

Crisis Management

Plan for the Worst

By Randy Lewis, CPCU

In the event of a crisis, your firm may need to defend itself in both the legal and public relations arenas.

Like any other business sector, the design and construction industry must be prepared to deal with crises such as natural disasters, data breaches, sudden financial setbacks, or even workplace violence. However, the prospect of a project-related crisis, such as a catastrophic failure resulting in an injury or death, is the type of event that keeps A/Es up at night.

If not handled properly, a crisis can inflict real harm on your firm, resulting in business interruption, drawn-out lawsuits, financial loss, and damage to your reputation.

What can you do? Every crisis is unique and comes with its own set of issues; however, there are steps you can take to prepare for, manage, and recover from even the most serious and disruptive events. Here are some suggestions, drawn from “lessons learned” by design professionals. While these steps contemplate a project-related crisis, many apply to all types of emergencies:

Before a Crisis Hits

- **Develop a crisis management plan** so your firm can launch an effective response. When developing a plan, try to anticipate high-risk scenarios and think through the steps your firm should take in the event of these scenarios. List resources (e.g., key personnel, insurers, lawyers, experts, government agencies) to be contacted and mobilized in the first hour, the first day, and the first week. Do not forget to include contact information as well as access information for computer systems, social media, teleconferencing, and other key accounts you may need to use. (You will see additional suggestions below. Also see the sidebar, *Crisis Management Resources*.)
- **Select and train a crisis management team.** In the event of a crisis, the team will issue notifications, control and coordinate the dissemination and collection of information, and conduct an investigation. At least two team members should be senior firm members, one of whom will serve as team leader.

- **Train your employees.** Everyone in your firm should know what to do – and what not to do – when there is a crisis. (This includes not sharing on social media unless specifically instructed to.) Make the training part of new employee orientation.
- **Run emergency drills** to test the crisis management plan, the staff, and your team.
- **Identify a public relations firm experienced in crisis management.** The owner of a large design firm told us this was one of the most important calls he made when faced with a crisis. However, do not wait until there is a problem. It is far better to identify and interview crisis management firms before you need them, rather than after.
- **Develop and maintain a list of forensic specialists** you can call on. You may want an expert in the appropriate discipline to give you a private assessment of your firm’s risk exposures. Be sure to check references.
- **Consider implementing document management software.** These are essentially electronic filing cabinets that organize digital and paper documents. Well-organized systems allow you and your legal team to locate and review documents from all project participants quickly. This can save many thousands of

dollars in discovery expenses in the event of a lawsuit.

- **Work to strengthen relationships with your business partners.** While most firms actively seek strong business ties, it is worth remembering that doing so can help cushion the damage from many major crises. Clients, contractors, and consultants who have long-term, mutually beneficial relationships are more likely to work together to resolve disputes, less likely to throw each other under the bus, and more eager to work together in the future.

When Trouble Strikes

You will need to act immediately and simultaneously on several fronts. Many firms are astounded by the speed at which chaos envelops them. Even the most levelheaded person has trouble thinking straight in the midst of a full-blown emergency. Having your crisis management plan and team in place can help you respond quickly and effectively.

- **Think safety first.** Your first consideration should be the safety of your employees and the public. If your staff is on the scene and the situation calls for it, contact emergency services, clear the area, and make sure your

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employees are all accounted for. Do what is needed to keep everyone safe.

- **Convene your crisis management team.** You may need to include additional members with specific expertise. Appoint a team leader, preferably a team member who does not have project involvement.
- **Contact your insurance broker and insurers.** Your broker and insurance carrier can offer guidance in the event of a natural disaster or project related crisis. Include them early and follow their advice.
- **Call your lawyer.** While your insurance carrier will likely appoint a lawyer for you, you may want to contact your own lawyer as well. Insist on a close working relationship between lawyers retained by your carrier and separately by your firm.
- **Direct employees to cease all outside communication about the incident,** including with family and friends, and especially on social media. Tell them to refer all requests for information to your media contact (see the next bullet). You may want to make some exceptions if social media can help in a crisis.
- **Designate a trusted member of the firm as sole media contact** and refer all requests for information to him or her.
- **Contact the public relations/crisis management firm** as soon as possible. These professionals can move quickly to help craft public statements and think through potential landmines. A PR firm's assistance may be crucial not only during the crisis but throughout any ensuing legal battles and recovery period.
- **Develop a few simple talking points.** Working with your lawyers, the public relations firm, and your crisis management team, decide on the best, most reasoned approach. It is essential to have an appropriate statement for the media that does not create liability for your firm or alienate the media.
- **Reach out to your project client, contractor, key project team members, subconsultants, and other clients if appropriate.** Brief them on the situation (as much as you can), remind them that you value your relationship, and reinforce the importance of addressing the issue and working together to move ahead with the project.
- **Do not accept (or assign) blame.** Firms often accept responsibility for a problem too quickly and before all the facts are known. Remember, even if you have made a mistake, you may not be liable for all of the alleged damages; often there are concurrent causes.
- **Move quickly to preserve critical evidence.** Carefully preserve and document

key evidence while the facts are fresh in everyone's mind. Assemble project files from all sources, including individually maintained files, archived files, and site files. If appropriate, take photos and videos of the site as soon as possible. Advise subconsultants to begin collecting their files. Unless otherwise instructed by your lawyer, be mindful of creating documents that can be used against your firm in a lawsuit.

- **Begin your investigation.** Review project documents, including agreements and scope of services. Retain forensic consultants as appropriate. At your lawyer's direction, conduct and document interviews of all employees who were present at the crisis site or who have firsthand information regarding the situation. (If you might have liability, it is essential to establish a lawyer-client relationship early to allow your firm to conduct a full investigation without fear that the information will later be used against you.)
- **Meet with your employees as soon as possible.** Make sure they know what happened, what your firm plans to do about it, and what you need from them. There may be incorrect information in the media, and they will need to know how the crisis will affect the firm. Be as forthcoming and as positive as you can, and continue to keep them informed.
- **Take care of your people.** Do whatever it takes to see to their needs, which may include providing grief counseling and time off.
- **Move to mitigate losses.** Working with input from the project team, including contractors and the owner, consider the impact on the project schedule, and initiate a damage assessment. Identify long-lead-time material/component needs. Work quickly to make a plan to minimize losses and restart the project as soon as possible.

During a Lawsuit

- **Meet often with your entire firm.** After consulting with your lawyer, keep employees apprised of what is happening and instruct them how to deal with inquiries. They may have concerns about the future of the firm and their livelihoods; stay positive and confident.
- **Stick to the script.** Do not be tempted to respond to finger-pointing by other parties, including the media. Refer all queries to

Crisis Management Resources

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Crisis Management Checklist

Policy Highlights – U.S. and Canada

Crisis Management: *Mastering the Skills to Prevent Disasters*, Harvard Business School Press

Crisis Management: *Planning for the Inevitable* by Steven Fink *Reporting Claims the Right Way*, February 2017 Communiqué

your media contact, who should continue to work with the public relations firm and your lawyer.

- **Continue to provide high-quality service to your other clients.** During the demands of a big lawsuit, it is easy to let other work slide. But your firm's reputation – and perhaps its health – will depend on the quality of service you provide to everyone.

When It Is Time to Move Forward

- **Conduct a crisis management team debriefing** to document the process for future reference and examine lessons learned. Ask, "What went right? What could we have done better? How can we improve?" Again, consult with your lawyer first to determine how best to document (or not document) the issues so you can have a candid discussion about improving your firm's practices without creating liability down the road.
- **Update your crisis management plan** and revisit it at least annually.
- **Find a way to mark the end of the crisis.** If a celebration is not appropriate, hold an informal staff meeting to explain where things stand, discuss the plan to move forward, and thank everyone who helped. Finally, remember that you can survive a crisis. Many firms have weathered major disasters and come back to thrive. The key is to have a plan, the right resources at the ready, and a dogged determination to endure. ■



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