

Continuity and Disaster Recovery Plans for Contractors: Lessons From the Past

Written by: Rich Sghiatti, Regional Vice President, Contract Surety Operations, Old Republic Surety

There is no shortage of natural disasters to illustrate the importance of being prepared. Wildfires, hurricanes, winter storms, and floods can hit a construction job site hard. Appropriate property-casualty insurance and surety bonds are necessary protections for a contractor and project owner. But the addition of well-thought-out continuity and disaster recovery plans will better position the contractor to deal with whatever Mother Nature brings.

Consider Hurricane Katrina, the costliest hurricane to hit the United States. Pummeling Florida, Louisiana, and Mississippi in August 2005, the storm led to 1,833 fatalities and an estimated \$108 billion in damages. Levees meant to protect New Orleans from Lake Pontchartrain did not hold, flooding 80% of the city.

Utilities including power, water, and sanitary sewers were severely damaged. Homes were destroyed. Roadways were closed. Communications systems were down.

Contractors who had good business continuity and disaster recovery plans fared better than those who did not.

Strategies For Catastrophes

Business continuity and disaster recovery plans provide direction during a business interruption or the chaos that follows a natural disaster. A business continuity plan spells out how the contractor will continue to do business after an



interruption such as bad weather, a power outage, or a data breach. By contrast, a disaster recovery plan presents options for recovering from a disaster that significantly damages a company or operation.

In the event of a disaster or disruption, contractors must have uninterrupted access to their money. While they should know the continuity plans of all vendors, it's particularly important to consult with their bank before a disaster strikes. What is the bank's own continuity plan? How will the contractor obtain cash when their bank and its ATMs are inaccessible? The contractor can work with bank management to prearrange how the contractor will be able to continue financing work and provide emergency support for workers affected by a disaster.

During Katrina, contractors with a business continuity plan used company directories to contact employees to assess their location, safety, and needs. I witnessed the best-prepared contractors put people first, which is the spirit of any disaster recovery plan.

When roads and job sites reopened, prepared contractors hired buses and drivers to transport employees, as many had lost their cars to flooding. Contractors set up mess halls with food, clean drinking water and generators to power office computers and air conditioning. They provided portable bathrooms and even lodging for workers who were displaced from their homes or couldn't readily travel. They took extraordinary steps in disaster recovery, given the risk of contamination from flood waters and the lack of medical and hospital facilities. Security became essential as lack of law enforcement increased the risk of theft of materials and equipment not already damaged during the hurricane.

'Force Majeure' Voids Surety Bond Obligations

Construction contracts generally include a "force majeure" clause that releases the parties from liability and obligation in the wake of an unexpected or uncontrollable event - such as a civil commotion, terrorist attack, or natural disaster.

For this reason, contract surety bonds - which serve as a guarantee of performance or payment of a company's obligation under a contract - did not come into play during Katrina. The force majeure clause released contractors from both liability and obligation to complete work.

Even after a natural disaster is deemed a force majeure, some contractors feel obligated for many reasons to resume normal operations and get a project back up and running. To restart their project, the project owner and contractor renegotiate the contract so they can tear down anything damaged and begin building from scratch. Those who most successfully completed their projects in the aftermath of Katrina had good continuity and disaster recovery plans.


Importance Of Insurance

There are times when a calamity can severely hinder operations even though it doesn't qualify as a force majeure event. Consider the effects of a construction company or vendor data breach or a severe local storm. Despite business disruption or devastation, the contractor could remain obligated to fulfill the terms of the construction contract and the requisite contract surety bond.

In these circumstances, property-casualty insurance becomes the first line of response - and is critical to implementing both disaster recovery and business continuity plans. Perhaps most important, builders risk insurance can cover property in the course of construction. Theft of construction materials also is covered by many builders risk policies.

In addition, insurance can mitigate risks of equipment accidents, crane or scaffolding collapses, and hazardous material spills. A property-casualty insurance professional can advise how best to protect a contractor's construction company should an accident or catastrophe impair their ability to complete work they remain obligated to finish.

Winning Strategy

The combination of property-casualty insurance, surety bonds, and business continuity and disaster recovery plans can help contractors resume work safely during and after the most disruptive of events, natural or otherwise. 



About the Author

Rich Sghiatti is the Regional Vice President, Contract Surety Operations at [Old Republic Surety](#).

About the Article

Republished from [Construction Executive](#), a publication of [Associated Builders and Contractors](#). Copyright 2022. All rights reserved. Associated Builders and Contractors is a national construction industry trade association representing more than 21,000 members. Based on the merit shop philosophy, ABC helps its members develop people, win work, and deliver work safely, ethically, and profitably for the betterment of the communities in which they work.

Any views and opinions expressed in this article may or may not reflect the views and opinions of the Construction Management Association of America (CMAA). By publishing this piece, CMAA is not expressing endorsement of the individual, the article, or their association, organization, or company.