noted that fraud is less frequent than what we may assume, usually less than 5% statewide. The greater problem is malingering.
- Johnston-Bellard stated that the biggest problem is poor claims management and that is what the subcommittee will focus on.
- Rydstrom stated that he would like to reconcile the different City Attorney opinions on the Charter Section that addresses claims.
- Johnston-Bellard commented that in terms of General Liability it can be negotiated with the insurance carrier to allow the City Attorney's Office to manage those claims.
- Layne noted that the claims protocol will be drafted by Friday.

#### ***General Discussion about the Working Group's Recommendation***

- Layne shared with the Working Group that she attended a pre-construction meeting and was told by the contractor that their General Liability premiums doubled.

- Fitzpatrick stated that traditional insurance costs are increasing in a dramatic manner while OCIP insurance costs are increasing at a more moderate rate. In the past owners were able to negotiate static insurance rates for an OCIP and the City should still attempt to secure rates remaining constant.
- Wong asked if the Working Group was going to come up with a conclusion that stated OCIP yes or no. Or, was the Working Group making the recommendation that each project should be evaluated individually.
- Rydstrom stated that in the case of OCIP, CCIP and traditional the answer is that it depends on whether or not certain conditions exist.
- Wong asked how departments will make a decision.
- Fitzpatrick stated that OCIP is a good idea for large construction projects.
- Okereke stated that he did not think it was possible to conclude whether OCIPs are good or bad. He believes that there are inherent advantages to OCIP and for the program to be successful certain conditions must be met. Departments can ask if those conditions are present.
- Wong stated that the committee needs more information to make a recommendation. Do the conditions exist? How much will those conditions cost?
- Rydstrom noted that the next big project is Laguna Honda Hospital. The decision makers there will have to look at our best practices research and consult with the City's Risk Manager.

# CCSF OCIP Working Group

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## Agenda

November 21, 2002

Thursday, 10:00 AM to 12:00 PM

City Hall Room #316

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- |   |                                |
|---|--------------------------------|
| 1. Welcome and Review of Minutes<br>for Previous Meeting  | Todd Rydstrom<br>Working Group |
| 2. Subcommittee Reports   | 30 minutes                     |
| a. Feasibility Analysis, Bid and Contract Document  | Ralph Stewart                  |
| b. Insurance Program Design   | Errol Fitzpatrick              |
| c. Safety and Loss Control  | Carlos Jacobo                  |
| d. Administration   | Luz Cofresí-Howe               |
| e. Claims Management and Adjudication   | Nancy Johnston-Bellard         |
| f. CCSF Legal Environment   | Jo Hoeper                      |
| 3. City Attorney's Office   | Jo Hoeper                      |
| a. OCIP Program   | George Wong                    |
| b. Group Discussion   | 20 minutes                     |
| 4. Final Report and Deliverables: Ground Rules  | Todd Rydstrom                  |
| 5. Last Minute Items and Future Agenda Items<br>Working Group #6 – December 5 10:00 (CH316)       | Working Group                  |
| 6. OCIP Experts   | 60 minutes                     |
| (a) Port of Oakland   | Jane Keegan                    |
| (b) BART  | Jim Bridgeman                  |
| (c) Willis  | Chet Mitrani                   |
| 7. Adjourn to luncheon at Market Street Grill hosted by<br>Ramada Plaza Hotel, 1231 Market Street | Errol Fitzpatrick              |

## 5th OCIP Working Group Meeting Notes from November 21, 2002

### **Members Present**

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Errol Fitzpatrick, Risk Management's Office	Linda Yeung, Controller's Office
Todd Rydstrom, Controller's Office	Corina Monzón, Controller's Office
Nancy Johnston-Bellard, Risk Mgt's Office	Gigi Harrington, MUNI
Ralph Stewart, Airport	Marge Layne, PUC
Joanne Hoepfer, City Attorney's Office	Carlos Jacobo, PUC
George Wong, City Attorney's Office	Kingsley Okereke, PUC
Monique Zmuda, Controller's Office	

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### **Guest Speakers**

Jane Keegan, Port of Oakland  
Jim Bridgeman, BART  
Chet Mitrani, Willis

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### **SUBCOMMITTEE REPORTS**

The six subcommittees reported back to the Working Group on their findings and recommendations to date:

#### ***Subcommittee A: Feasibility/Bids/RFPs/Contracts***

- Errol Fitzpatrick explained that Subcommittee A is continuing its work and plans to meet once more on Monday, December 2 to finalize recommendations.

#### ***Subcommittee B: Insurance Program Design***

- Todd Rydstrom stated that Subcommittee B relied heavily on the Wrap Up Guide written by Gary Bird to develop its section of the report. Members of the committee spent time clarifying the various funding strategies. Instead of meeting one more time, Subcommittee B will use email to obtain comments on the draft.

#### ***Subcommittee C: Safety and Loss Control***

- Marge Layne explained that Subcommittee C used the PUC's program as the general framework for safety. Departments implementing their own OCIP program can use the framework developed by the PUC and emphasize certain areas depending on the type of construction activity involved in their project.
- Layne further stated that Subcommittee C recommends that the Experience Modifier (EMR) be used to prequalify contractors. In addition, the subcommittee recommends that incentives and disincentive programs be implemented.
- George Wong questioned the use of EMR because subcontractors perform most of the work and if they do not prequalify they will have to be replaced.
- Layne stated that as an alternative if a project exceeds a certain EMR that the City could levy a fine.

- Jo Hoeper responded that the Muni Turnback project illustrates that disincentives do not work. Tutor-Saliba paid penalties and this did not serve to bring them into line.
- Hoeper recommended that the Working Group's final report should reflect the City's actual experience with OCIPs. For example, it should explain how the safety program fell apart at the Airport. If there is empirical evidence, the report should state it. If the number of safety personnel was insufficient at the Airport, the final report should reflect that.
- Layne and Linda Yeung responded that the subcommittee has not come to the conclusion that there were an insufficient number of safety personnel at the Airport.
- According to Yeung, the issue was enforcement.
- Hoeper responded that the final report should say that.
- Wong commented that enforcement is when a safety inspector shuts a job down. In his opinion, as a practical matter, this is not going to happen. The City is not going to throw a contractor like Tutor-Saliba out.
- Todd Rydstrom noted that we have an objective opportunity to look at loss ratios. Those numbers don't lie.
- Layne recommended that the contract should be changed to require the individual partners of joint ventures to report their individual EMRs since the EMR of a joint venture is 1 by definition.
- Fitzpatrick added to Layne's recommendation by stating that the EMR for joint ventures should be a composite of the individual EMRs weighted by their participation in the project. This composite EMR can be used to prequalify joint ventures.
- Hoeper stated that the EMR should be in proportion to the participation of the individual partners in the joint ventures.
- Hoper further stated that if the concern is about using the enforcement tool of stopping work or imposing a penalty, then the authority should reside somewhere else so that there is a counterbalance to the pressures of cost and time.
- Wong agreed that politically it is not easy to use those enforcement tools.
- Fitzpatrick commented that as the City Risk Manager, he would bring it to the attention of upper and executive management. It would have to be a coordinated effort from administrative to legal.

#### ***Subcommittee D: Administration***

- Corina Monzón walked the group through the flow charts that outline the Administration process. The flow charts identify key points in the process, documents, audit points, critical oversight meetings, participants and provides recommendations.

#### ***Subcommittee E: Claims Management and Adjudication***

- Nancy Johnston-Bellard read Subcommittee E's recommendations regarding liability and worker's compensation claims management
- Kingsley Okereke asked when the carrier's responsibility stops and when the City Attorney's Office (CAO) jumps into the claims management process.
- Layne explained that it doesn't work that way. The carrier and CAO work together.
- Okereke asked if this is duplication of effort.

- Layne clarified that the insurance carrier adjusts the claims and the CAO provides oversight.
- Johnston-Bellard stated that the draft claims protocols for liability claims would involve difficult negotiations, but that the City's requests can be met.

#### ***Subcommittee F: CCSF Legal Environment***

- Hoeper read and explained Subcommittee F's seven recommendations.
- Carlos Jacobo asked for clarification on the recommendation that the Capital Improvement Advisory Committee (CIAC) provide oversight and advice on the appropriate use of funds for OCIP-related costs.
- Rydstrom responded that the subcommittee wanted some higher level of periodic review and CIAC seemed like the appropriate body to do so since CIAC approval is already necessary for capital projects. A higher oversight body is needed to air concerns about risk management.
- Gigi Harrington stated that MUNI's capital projects are not approved before the CIAC.
- Okereke commented that the CIAC is not the right body to provide the oversight. He suggested that the Controller's performance auditor group take a look at the issue.
- Hoeper disagreed with this suggestion because the auditor's review is issued after the fact. The purpose of an oversight body would be to provide guidance at the front end before departments launch into an OCIP—that the City's collective knowledge be brought to bear on department's individual OCIPs so that the approach is not piecemeal.
- Rydstrom commented that at the end of the day the recommendations should be practical and effective. If members of the Working Group do not agree with the recommendations proposed by the subcommittees, this is the time to speak up.

#### **GUEST SPEAKERS—OCIP EXPERTS**

##### ***Chet Mitrani, Executive Vice President, Willis***

- Chet Mitrani gave a brief overview of the history of OCIP. He explained that 30 years ago BART was the first public entity to implement OCIP.
- He explained that up until the year 2000, Worker's Compensation rates were cheap and OCIP terms were very competitive. Now, the market has changed and costs have increased and for Worker's Compensation they will continue to increase.
- With issues like terrorism and mold contractors cannot obtain the limits and coverages owners want.
- Mitrani asked why the City would embark on OCIP. Did it have to do with cost savings? More M/WBE participation? Increased coverage? Is it because you have a design-build project?
- If the issue is cost savings, how do you measure the savings? The method of bidding is the key to benchmarking savings.
- Caltrans is implementing CCIP because they want to make sure that the coverages are sufficient.

- Mitrani talked about the Muni Turnback project. Bidders were prequalified using their experience modifier. Contractors with high experience modifiers were provided safety orientation and training.
- Mitrani mentioned contractor's opposition to OCIP and suggested that the Associated General Contractors of America report titled "OCIP's Look Before You Leap!" be used when designing OCIP requirements.

### ***Role of the Insurance Broker***

Jane Keegan from the Port of Oakland and Jim Bridgeman from BART joined the discussion. Fitzpatrick asked about the role of the insurance broker.

- Jim Bridgeman explained that BART looks for a broker to create the OCIP program, manage it and to perform all of the administrative functions.
- Jane Keegan stated that she looks to the broker to provide her with safety and administrative staff because the Port is not willing to increase the number of in-house staff.
- Fitzpatrick asked what the owner could do to get the broker more invested in maintaining a good safety record and low claims.
- Mitrani responded that the broker could provide contractor education and orientation, but that the key to safety is the contractor. Don't hold the broker responsible for that end of safety unless they are part of the construction-management team, they will have no effect on safety. The contractor should be held responsible for schedules, production *and* safety. The broker can help the contractor achieve their safety goals, but can't be responsible for them.
- According to Mitrani, the broker should be held responsible for the financial reports and other deliverables.
- Rydstrom asked how the speakers used their brokers.
- Bridgeman explained that BART looked for a broker who is an ally and embraces the concept of safety and loss control.
- Keegan stated that their broker had control of safety and set minimum standards. She doesn't believe you can set minimums and walk away. She enhanced safety personnel. In addition, she implemented a \$5,000-\$10,000 charge to the contractor for both Worker's Compensation and General Liability even though the Port does not have a deductible on its insurance policies. That money is put into a pool that is used for safety incentives for contractors.
- The problem Keegan sees with the charge system is that project engineers don't want to issue them to the contractors. Keegan plans to send a directive instructing the use of the charges and also plans to increase the fees.
- Wong asked what methods are employed to control contractors.
- Keegan mentioned shutting the job down for a few hours to a day.
- Hoeper asked if this was a problem.
- Bridgeman stated that you need buy-in. The consequences must be clear up front.
- Keegan stated that in one instance her safety professionals used their vehicles to block access roadways that were deemed unsafe.

### ***M/WBE Participation***

- Bridgeman stated that BART uses OCIP not only because of the cost savings but also because of other benefits like increased coverage and greater access for Disadvantaged Business Enterprises (DBE).
- Hoeper asked if he had empirical evidence on the DBE issue.
- Bridgeman responded that he has seen studies that say it is helpful. Trade and construction groups think it is helpful.
- Wong stated that he has never heard complaints from M/WBEs about access to insurance.
- Fitzpatrick commented that HRC speaks to Risk Management about insurance levels and bonds.
- Mitrani talked about a project where they monitored certificates for M/WBEs who bid on the OCIP project but could not get off-site coverage. They found that 65 percent of those companies did not have insurance available because of the cost.

### ***Cost Savings—Methods of Bidding***

- Bridgeman explained that BART's policy is to require contractors to bid without insurance and let competition force contractors to be honest about their insurance costs.
- Keegan stated that the Port requires contractors to bid without insurance because you are less likely to have bid protests. Savings is not accurate. It's only an estimate based on what the contractor is telling you their rates are. Accountants want more certainty but that's not possible.
- Mitrani stated that deductive change orders are a lot of work.
- Mitrani also explained that the savings is a factor of two parts. The first is the difference between what the owner pays for the insurance and what the contractor takes out for insurance costs. The second is safety.
- Mitrani provided the Working Group with a two-page handout titled, "OCIP Contractor Insurance Deduction Options," which outlines three deduction methods.
- Mitrani explained that all contractor insurance policies are rated on exposures. There are not flat premiums. It is based on revenues, payroll and job receipts. The policies are rated and audited based on revenues and payroll.
- Keegan commented that in the beginning of the Port's OCIP they tried to implement deductive change orders; that process took two years. In Keegan's opinion, the approach you take depends on how much effort you want to expend.
- Mitrani stated that the owner needs contractual teeth to get contractors to cooperate.
- Keegan added that it is further complicated when the contractor has a large self-insured retention.
- Mitrani responded that if the contractor is self insured the owner must include language in the contract to account for that and the broker will be responsible for negotiating the proper insurance deductions using claims history.

### ***Administration and Safety***

- Keegan stated that it is important to require the contractor to provide a qualified safety representative. If this is not monitored by the owner, contractors have been known to provide unqualified safety reps.

- Bridgeman stated that BART's administrative team consists of six people of which 2.5 are dedicated to safety. The cost of OCIP is estimated at 5% of construction costs. One percent of those costs are for administration.
- Keegan stated that the OCIP program costs \$500,000 a year and will go up to \$750,000 when more safety is added.
- Bridgeman stated that contractors with high experience modifiers are asked to demonstrate what changes have been made to improve safety. He commented that on a mega project you can prequalify but not across the board. In his opinion, it is better to obtain safety information from the contractor and provide training for them in the areas where they have experienced losses in the past. The key is a proactive safety plan for the project and safety education training.
- Keegan explained that the Port considers an experience modifier of 1.25 as the threshold. If a contractor is high risk they are required to have an assigned safety representative. In addition the Port provides training and monitoring.
- Mitrani commented on the issue of joint ventures and the experience modifier. The owner should verify whether the joint venture is really a combined entity. In other words do they both have employees? Are employees paid by the joint venture's bank account or is it the individual companies? Is the joint venture truly a joint venture? In addition, the owner should request the experience modifier for both partners.
- Mitrani also stated that the issue of multiple primes could be a problem. They need to work together.
- Bridgeman responded that design-build addresses that because there is a single representative—one point of contact to deliver the program.
- Wong stated that the PUC is thinking about design-build. His only question is whether the PUC knows what they are getting themselves into.
- Mitrani stated that the owner expects the designer and contractors to work together to get the project completed soon. It is schedule driven. Quality is important but the process is schedule driven.

### ***Insurance Program Design***

- Keegan stated that after the Port awarded the insurance program to the carrier then the Port and the carrier negotiated the financing arrangements. This put the Port at a disadvantage when negotiating with the carrier. She advised discussing issues of financing upfront.

# CCSF OCIP Working Group

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**Agenda for December 5, 2002**  
**Thursday, 9:00 AM to 11:00 AM**  
**City Hall Room #316**

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1. Welcome and Review of Minutes  
for Previous Meeting Errol Fitzpatrick  
Working Group
  
2. City Attorney's Office Jo Hoepfer  
George Wong
  - a. OCIP and compliance with Charter and ordinances
  - b. EBO contracting issues with insurers
  - c. Insurer payment agreements
  - d. General Liability Claims Protocol
  - e. Workers' Compensation and CAO's involvement
  - f. Drug Testing (pre-placement, post-accident, and random)
  - g. PUC Safety Program
  - h. Pre-qualification EMR language for contractors
  - i. Bidding language with and without insurance
  - j. Right to control defense and Carriers
  - k. Group Discussion
  
3. Final Report and Deliverables: Ground Rules  
Working Group #7 – December 20 10:00 (CH316) ? Todd Rydstrom
  
4. Group Discussion of Recommendations Errol Fitzpatrick  
George Wong  
Todd Rydstrom  
Marge Layne  
Luz Cofresí-Howe  
Nancy Johnston-Bellard  
Jo Hoepfer  
Working Group
  - a. Feasibility Analysis, Bid and Contract Document
  - b. Insurance Program Design
  - c. Safety and Loss Control
  - d. Administration
  - e. Claims Management and Adjudication
  - f. CCSF Legal Environment
  - g. Others
  
5. Last Minute Items Working Group
  
6. Adjournment Errol Fitzpatrick

**CCSF OCIP Working Group  
List of Outstanding Recommendations Identified at the December 5, 2002 Meeting**

Issue	Description	*Rec #	Persons Responsible	Notes
<b>General Policy Issues</b>				
1	Review of OCIP contracts by Risk Management and City Attorney's Office	57	Group discussion	Outstanding issue: funding for Risk Management Office and City Attorney's Office.
2	Risk Management administers future OCIPs	61	Group discussion.	Expert staffing dedicated to OCIP.
3	CIAC or another city-wide committee oversight	62	Group discussion.	New Proposal instead of CIAC, a new Risk Management Oversight Committee. The Risk Management Office chairs the group and members from City Attorney's Office, Controller's Office, and the Mayor's Budget Office. Board approval of Committee?
4	CIAC or another city-wide committee oversight	63	Group discussion.	See #3 above.

\* any recommendations not listed have been approved by the Working Group.  
**December 5, 2002**

Issue	Description	*Rec #	Persons Responsible	Notes
<b>New Policy Issues Introduced</b>				
5	Moratorium on future OCIPs until the PUC and MUNI OCIPs demonstrate performance.		City Attorney's Office needs to make formal recommendation to Wednesday's (12/11) subgroup. Working Group members need to discuss.	
6	Audit of the Airport OCIP		City Attorney's Office needs to make formal recommendation to Wednesday's (12/11) subgroup. Working Group members need to discuss.	
7	Future insurance policies need City Attorney's Office review.		City Attorney's Office needs to make formal recommendation to Wednesday's (12/11) subgroup. Working Group members need to discuss.	
8	Defense provisions of insurance policies.		<i>George Wong</i> to draft the language. City Attorney's Office needs to make formal recommendation to Wednesday's (12/11) subgroup. Working Group members need to discuss.	Jo Hoeper's suggestion.
<b>Decision Pending</b>				
9	Equal Benefits Ordinance	58	<i>Jo Hoeper</i> will provide legal opinion ASAP then group will discuss.	MUNI questioned why this provision is singled out, compared to all contracting requirements.
10	Claims protocols	46	<i>Jo Hoeper</i> will provide ASAP.	In the future, protocols will be modified and included with RFP for

\* any recommendations not listed have been approved by the Working Group.

**December 5, 2002**

	Issue	Description	*Rec #	Persons Responsible	Notes
Technical Issues					
11	Pre-employment, pre-placement, random and post accident drug and alcohol testing	Are all four legal? How do different project funding sources impact the rule?		<i>George Wong</i> to consult the Administrative Code and provide written recommendation.	
12	Bid with or without insurance	Should contractors bid with or without insurance? City Attorney's Office and Risk Management have different views on the issue.		<i>George and Errol</i> to discuss and agree to a recommendation to be presented to the Working Group.	
13	Experience Modifier	Depending on project funding, the use of the experience modifier to prequalify contractors.	19, 32 and 41	<i>George Wong</i> to review BART method of prequalifying based on experience modifier. GSA and UC EMR language should be considered. Group discussion.	
14	DHR Worker's Compensation expert	Inviting DHR to attend the Periodic Claims Review Meetings	43	Group discussion – is there duplication with department's W/C staff? or is the Risk Management's Office review sufficient?	
15	RFP and Contract for broker services	The use of premium indicators in the response to the RFP	10	<i>George and Errol</i> to discuss and recommend to the Working Group.	Monique clarified that all broker services should be solicited through RFPs. <i>George Wong</i> raised the objection to the use of premium indicators.
16	Construction Safety Incentive/Disincentive program	The language in the boilerplate contract is borrowed from BART. The boilerplate specifies \$350,000 as the incentive to be earned or	18, 30	Group should review Document 00805 before the meeting and come prepared to make a recommendation. The	A copy of Document 00805 was provided at the 12/5 Working Group Meeting. (13 pages)

\* any recommendations not listed have been approved by the Working Group.

December 5, 2002

		disincentive to be assessed. In general, the group should discuss if the BART program is appropriate for the City and specifically if the incentive/disincentive amount of \$350,000 is appropriate or if the City should consider an alternative dollar value or if percentage figure should be used instead. Depends on the funding sources.		incentive/disincentive program is discussed on page 00805-12.  <b>George Wong</b> to see what numbers MUNI used and report back to the group.	
<b>17</b>	Review the boilerplate contract language	All boiler plate contract language should be reviewed and flagged for specific dollar amounts specified.		<b>George Wong</b> to review the contract and brief the group. Group discussion.	Suggestion made by Jo Hoeper.
<b>18</b>	Guaranteed Cost vs Loss Sensitive	Guaranteed cost coverage is preferred for OCIP.	24	Group discussion.	Ralph Stewart raised an objection to the recommendation and Kingsley Okereke supported the objection.
<b>19</b>	Guaranteed Cost vs Loss Sensitive	Loss sensitive coverage should generally not be used except for worker's compensation.	25	Group discussion.	Ralph Stewart raised an objection to the recommendation and Kingsley Okereke supported the objection.
<b>20</b>	Serious and Willful Misconduct	Will this provision encourage the contractor to buy their own insurance and pass the costs on to us?	51	<b>Jo Hoeper</b> will speak to Rebecca Liu of the City Attorney's Worker's Compensation division about the issue.	
<b>21</b>	Safety personnel authority and contract language	Are there provisions in the contract to give safety personnel authority to enforce the safety program?	45	<b>MUNI and George Wong</b> to review the contract and brief the group. Group discussion	

\* any recommendations not listed have been approved by the Working Group.

December 5, 2002

More Time Needed to Review Documents					
Issue	Description	*Rec #	Persons Responsible	Notes	
22	RFP for broker services	14	Group should review RFP before meeting and come prepared to make a recommendation. <i>George Wong</i> to highlight changes.	A copy of the RFP was provided at the 12/5 Working Group Meeting. (17 pages)	
23	Contract for broker services	15	Group should review contract before meeting and come prepared to make a recommendation. <i>George Wong</i> to highlight changes.	A copy of the contract was provided at the 12/5 Working Group Meeting. (24 pages)	
24	Bid and Contract Language for Contractor Services – insurance	16	Group should review Document 00805 before meeting and come prepared to make a recommendation. <i>George Wong</i> to highlight changes.	A copy of Document 00805 was provided at the 12/5 Working Group Meeting. (13 pages)	
25	Bid and Contract Language for Contractor Services - safety	17, 29, 49	Group should review Safety Program and Procedures (Section 00814) and Insurance Manual before meeting and come prepared to make a recommendation. <i>George Wong</i> to highlight changes.	A copy of Section 00814 was provided at the 12/5 Working Group Meeting. (31 pages). The insurance manual was provided to each department during previous subcommittee meetings and was not re-distributed on 12/5. Linda will provide electronic copy.	
26	Administrative Process	40	Group should review pages 27-29 of the OCIP report before the meeting and come prepared to make a recommendation.		
27	Liability claims protocol	46	Group should review the claims protocols before the meeting.	A copy of the claims protocols was provided at the 12/5 Working Group.	

\* any recommendations not listed have been approved by the Working Group.

December 5, 2002

# CCSF OCIP Working Group

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**Agenda for December 19, 2002**  
**Thursday, 10:00 AM to 12:00 AM**  
**City Hall Room #316**

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|--|------------------------------------|
| 1. Welcome and Review of Minutes<br>for Previous Meeting                             | Errol Fitzpatrick<br>Working Group |
| 2. City Attorney's Office  |                                    |
| a. EBO   | Jo Hoeper                          |
| b. Insurer payment agreements  | Jo Hoeper                          |
| c. Serious and Willful Misconduct  | George Wong                        |
| d. RFP and contract for brokerage services   | George Wong                        |
| - brokers fees   |                                    |
| - premium indicators   |                                    |
| e. Bid and contract for contractors  | George Wong                        |
| - EMR  |                                    |
| - drug testing   |                                    |
| - bid with insurance   |                                    |
| - no financial recourse for contractors' private attorneys                           |                                    |
| - incentive/disincentive language  |                                    |
| - PUC safety program and safety personnel's authority                                |                                    |
| - recovery of Compromise & Release settlements                                       |                                    |
| 3. List of Recommendations   | Todd Rydstrom                      |
| a. List of Outstanding Recommendations   |                                    |
| b. List of Recommendations approved on December 5 <sup>th</sup> and 11 <sup>th</sup> |                                    |
| 4. Intel OCIP  | Errol Fitzpatrick                  |
| 5. Last Minute Items   | Working Group                      |
| 6. Final Adjournment   | Errol Fitzpatrick                  |

## **Final Steps**

December 19, 2002  
(Thursday)

Working Group: Finalize Recommendations  
Working Group: Review draft report

January 3, 2002  
(Friday)

Working Group: Submit comments to Corina

January 15, 2003  
(Wednesday)

Linda/Corina: Publish and release final report

## CCSF OCIP Working Group Modified List of Recommendations

Recommendation	Description	*Rec #	Persons Responsible	Notes
<b>Outstanding Recommendations to be discussed at the December 19<sup>th</sup> Working Group Meeting</b>				
1	Risk Management Oversight Committee (RMOC): Responsibilities	3	Todd Rydstrom will provide language based upon other citywide models: CIAC, Workers Compensation Advisory Committee, Treasurer Oversight Committee, and COIT. Group Discussion.	
2	Equal Benefits Ordinance	61	Jo Hoeper provided legal opinion before Dec. 19 <sup>th</sup> meeting. Group discussion.	Added to draft 10.
3	Liability claims protocols	50	Jo Hoeper will provide outside panel ASAP with City Attorney Dennis Herrera's approval.	Inform the Group that Jo is going to remove this item from the list.
4	Serious and Willful Misconduct	55	George Wong will speak to Rebecca Liu of the City Attorney's Worker's Compensation division about the issue.	
5	Liability claims protocol	50	Group should review the claims protocols before the Dec 19 <sup>th</sup> meeting.	A copy of the claims protocols was provided at the 12/5 Working Group and sent electronically on

\* any recommendations not listed have been approved by the Working Group.  
December 11, 2002

					12/12. In the future, protocols will be modified and included with RFP for broker services.
6	Risk Management Office administers future OCIPs	All future OCIPs will be administered from the Risk Management's Office with costs being covered through work order against the project.	1	Group discussion.	Expert staffing dedicated to OCIP. Dotted line authority to Risk Management Office for existing OCIPs.
7	Bid with insurance	Contractors will bid with insurance.	26, 28	<b>George Wong</b> will draft language on how to bid with insurance. Per Marge Layne, Lyndon Chee is drafting language on reverse change order. Further group discussion.	Duplicate, deleted 28 in draft 10.
	<b>Recommendation</b>	<b>Description</b>	<b>*Rec #</b>	<b>Persons Responsible</b>	<b>Notes</b>
<b>Recommendations dropped at the December 11<sup>th</sup> meeting due to lack of consensus</b>					
1	Moratorium on future OCIPs	Moratorium on the future use of OCIPs until the PUC and MUNI OCIPs demonstrate performance.			One dissent – City Attorney's Office.
2	DHR Worker's Compensation expert	Inviting DHR to attend the Periodic Claims Review Meetings			Subgroup agreed duplication with department's W/C staff and that the Risk Management's Office review is sufficient.
	<b>Recommendation</b>	<b>Description</b>	<b>*Rec #</b>	<b>Persons Responsible</b>	<b>Notes</b>
<b>Recommendations agreed to by subgroup at the December 11<sup>th</sup> meeting</b>					
1	Review of OCIP contracts by Risk Management and City Attorney's Office	All OCIP contracts, policies and funding agreements should be reviewed by both offices. All documents must be in compliance with City Charter and ordinances.	60	<b>George Wong</b> will draft contract language that the City will indemnify the contractor. However the contractor has no financial recourse for recovery of costs related to their hiring of their own private attorneys.	Outstanding issue: future funding for Risk Management Office.

\* any recommendations not listed have been approved by the Working Group.  
**December 11, 2002**

2	Risk Management Oversight Committee will be established. The Risk Management Office chairs the group and members from City Attorney's Office, Controller's Office, Mayor's Finance and Legislative Affairs, and one DPW construction engineer.	2		Meetings twice a year or as convened on ad hoc basis by Chair. Board approval of Committee? Is the construction engineer from DPW acceptable?
3	Audit of the Airport OCIP	4		Ralph had concerns about auditors' construction expertise.
4	Pre-employment, pre-placement, random and post accident drug and alcohol testing	23	<b>George Wong</b> will consult the Administrative Code and provide written recommendation.	
5	Experience Modifier (EMR)	25	<b>George Wong</b> will review MUNI Turnback's method of prequalifying based on experience modifier. GSA and UC EMR language should be considered.	Outstanding Issue: What is the right Ex Mod threshold? One dissent – MUNI.
6	RFP and Contract for broker services – premium indicators	14		Pre 12/11 meeting, the recommendation was to use premium indicators as selection criteria, subject to RMOC.
7	Construction Safety Incentive/Disincentive program	24, 37	<b>George Wong</b> will revise contracts.	A copy of Document 00805 was provided at the 12/5 Working Group Meeting. (13 pages) Outstanding issue: determine the appropriate dollar value and/or

\* any recommendations not listed have been approved by the Working Group.  
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		occurrence.				percentage to be used.
<b>8</b>	Review the boilerplate contract language	All boiler plate contract language should be reviewed and flagged for specific dollar amounts specified.			<b>George Wong</b> will review the contracts.	Suggestion made by Jo Hoeper.
<b>9</b>	Guaranteed Cost vs Loss Sensitive	Guaranteed cost coverage is preferred for OCIP.	33		<b>Todd Rydstrom</b> will include Ralph's concerns.	Ralph raised the concern that the department has to have absolute confidence that the project is clearly defined and will not expand outside the scope. Otherwise, original assumptions are inaccurate.
<b>10</b>	Guaranteed Cost vs Loss Sensitive	Loss sensitive coverage with an aggregate deductible in place should generally not be used except for worker's compensation.	34			See Ralph Stewart's concern in #11 above.
<b>11</b>	Safety personnel authority and contract language	There should be provisions in the contract to give safety personnel authority to enforce the safety program.	48		<b>George Wong</b> will review the contract and brief the group.	
<b>12</b>	RFP for broker services	Suggested template for RFP.	18		<b>George Wong</b> to highlight changes.	
<b>13</b>	Contract for broker services	Suggested template for contract.	19		<b>George Wong</b> to highlight changes.	
<b>14</b>	Bid and Contract Language for Contractor Services – insurance and safety program.	Suggested template for insurance requirement, safety program, and Insurance Manual modeled after PUC; may be modified incorporating Department- and project-specific requirements.	23		<b>George Wong</b> to highlight changes.	
<b>15</b>	Administrative Process	The administrative process detailed on pages 36-38 should be adopted.	47			

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## OCIP Subcommittee Schedule and Participants

Subcommittee A		Feasibility/Bid/Contract	10/24 Th 9 (CH479)	11/7 Th 3 (CH316)	11/21 Th 8:30 (CH316)	12/2 Mon 10:00 (Fox Plaza)
1	Leo Fermin (Ralph Stewart) - Chair	yes (Leo)	no (Ralph)	yes (Ralph)	yes (Ralph)	yes (Ralph)
2	Luz Cofresi-Howe	no	yes	no	no	no
3	Errol Fitzpatrick	yes	yes	yes	yes	yes
4	Marge Layne	no	yes	yes	yes	yes
5	George Wong	yes	yes	yes	yes	yes
6	Linda Yeung/Corina Monzon	yes	yes	yes	yes	yes

Subcommittee B		Insurance Program Design	10/22 Tu 4 (CH312)	11/4 Mo 4 (CH312)	11/18 Mo 4 (CH312)
1	Errol Fitzpatrick - Chair	yes	yes	yes	no
2	Kingsley Okereke	no	yes	yes	yes
3	Todd Rydstrom	yes	yes	yes	yes
4	Marge Layne	---	---	---	yes
5	Linda Yeung/Corina Monzon	yes	yes	yes	yes

Subcommittee C		Safety and Loss Control	10/22 Tu 11 (CH479)	11/5 Tu 11 (CH316)	11/19 Tu 11 (CH316)
1	Gigi Harrington	no	no	yes	yes
2	Carlos Jacobo - Chair	yes	yes	yes	yes
3	Nancy Johnston-Bellard, observer	yes	yes	yes	yes
4	Marge Layne	yes	yes	yes	yes
5	Gerry McDonald	no	no	yes	no
6	Alan Wong	no	no	yes	no
7	Monique Zmuda	no	no	yes	yes
8	Corina Monzon/Linda Yeung	yes	yes	yes	yes

Subcommittee D		Administration	10/23 We 9 (CH479)	11/6 We 9 (CH479)	11/20 We 9 (CH479)
1	Luz Cofresi-Howe - Chair	yes	yes	yes	yes
2	Carlos Jacobo	yes	yes	yes	yes
3	Marge Layne	yes	yes	yes	yes
4	Ralph Stewart	yes	yes	yes	yes
5	Corina Monzon/Linda Yeung	yes	yes	yes	yes

Subcommittee E		Claims Management and Adjudication	10/28 Mo 2 (CH316)	11/4 Mo 2 (CH479)	11/18 Mo 2 (CH479)
1	Luz Cofresi-Howe	yes	yes	no	yes
2	Jo Hooper	yes	yes	no	yes
3	Nancy Johnston-Bellard - Chair	yes	yes	yes	yes
4	Marge Layne	yes	yes	yes	yes
5	Rebecca Liu	no	no	yes	no
6	Matthew Rothschild	yes	yes	yes	yes
7	Linda Yeung/Corina Monzon	yes	yes	yes	yes

Subcommittee F		CCSF Legal Environment	10/24 Th 2 (Fox, 6th)	11/7 Th 2:00 (CH312)	11/20 Wed 2:00 (CH312)
1	Jo Hooper - Chair	yes	yes	yes	yes
2	Todd Rydstrom	yes	yes	yes	yes
3	Rebecca Liu	no	no	yes	no
4	Errol Fitzpatrick	no	no	yes	no
5	Linda Yeung/Corina Monzon	yes	yes	no	yes