

Contractors Should Plan Ahead for the “Big One”

For underground contractors, the importance of a prompt and coordinated accident response cannot be overstated. For everyone to be on the “same page” it is critical that this mind-set and planning “start from the top” with full endorsement of the senior management team. Managing accident investigations for underground contractors requires an entirely different approach requiring a coordinated effort and lightning quick response.

Here is a “Top Ten” list of things that can be done before an accident to help make sure your company is ready if and when a major loss occurs:

Establish Accident Response Plan

When it comes to accident response it is best to develop a “no huddle offense” playbook so everyone knows what their role is in advance even before the accident occurs. It is too late to create a response plan at the time of an accident. Being prepared in advance of serious accidents will reduce the inherent stress created by major jobsite accidents. No contractor wants to be involved in a major accident not even when it primarily involves another sub or the GC. But should such an event occur it is important to be ready. It starts in the planning stage and can easily become part of your overall safety program and business culture.

Safety in Priority #1

Although this may seem obvious, it needs to be stated. Safety is the top priority and trumps all other response mechanisms, when an accident occurs on your jobsite. Make sure that anyone who has been injured is being treated, and make sure that any dangers that have been created are corrected or shielded before beginning any other response to any accident.

Preserve Evidence

Evidence should immediately be preserved by stopping anything from being moved and marking off the area if possible. Absolutely everything involved in the accident should be left in its position until after photographs are taken. If any equipment was involved, turn it off without moving it. Equipment will often have “black box” technology that records its functions, which can be prejudiced if the equipment is moved. If anyone else tries to move any of the items involved in the incident, request that they stop and take a photograph.

Notify Certain Entities

Notify your insurance carrier or broker immediately. Good insurance companies will have 24/7 reporting capabilities and rapid claim investigation response procedures. Also notify OSHA, the police and any local authorities, as the incident warrants.

Prepare an Accident Report

Have your safety coordinator or project supervisor/foreman immediately complete a accident report as soon as possible. This information will be more difficult to compile as time goes by, so make sure it is done immediately upon notice of the accident. Keep in mind that certain communications and materials may be privileged, so be aware of **Attorney Client Privilege** issues in order to understand how to maintain confidential information to protect your interests.

UCA Risk Management

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Remember: 'Minutes – not hours count' so time is of the essence – delay results in lost or altered evidence, missed witness opportunities and potentially damaging statements.

Take Photos

Photograph the entire scene immediately. Take pictures of any tools or equipment used in the work that brought about the accident, including close up shots of any labels for that equipment and serial numbers in close up proximity, as well as 'panoramic view' photographs of the scene and equipment. Use the "8-point" technique of photographing all four sides and all four corners of any object or equipment.

Collect & Store Evidence

Once the entire accident scene has been photographed as is, collect any items that were involved in the incident. Place those items in storage containers, if possible, and label them. Once everything is labeled, store it in a secure covered area until an attorney authorizes you to discard it. Before storage, you also need to prepare very detailed lists of all items, including the name of the person that collected them and the date of collection. If any equipment is involved, the serial number should be noted. This evidence includes the documentary records listed, as follows.

Collect Paperwork

Your claims department will need all documents related to the jobsite and accident, so have someone begin compiling them. Once compiled, scan if possible or copy those documents in preparation for sending them to your claims department. The documents include the following:

- Any subcontract for the project at issue including any lists of contractors and contact information
- Any records for the lease, maintenance and repair of any equipment involved, including copies of any records kept on the equipment itself.
- Names and contact information from any witnesses.
- Any video surveillance of the area where the incident occurred
- Any site safety plan and specific training records including weekly tool box talks for all individuals involved in the work
- OSHA 300 logs for the last three years
- Any e-mails or electronic files on any computer that are related to any of the above
- Accident report documents

Make Nice with the Authorities

In the event of a serious jobsite accident, it is clearly in your best interest to make nice with local building departments and OSHA Representatives. They have a job to do – and a legal right to do it. Creating an antagonistic atmosphere will inhibit the site investigation and could result in adverse consequences during the post accident investigation proceedings.

A pre-existing relationship with local building department representatives and OSHA Compliance and Safety Health Officers (COSHO), Assistant Area Directors (AAD) and Area Directors (AD) can go a long way to reduce tension at the site of a serious jobsite accident.

Know Your Local Authorities

A working relationship with Senior Governmental Officials such as AAD or AD **can be helpful to reduce tensions** with often overzealous COSHO or lower level Building Department Representatives.

It doesn't matter whether the accident was your fault or not. Planning ahead for proper accident investigation response is just as important when you are not responsible as it is for when you might have potential liability exposure. Why? Because whether or not you are at fault, you still have to prove it later – usually during a lawsuit. If you weren't at fault but did not respond properly and develop a good accident investigation there is a good chance that the plaintiff and the other defendants could get the upper hand and you could end up paying more than you should for an accident that was not your fault.

Ten Management Steps Major Accident Planning & Preparation	
1	ESTABLISH A PRE-EXISTING ACCIDENT RESPONSE PROTOCOL
2	SAFETY IS THE TOP PRIORITY
3	TAKE IMMEDIATE STEPS TO PRESERVE EVIDENCE
4	NOTIFY CERTAIN ENTITIES
5	PREPARE ACCIDENT & WITNESS CHECKLISTS
6	PHOTOGRAPH SCENE & EQUIPMENT
7	COLLECT & STORE EVIDENCE
8	COLLECT RECORDS & CONTRACTS
9	COOPERATE FULLY WITH AUTHORITIES
10	REACH OUT TO NETWORK OF INDUSTRY CONTACTS

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