



A New Building

Recently members who have outgrown administrative offices have been building new ones. Most larger districts have engineering staff who help with specifications for new construction. This is not the case with our smaller members. After many years of making do with what facilities members have, patching and painting, and an occasional cheap remodeling project, recently members have been building new buildings and doing major remodeling. Some recent projects have included new multi-million-dollar administration/operations buildings designed to replace old, dilapidated structures to house vital services.

The benefits of new construction are many. Services that have been housed in sub-standard buildings now have their own facility that will be adequate for current needs. New facilities also provide safer environments with better electrical and lighting systems, effective air conditioning, sprinkler, and other life safety systems. Operating costs are reduced with environmental efficiencies. Another immeasurable factor is the improved morale and pride of staff who now have a safe and clean place to work.

New construction and major remodels also require new knowledge and skills for district or authority staff serving as project managers. The construction world is changing just as fast as any other major service area and unless you've been involved in new construction over the last several years that \$100,000 remodel you managed ten years ago may not be enough preparation for today's project. What follows are observations and recommendations from a risk management perspective that might help smooth out the project management process. The three main stages of new projects will be explored: planning, construction, and completion.

Planning

Everyone at the district or authority recognizes the need for an administration building. The current one is crowded, run down, a safety hazard and frankly, an embarrassment. Everyone has excellent ideas for what should go into the space so how do you arrive at a program for the project?

1. Contract with an architect who can help you program the building for its most essential functions and seek input from your staff in an organized fashion. This will be referred to as the "Design Development" phase and will help weed out pet projects, unnecessary wishes, and the unmanageable desire to accommodate every need. The architect can help you prioritize the most important things the building should do for its customers and staff within the budget.
2. The architect can then present a design for the building that addresses the most essential elements of the program and projected budget. It should also address any potential on and off-site environmental conditions that affect the site and incorporate

energy efficiency elements. The design can achieve an esthetically pleasing structure that meets life safety and environmental requirements and meet the most important space needs for key operations and services.

3. Depending on the size and complexity of the project, consider employing a construction manager might be an effective way to improve communications between the parties to the project. This person could work for either the member or the contractor. The contractor may include the cost in their bid, but the construction manager would still serve as an effective liaison between the architect, the member, and the general contractor.
4. After programming and design, an RFP is usually the next step. A construction manager would oversee all inquiries about the project and the district or authority's purchasing and contract staffs could assist the manager in this. The architect's work provides the basic design and construction specifications for the general contractors who want to bid on the district or authority's project. The pre-bid questions from the participants can help uncover issues with the project and help insure the uniformity of the understanding of the project. This makes for better and more competitive bids. Bidders should also visit the construction site so they are aware of any geographic and geological issues that could affect construction costs.
5. Insurance requirements should also be clearly and completely stated in the RFP. They should protect the district or authority and reflect the possible hazards of the project. Generally, the larger the job, the higher the limits of liability should be. Higher limits should also be needed if there are exposures to environmental risk, nearby concentrations of people or property, significant amounts of excavation or use of explosives. Recommended insurance requirements are available on the [TWCARMF website](#).
6. Requiring bid bonds helps weed out contractors that are not financially strong and may not have the experience necessary for your project. Their ability to provide a bid bond also means that if the contractor is awarded the bid, they can also provide performance and payment bonds. The winner of the bid should be required to furnish performance and payment bonds (stated in the RFP).
7. The bid winner selection process must be fair and transparent. The winner of the bid will enter into the important process of negotiating a contract with the district or authority. The contractor may have their own contract form. They may present American Institute of Architects (AIA) contract forms that are quite lengthy but address almost every situation that can arise during a complex construction project. The Fund's Risk Management Consultant can help you understand and change these contracts to help make them more favorable to the district or authority.
8. After a bid award a losing contractor may make allegations of unfairness or discrimination. These accusations often wind up in the media. Make sure the district or authority has unimpeachable justification for the choice it has made, especially if the lowest bidder did not get the work.
9. The contract will have processes for making changes, approving progress payments, who makes decisions, and who handles environmental issues, safety, and subcontractors. The contract states insurance and bond requirements. Bonds are a backstop measure if a contractor becomes bankrupt or cannot complete the job. The bonding company will step in and complete the job. No matter how strong the

contractor's financials may look they can still get into trouble with disastrous consequences for your clinic. In 2024, one of the largest commercial contractors in the United States filed bankruptcy because one of its partners held up payments in large natural gas terminal project in Southeast Texas.

10. Insurance requirements are also important because they finance the transfer of risk stated in the indemnification and hold harmless agreements in the contract from the district or authority to the contractor. The Risk Management Consultant can help you with the insurance requirements and specific coverages for the project, too.
11. No construction work should start until the contract is signed, jurisdictional and construction permits issued, bonds are delivered, and satisfactory evidence of the contractor's insurance is in hand.

Construction

Resist the urge to say "go ahead" when you do not have everything in hand. The architect and construction manager should guide you in initiating construction. It's amazing how often last-minute delays arise because of an insurance certificate, bonds, or who is authorized to sign a contract. The excitement of actual construction will start soon enough and usually meet other delays because of subs, coordination, accidents, weather, or disputes about work quality or not following the blueprints. The architect, if they are retained to oversee construction, deals with most of the issues that arise during construction. Even so, the district or authority should also have a designated project manager to stand for the interests of the district or authority and be the key contact during the construction.

1. The contractor oversees the construction site. That is part of the transfer of risk away from the district or authority. They are also responsible for the safety of anyone on site including district or authority staff. Everyone coming to the construction site should follow the contractor's safety requirements. This may include wearing personal protective equipment like hard hats, reflective vests, eye, and hearing protection, and even steel toed boots. Some contractors require an orientation that may include a video and sign-in sheets. Abide by their rules.
2. The site should be fenced, secured after hours, and have pre-positioned erosion and run-off controls. Some projects may require on-site security guards after hours to patrol the site and contact police in case of trespassers or thieves.
3. Sub-contractors are an important part of the construction process. It is our recommendation to avoid imposing a sub-contractor preferred by the district or authority unless the general contractor is in complete agreement and acceptance of the choice. Most general contractors have a cadre of subs that they use for their jobs. There is good mutual understanding and communication. The subs also have the necessary insurance, skilled workers, and equipment to perform their work efficiently. That helps the job progress, and everyone get paid on time for their completed work.
4. Expected and unexpected delays will occur during construction. Delays that should be expected are due to the weather. The contract usually has a cushion to allow for weather. Severe weather, flooding rain, cold, and winter weather can all cause delays and sometimes cause damage that must be repaired before work can resume. For instance, heavy rain can flood and silt in excavation work that has been completed but not finished. Freezing temperatures can freeze the ground making excavation difficult.

Ice and snow can make structural work so dangerous it just has to wait for a warm-up. Generally, your frustration at delays is only exceeded by the contractor and subs who want to get back to work. They will do so when it is safe.

5. Serious accidents causing worker injury or significant property damage also cause delays. The process of responding to an injury or severe damage is compounded by investigations by law enforcement, regulators or engineers who are trying to estimate the cost of repairs. Do not get involved unless absolutely necessary. Your contract should put all responsibility on the contractor. One thing that may affect the district or authority would be media inquiries about an event. The one designated person for the district or authority should respond and refer inquiries to the contractor.
6. Two of your required insurance coverages could come into play in response to delays. One is the Builders Risk policy that the contractor provides to cover the project as it is being built. This is a property type coverage that would respond to damage done by fire, wind, hail, vandalism, and other catastrophic weather-related damage. (Builders Risk should be required in the RFP.) The Builders Risk policy would pay to help bring the project back to the same condition and percentage of completion as when it was damaged. Another type of coverage for the contractor that could help shorten delays is Contractor's Equipment coverage. This policy protects equipment the contractor owns and uses to do the work from fire, theft, vandalism, and other perils (much like comprehensive coverage on your own vehicles.) The availability of insurance to help the contractor replace a vital piece of equipment can help reduce delays and get the work moving again.
7. The district or authority's project manager should do everything possible to maintain a good relationship with the contractor, the architect (if retained) and the contractor's job site superintendent with open and frequent communications. Visit the job site, office trailers, the architect's office where construction disputes may be resolved and even the contractor's home office if nearby. Don't meddle but don't hesitate to ask questions about anything that is going on at the job site.

Completion

As the project nears completion the site could become a beehive of activity as several trades are on site to finish plumbing, electrical work, painting, finishes like floors and wall coverings, windows and heating and air conditioning.

1. As completion gets closer, the pressure to begin to occupy and use the space grows. It may be possible to move into some of the space if it is ok with the contractor. If this happens insurance coverage must be worked out between the Builders Risk and the Risk Management Fund. Who is going to be responsible if a loss occurs? Another issue may be that important environmental and safety systems may not be complete or fully functional. Air conditioning is a particularly important consideration.
2. Another process that begins in the final stage is a "punch list" of items that still need attention, repair, or completion. Usually, these items should be completed before final sign-off and acceptance. However, there may be delays in receiving fixtures or materials that could further delay the project. Exceptions for installation of items after full occupancy can be worked out with cooperation between all parties. After occupancy other "punch list" items may become apparent that were missed on the first list.

3. A third important insurance consideration is a requirement that the contractor maintain “completed operations” coverage for at least two years after final acceptance of the project by the district or authority. Completed Operations coverage is part of the contractor’s general liability insurance that responds to injury or damage caused by a part of the project that has been completed and installed. The coverage pays for bodily injury or property damage done by the defective part, material, or fixture. For instance, if a light fixture falls from the ceiling and hits one of the district or authority’s employees, completed operations coverage would respond to the injury, pay for any medical expenses and repairs to damage the falling fixture did to walls, floors, or other district or authority property. It would not, however, pay for damage to the fixture. That would be up to the contractor under the warranty of their work. The requirement for the contractor to maintain completed operations coverage will be included in the contract’s insurance provisions.
4. Upon completion, a new building now becomes the responsibility of the district or authority’s facilities and maintenance staff. The Director of Facilities and maintenance staff should be involved during the final stages of construction to decide what they need to know to effectively operate and maintain the new building. Before occupancy supplies of paper products, filters, fire extinguishers, first aid kits and evacuation diagrams need to be ready to go. Alarms, waste disposal, emergency lighting, communications systems, access systems and camera systems should all be tested, certified and in working order.
5. Tailoring emergency response to the new building also needs to be done early in the occupancy of the building. Evacuation routes for fire and active shooter contingencies need to be developed. Shelter in place and ease of evacuation should be design elements considered by the Architect during the planning for the building. For instance, office doors should lock and any windows into offices should have blinds to obscure someone’s vision into the space. These can be life saving measures during active shooter events. Shelter in place locations should be identified with signage and be in areas that will provide significant protection from weather or active shooter events.
6. Moving into the new building may also present hazards to employees who are not used to moving heavy objects like furniture and filing cabinets. Make sure there are plenty of people to help with the move-in or hire a moving company. Drills, orientation, and training may be needed at this stage to help staff adapt and respond safely.

The discussion and recommendations made in this article also apply to remodeling or renovation projects for existing buildings. Existing buildings may pose all kinds of structural issues including lead paint, asbestos, obsolete electrical, plumbing and air conditioning systems that all demand attention. A need to renovate leased space could also run into landlord resistance or code enforcement issues. The lease agreement could offer a way out or restrict your ability to modify the space. A new lease in a newer location from a landlord who is anxious to have a new tenant can solve some of these problems.

Conclusion

A new building designed to meet the district or authority’s specific needs is an important event with many benefits for efficiency, morale, and customer and public perception of

the district or authority. The process from start to finish is complicated but rewarding. Employing an architect, a construction manager, a competent and experienced contractor, and a willing and able district or authority project manager can make the process smoother and more time efficient. The Fund's Risk Management and Risk Control Consultants can also help you navigate the RFP, construction contract, and insurance transitions the project requires.