COMPANY NAME HERE

PRONETWORK NEWS
Risk Management Tools for the Design Professional

June 2025 | Vol. XXIII No. 113

Nahom Gebre, P.E., Esq. Risk Advisor

Nahom Gebre is a professional liability risk advisor for Victor's Risk Advisory group. A registered professional engineer, Nahom practiced civil engineering prior to his involvement with risk management issues.

His background includes service as in-house counsel and project manager for a large engineering firm. Nahom provides risk management advice to Victor and CNA policyholders.

Nahom received his Bachelor of Science in Civil Engineering from Washington University and his Juris Doctor from Tulane University Law School.

a/e ProNet
Lynda Colucci, Executive Director
info@aepronet.org

Delivering Projects Under Pressure

By Nahom Gebre, P.E., Esq. Risk Advisor

In today's construction industry, design firms face unprecedented pressure from clients seeking accelerated project timelines and price certainty. This pressure stems from two interconnected factors.

First, clients naturally experience tension when implementing major capital investments as these represent significant financial commitments with inherent risks. However, the current business environment has amplified these pressures due to supply chain uncertainties caused by unpredictable tariff policies. These uncertainties have created a ripple effect throughout the industry, making planning and execution more challenging than in stable economic periods.

Second, contractors have become increasingly hesitant to provide firm, competitive bids. This reluctance stems from legitimate contractor concerns about being contractually bound to prices that may become unrealistic as the project progresses due to market volatility. When contractors cannot confidently predict costs, the entire project planning process becomes more tentative.

Managing client pressure

When clients and contractors operate under the stressful conditions noted above, they naturally turn to design firms for solutions. This external pressure creates several practice management challenges that design firms must navigate. We will closely examine two of the more common requests that, if not managed correctly, could lead to claims against design firms: value engineering services and fast-tracking project delivery.

Value engineering services

When faced with higher-than-expected construction bids, clients may request value engineering reviews—whether those reviews are conducted by the design team, the contractor, or a third party. Value engineering aims to reduce costs through alternative materials, methods, or design approaches while maintaining performance standards. While potentially beneficial, these reviews add workload and can compromise design integrity if not carefully managed.

RECENT BLOG

Celebrating the 2025–2026 David W. Lakamp Architect Scholarship Recipients: Anna Turco and Rosalyn Becicka Read More

Celebrating the 2025–2026 a/e ProNet ACEC Engineering Scholarship Recipient: Avery Michaels Read More

A Conversation with Alexandra Gottlin 2021-2022 David W. Lakamp AIA Scholarship Recipient Read More

Project Update From Kaitlin Pickart a/e ProNet David Lakamp Architect Scholarship Recipient Read More

Summer Internship Update from Kelsi Weilage, Our ACEC Engineering Scholarship Recipient Read More

Introducing Kelsi Weilage, Our 2024-25 A/E ProNetACEC Scholarship Recipient Read More

Meet Kaitlin Pickart and Seth Moore our 2024 David Lakamp Architect Scholarship Recipients Read More

PRONETWORK NEWS

Know Your Limitations: A Design Professional Guide to Limited Liability Read More

When value engineering takes place during the bidding or negotiation stage, contractors may suggest alternatives to the design solutions stated in the construction documents. Usually, this process can be managed if the firm is compensated for the extra work and the evaluation is based on project goals, technical considerations, and evaluation of implementation consequences for both initial operations and life-cycle cost savings. The design firm should explain the downside of value engineering alternatives and insist that the client expresses informed consent when deciding on proposed alternatives. If the design firm objects to the value engineering alternatives, it is important that the firm obtain a waiver for any resulting claims that holds the firm harmless from the resulting damages and costs.

Finally, design firms should be particularly wary of value engineering exercises after construction has begun. The design team is often pressed to respond quickly, which often compromises the quality of the evaluation and can lead to problems later. Changes made during construction are more expensive to implement than changes made during the design phase and are generally more likely to lead to a claim.

Fast-tracking project delivery

Increasingly, clients are requesting fast-tracking approaches when construction begins before design completion to accelerate project delivery to try to lock in favorable pricing. This compression of the traditional design-bid-build sequence creates complex coordination challenges and potential liability issues for design firms.

On fast-track projects, design and construction activities are concurrent, and construction begins before plans and specifications are fully complete. Care should be taken in delineating the scope of services on fast-track projects since the design firm is required to make design decisions before all project information is available. These decisions may turn out to be inconsistent with other aspects of the work or the client's requirements, which may not be fully developed at the time the decision is made. These design decisions may cause additional costs and delays to the project.

Successful management of fast-track projects requires early contractor participation and extensive communication between the client, contractor, and design firm. All three parties should review design drawings quickly and be prepared for subsequent revisions to the established work plan due to changed conditions or new information. These requirements for enhanced collaboration by all project stakeholders should be reflected in both the professional services agreements and the construction contracts.

Fast-track projects have historically had an increased risk of claims and liability. Therefore, firms should consider including language in the professional services agreement that acknowledges the benefits and risks associated with fast-track scheduling as well as protective limitation of liability and indemnity provisions.

Three essential strategies for success

Design firms must proactively address the above challenges to protect themselves from potential claims. After comparing numerous successful projects that had value engineering and fast-track components against projects that had significant claim complications because of botched value engineering and fast-track processes, we have identified the following three essential strategies that made a difference in the outcome.

1. Clear communication

Design firms must transparently communicate with clients about current construction market realities and how associated uncertainties will impact projects. This communication should occur early and continue throughout the project life cycle.

2. Detailed planning and enhanced collaboration

Comprehensive planning that anticipates potential disruptions is essential. This includes developing contingency plans for material substitutions, establishing clear change order procedures, and documenting all decisions with thorough rationales. Early contractor participation in the planning process can help the design team provide solutions that are more in line with market reality.

3. Contingency provisions

Finally, the client should be encouraged to establish design and construction contingencies that acknowledge market volatility and establish fair processes for addressing unexpected changes. These provisions protect both the design firm and client by creating clear pathways for resolving issues.

By implementing these strategies, design firms can effectively navigate the current environment while maintaining client relationships and protecting their professional interests. The key to success is proactive management rather than reactive problem solving.