



Business As Usual: Staying in Business in Times of Disaster

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RLI Design Professionals
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Course Description

Emergency Preparedness Matters

40%

The percentage of businesses that do not reopen immediately following a disaster.

The percentage of businesses that fail within one year after being disrupted by a disaster.

25%

Wherever you live and work, your firm is exposed to emergency situations. They include natural disasters like pandemics, windstorms, floods, earthquakes, or winter storms. Emergency situations also involve man-made disasters like fires, chemical emergencies, or episodes of terrorism on varying scales. This course will review different emergency preparedness tips to enable design firms to minimize their losses and facilitate the rapid restoration of their services in the event of a disaster. We will also consider the role design professionals can play in a community's resilience and recovery efforts through smart design decisions and volunteer services.

Learning Objectives

Participants in this session will:

- 1** Review common reasons design professionals fail to adequately prepare for a disaster;
- 2** Identify preventative measure design professionals can take to minimize their losses in the event of a disaster;
- 3** Consider important legal considerations for design firms in preparing an emergency action plan; and
- 4** Discuss things to consider when providing assistance and other services in the aftermath of a disaster.

The Basics of Being Prepared

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Reasons For Not Being Prepared

Top reasons organizations don't prepare:

10%

"It costs too much"

24%

"I don't want to think about it"

12%

"I just don't have the time"/
"I don't know what I'm supposed to do"

42%

"I don't think my business is
in threat of a disaster"

Things to Do

If your Construction Projects are Stopped

Business Development

Research New Markets and Clients

Call Existing Clients to Check In/Offer Consulting

Volunteer

Support Clients

Support Your Community

Learn/Update Skills

Continuing Education

Design/Project Management Software

Negotiation

Update Project Management Tools

Go-No Go Matrix

Professional Service Agreements

Update Practice Management Tools

Business Continuity Planning

Strategic Planning—Workflows and Financial

Mitigation Saves

Mitigation is about saving *people, property, and profits.*

1

The number of times it takes for a disaster to cause devastating damage

The percentage of small businesses that have no written disaster recovery plan in place

50-75%

\$6

saved for every \$1 **spent** on mitigation

“Emergency” Defined

Any situation that threatens workers, customers, or the public;

Disrupts or shuts down operations; or

Causes physical or environmental damage

Types of Disasters



Fire/Wildfire



Earthquake



Hurricane/Tornado/Seasonal Storm/Flood



Chemical Spill/Release



Disease Outbreak/Release of Biological Agent



Explosion

Types of Disasters

2 Categories:

1 Natural Hazards

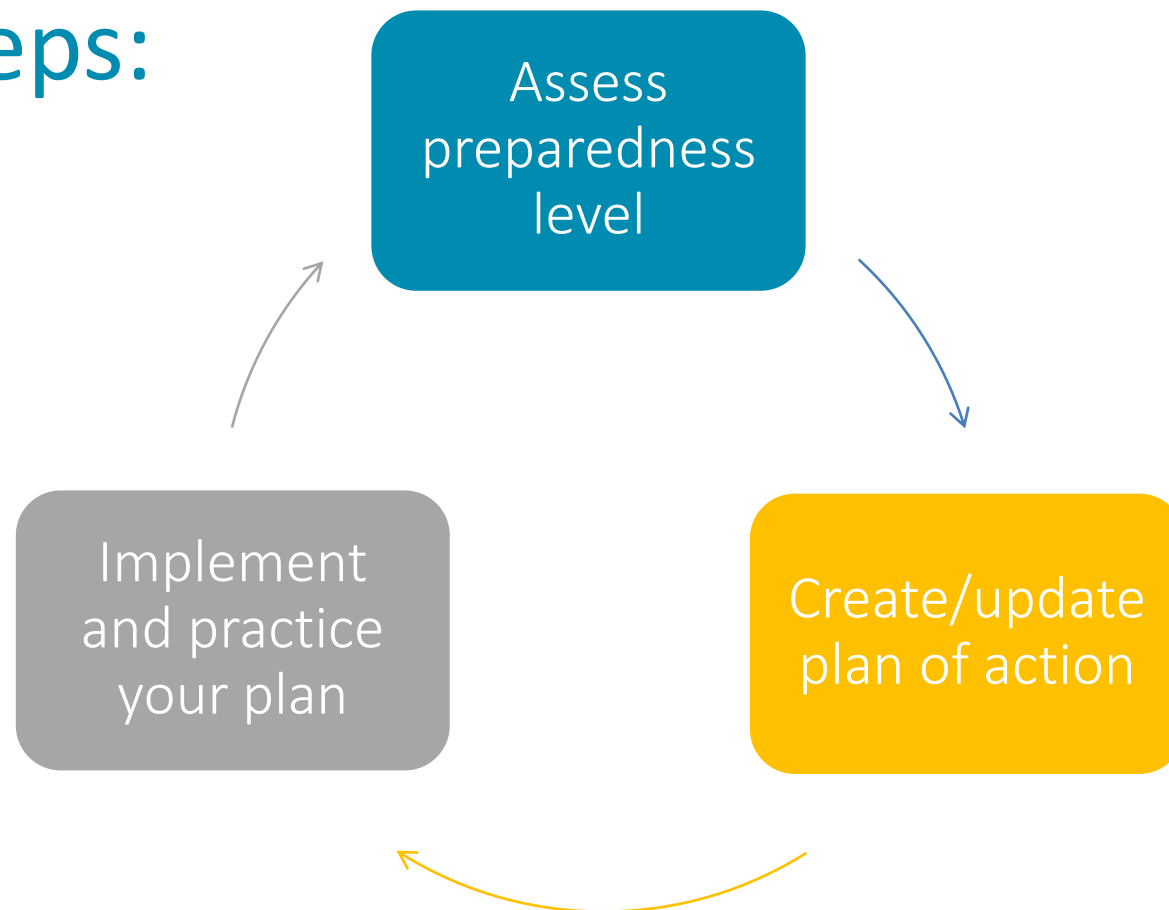
Hurricanes, earthquakes, fires, floods – can result in a loss of power, facilities, or personnel.

2 Man-made Hazards

Explosions, mechanical failures, power outages, workplace violence, chemical spills – can have the same consequences as a natural disaster, or worse.

Prepare, Plan, and Practice to Protect

3 Steps:



Emergency Action Plan (EAP)

Factors for Consideration:

1 Prepare

What are the greatest threats to you and your firm?

This depends on a variety of factors like geographic location, unique risk factors of your firm and industry, and the types of equipment and facilities that are critical to your operations.

2 Plan

What is your plan of action? Outline your prevention, response, and recovery efforts—what to do before, during, and after an emergency.

3 Practice

What training and practice drills are required?

Make sure everyone receives proper training to execute assigned tasks.

More EAP Considerations

1 Instruct on what to do in an emergency

Responsibilities – who will do what, when, and how?

Communication – how will information be communicated to employees and customers?

Evacuation – escape routes, including for those with disabilities

Alternate workspaces, etc. – short term and long term alternatives

Rendering assistance – know what your liability is and what protections exist

2 Meet regulatory requirements

OSHA – safety

Wage and labor laws – pay, leave, and other benefits

Resources for Being Prepared

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OSHA EAP Requirement

29 CFR § 1910 Emergency Action Plans (EAP)

§ 1910.38(c) An emergency action plan must include at a minimum:

- (1) Procedures for reporting a fire or other emergency;
- (2) Procedures emergency evacuation, including type of evacuation and exit route assignments;
- (3) Procedures to be followed by employees who remain to operate critical plant operations before they evacuate;
- (4) Procedures to account for all employees after evacuation;
- (5) Procedures to be followed by employees performing rescue or medical duties; and
- (6) The name and title of every employee who may be contacted by employees who need more information about the plan or an explanation of their duties under the plan.

Visit The OSHA Website

The screenshot shows the OSHA website header with the Department of Labor logo, social media icons, a search bar, and a navigation menu. The main content area features a banner for the 'Evacuation Plans and Procedures eTool' with a background image of workers in an emergency. Below the banner are navigation buttons for 'Emergency Action Plan', 'Emergency Standards', 'Expert Systems', and 'Additional Assistance'. The 'Expert Systems' button is highlighted, leading to a page titled 'OSHA's Expert Systems » Am I required to have an emergency action plan (EAP)?'. The page contains instructions for using the questionnaire, a note about incorrect answers, and a question: 'Are fire extinguishers provided in the workplace?'. Below the question are 'Yes', 'No', and 'Start Over' buttons. At the bottom of the page are links for 'Home', 'Emergency Action Plan', 'Emergency Standards', 'Expert Systems', 'Additional Assistance', 'Site Map', and 'Credits'.

UNITED STATES
DEPARTMENT OF LABOR

Find it in OSHA

A TO Z INDEX

Occupational Safety and Health Administration

English | Spanish

ABOUT OSHA ▾ WORKERS ▾ EMPLOYERS ▾ REGULATIONS ▾ ENFORCEMENT ▾ TOPICS ▾ NEWS & PUBLICATIONS ▾ DATA ▾ TRAINING ▾

eTools

Evacuation Plans and Procedures eTool

Emergency Action Plan Emergency Standards Expert Systems Additional Assistance

OSHA's Expert Systems » Am I required to have an emergency action plan (EAP)?

Please answer the following questions to determine if you are required to have an emergency action plan (EAP). This questionnaire uses JavaScript to function correctly. If your browser does not support JavaScript, or you have JavaScript disabled, a non-interactive version of the questionnaire is also available.

NOTE: If a question is answered incorrectly or you want to change it, you *MUST* click on the 'Start Over' button.

Are fire extinguishers provided in the workplace?

Yes No

Start Over

Home | Emergency Action Plan | Emergency Standards | Expert Systems | Additional Assistance
Site Map | Credits

Find out if

an EAP is required

for your firm

Other Concerns

Pay, Leave, and Benefits

Does your policy comply with state and/or federal laws regarding pay, leave, and benefits?

- ✓ Fair Labor Standards Act (FLSA)
- ✓ Americans with Disabilities Act (ADA)
- ✓ Family and Medical Leave Act (FMLA)

Additional Resources for Planning

American Red Cross
Ready Rating™

MEMBER LOGIN
RED CROSS STORE

American Red Cross

HOW IT WORKS ABOUT RESOURCE CENTER SPONSORS JOIN CONTACT

Search...

DO YOU KNOW IF YOUR ORGANIZATION IS IN DANGER?
**YOU CAN FIND OUT BY ANSWERING
THREE SIMPLE QUESTIONS...**

ANSWER NOW

Make sure your organization is safe and ready
Become a Ready Rating Member to see how you compare and where you can improve.
New to Ready Rating? Check out the videos below for more enhanced program information.

Ready Rating Program Help Videos

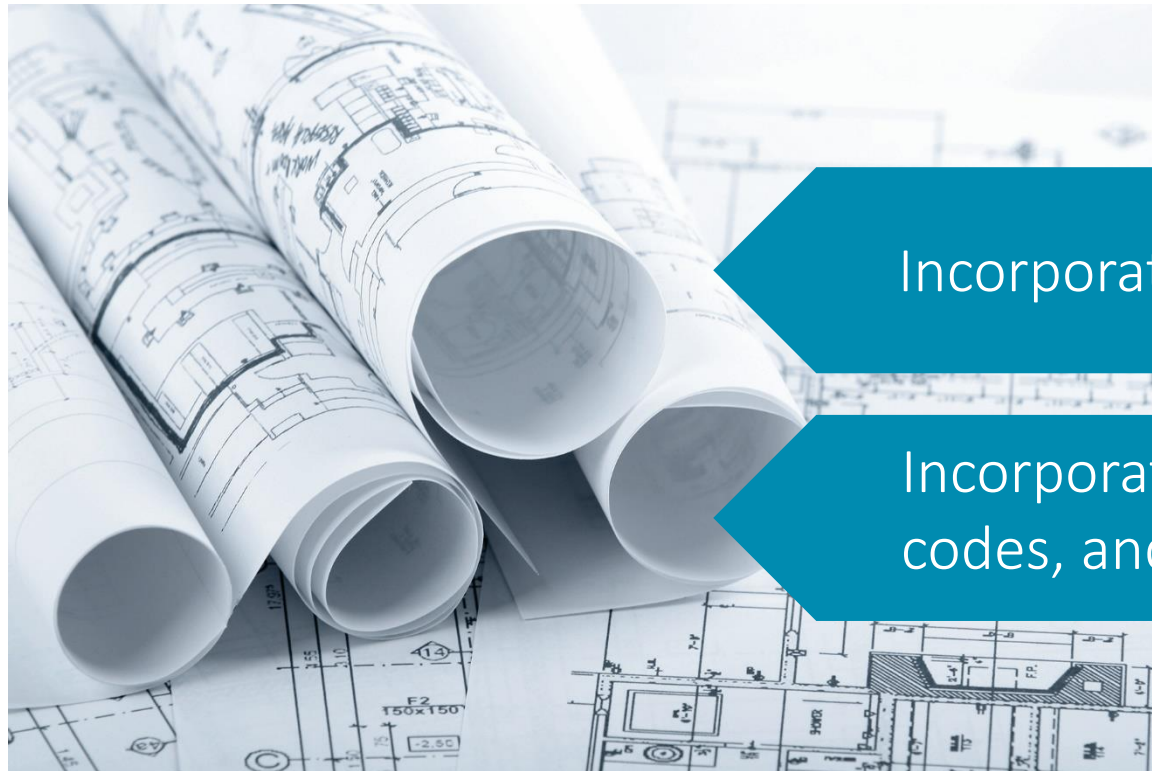
Red Cross

DHS
Department of Homeland Security

FEMA
Federal Emergency Mgt. Agency

Law Enforcement

Updating Your EAP Following a Disaster



Incorporate lessons learned

Incorporate changes in laws, codes, and regulations

Insurance Considerations

- 1 Review and assess your insurance policies**

Understand the terms and conditions. Are you properly insured for your exposures?
- 2 Maintain an inventory**

Document your firm's assets, billings, expenses and cash flow in the event you need to file a claim.
- 3 Gather important paperwork**

Keep important contact information and papers where you can access them easily in the event of an emergency.

Designing with Disasters in Mind

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Resilient Design Defined

Preparing EAPs informs disaster resilient design

Definition

As defined by the Resilient Design Institute

Resilient design is the intentional design of buildings, landscapes, communities, and regions in order to respond to natural and manmade disasters and disturbances— as well as long-term changes resulting from climate change—including sea level rise, increased frequency of heat waves, and regional drought.

"We underattend to the future, we too quickly forget the past and we too readily follow the lead of people who are no less myopic than we are."

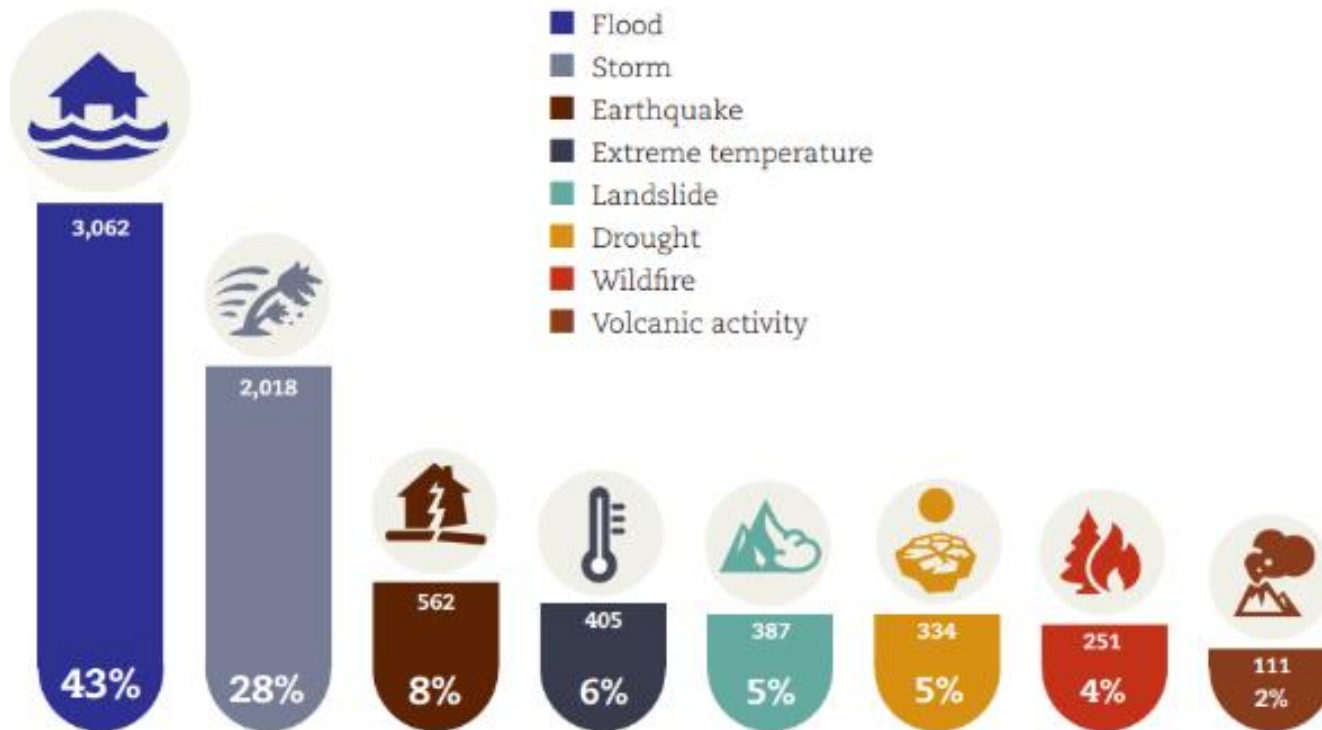
— Robert Meyer,
Professor of Marketing
University of Pennsylvania
Response to Superstorm Sandy

Flooding

The most common natural disaster type

Occurrences of natural disasters

By disaster type (1995-2015)



Exceeding Codes, Standards, Regulations



brettzamoredesign • Follow

brettzamoredesign Looking from the Arnold Home in Braeswood along Braes Bayou. Water has reached 2 steps below the 1st level. House was built 16" above FEMA's requirements in a 100 year flood zone. The Arnold's have taken in 19 of their neighbors who have lost their homes to the flood. Amazing people to shelter so many. Praying for their safety and their home to withstand such devastation. #harvey #houstonfloods #helpingothersinneed

Building codes, standards, and regulations are minimum requirements.



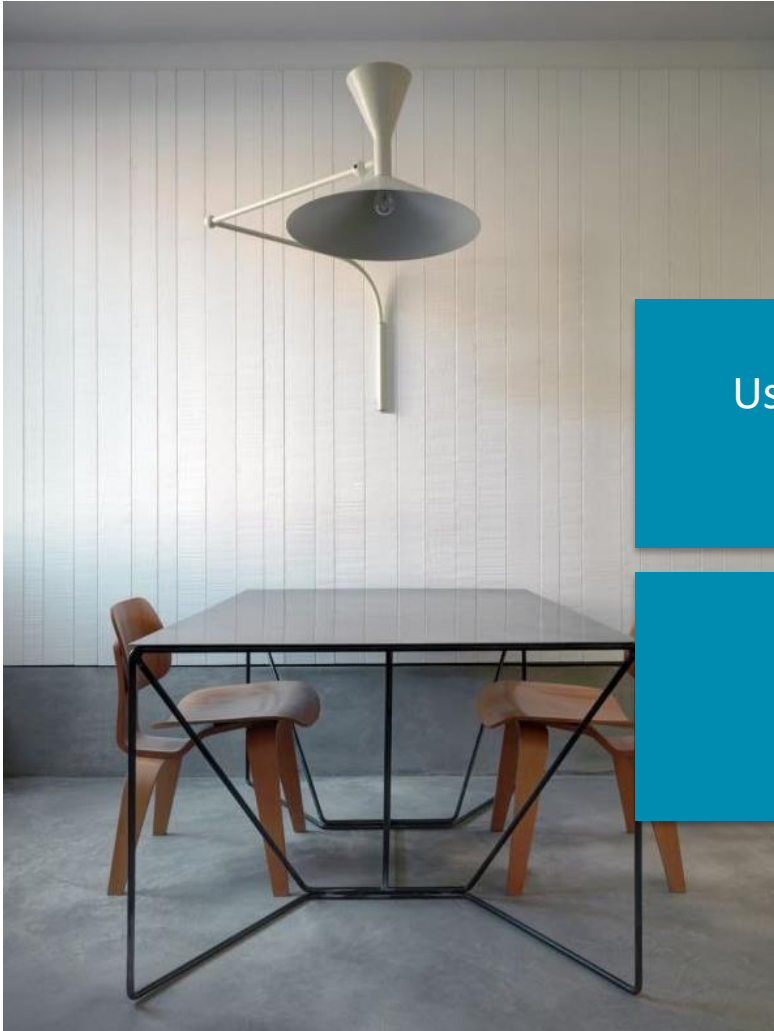
222 likes

AUGUST 28, 2017

Log in to like or comment.



Weather Resistant and Durable Material



Some examples include:

Use water and flood resistant material on lower levels and basements.

Consider the placement of vital systems.

Minimize Storm Run-Off



Use materials and designs that absorb and/or minimize storm water runoff.



Innovative Design

Implement innovative design.
For instance, experimenting with the
concept of structures that rise with
water levels.



Pictured is the Float House, designed by Thom Mayne and his students at UCLA.

Professional Ethics

American Institute of Architects (AIA)

Ethical Standard 6.5

Members should incorporate adaptation strategies with their clients to anticipate extreme weather events and minimize adverse effects on the environment, economy and public health.

Rule 6.501

Members shall consider with their clients the environmental effects of their project decisions.

Volunteering

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Helping out in the wake of disaster

What liability do design professionals face by volunteering?

Volunteer Liability



What everyone wants to avoid is what happened after the terrorist attacks of 9/11, when **dozens of firms and individual designers pitched in at Ground Zero to help with the recovery effort.** Among other things, they provided guidance on how to dig out debris without destabilizing it and possibly causing injury. **Later, though, numerous lawsuits were filed, many of them multimillion-dollar class-action suits, which held design professionals partly responsible** for everything from failure to save those who were buried to worsening the release of toxic dust.



Manage Volunteer Liability

1 Understand the parameters of the laws that limit your liability.

Volunteer Protection Act, Good Samaritan Laws, etc...

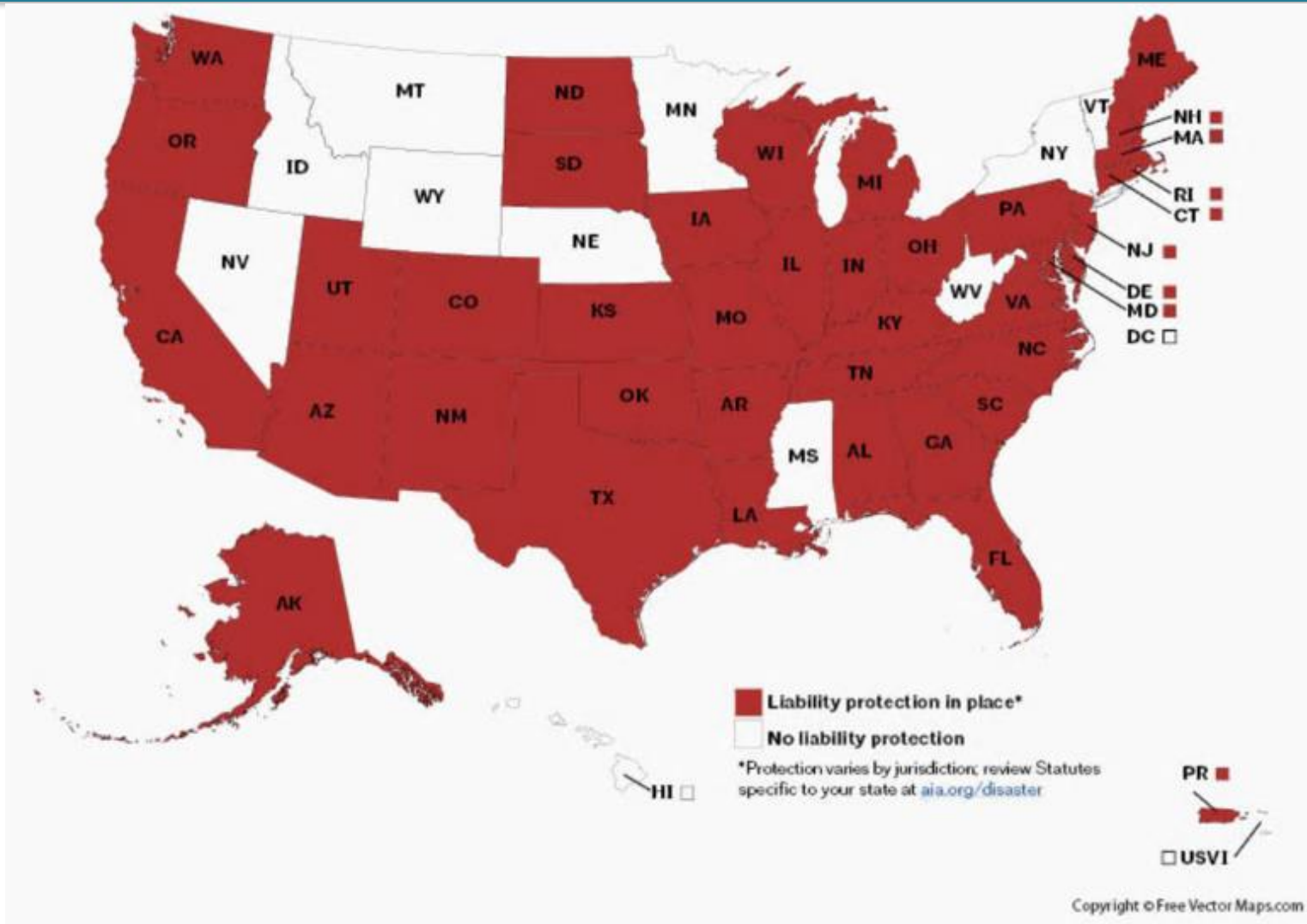
2 Determine what is covered by your insurance policy.

Is there coverage for volunteer services? If not, consider procuring the necessary insurance.

3 Have a written contract.

At a minimum, clarify your scope of services, and limit your liability.

Good Samaritan Laws By State



Good Samaritan Law Analysis

1 Covered Parties

Does it apply only to licensed professionals or “any individual working under the supervision of a licensed individual? Does it apply specifically to Architects? Engineers? Surveyors?

2 Covered Acts

Does it apply to “all acts” or are there limitations for “acts or omissions constituting gross negligence or wanton/willful misconduct?

3 Covered Timeframes

Does it only cover activity within a specified number of days following the end of a disaster? If so, what is that timeframe?

California's Good Samaritan Law

CA BPC § 5536.27

- (a) An architect who voluntarily, without compensation or expectation of compensation, provides structural inspection services **at the scene of a declared national, state, or local emergency** caused by a major earthquake, flood, riot, or fire **at the request of a public official**, public safety officer, or city or county building inspector acting in an official capacity shall not be liable in negligence for any personal injury, wrongful death, or property damage caused by the architect's good faith but negligent inspection of a structure used for human habitation or a structure owned by a public entity for structural integrity or nonstructural elements affecting life and safety.

The immunity provided by this section shall apply only **for an inspection that occurs within 30 days of the declared emergency**.

Nothing in this section shall provide immunity for **gross negligence or willful misconduct**.

Other Considerations

1 Insurance

Do you have coverage for company sponsored volunteer activity? Coverage exists under RLI's Professional Liability Insurance so long as employees are providing "services they are legally qualified to perform, on behalf of your firm."

2 Policy

Create policy that addresses employee moonlighting and volunteer services that are not company sponsored. Will they be prohibited? Will they be allowed? Or allowed only with approval from management?

Don't Forget Contracts

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Written Contracts

AIA[®] Document B106[™] – 2010

Standard Form of Agreement Between Owner and Architect for Pro Bono Services

AGREEMENT made as of the _____ day of _____
in the year _____
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

and the Architect:
(Name, legal status, address and other information)

Helpful provisions
to address include:

- Scope of services
- Right to rely
- Copyright and licenses
- Limitation of liability

Available for free at <https://documentsondemand.aia.org/>

Provisions to Watch Out for

Time is of the essence

*A **time is of the essence clause** adds **urgency** to the contract to ensure that the parties abide by the timeline the contract is attempting to enforce.*

Time is of the essence. Design Professional shall provide the Services required by this Agreement in a timely manner at such times as will enable the Design-Builder to complete its work in conformance with the most recent Project schedule established by Design-Builder.

Possible Alternative

“Time limits established by the schedule shall not, except for reasonable cause, be exceeded by the [Design Professional] or Owner.”

Provisions to Watch Out for

Liquidated Damages

Predetermined amount of damages in the event of a breach of contract, used where actual damages are difficult or impossible to prove.

If the Contractor fails to achieve Substantial Completion within the Contract Time, the Contractor shall be liable for the sum of _____ dollars (\$_____) as liquidated damages, and not as a penalty, for each calendar day beginning on the first day after the Contractor fails to achieve Substantial Completion within the Contract Time until the date that Substantial Completion is achieved.

Possible Alternative

[Design Professional] shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

Provisions to Watch Out for

Suspension/Termination

Suspension and Termination provisions shouldn't be one-sided in favor of the Owner

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.



Possible Alternative

...If [Design Professional] elects to suspend services, the [Design Professional] shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the [Design Professional] shall have no liability to the Owner for delays or damage caused the Owner because of such suspension of services.

Closing Thought

“ Things turn out for the best
for those who make the best
out of the way things turn out. ”

-- The Park Forest/Homewood-Flossmoor Star (1961)

Thank you for your time!

QUESTIONS?

This concludes The American Institute of Architects
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