

# PROJECT REPRESENTATIVE'S MANUAL





## FOREWORD

A Project Representative's Manual serves a variety of important purposes. In particular, it:

- Enhances the efficiency and professionalism of your practice by specifying appropriate actions for the various individuals who are responsible for the post-design phase of your firm's projects
- Helps achieve effective performance by those involved with the post-design phase of a project, field representatives in particular
- Helps reduce your exposure to professional liability losses.

The following pages comprise a sample Project Representative's Manual that design firms can use as a starting point and basis for discussion in developing their custom manuals. The sample presupposes application to larger projects pursued on a prime-professional basis. When smaller projects are involved, or if your firm operates as a subconsultant, simply delete those portions that do not apply.

Recognize that no one manual will be applicable to all of your projects. In fact, each project may be worthy of its own manual. Consider:

1. Construction-phase services often are the most important services of all, particularly from a professional liability standpoint. They permit prompt reaction to unanticipated conditions or problems, so you can stop molehills from growing into mountainous liability risks.
2. The specific field services appropriate to a project and the extent to which your manual should discuss each service vary from project to project. Factors that impact the appropriate scope of services include the background and skills of the project representative and project architects/engineers, as well as the attitudes of the owner, contractor, and subcontractors. In some cases (for example, when the contractor or certain subcontractors have a reputation for "low-balling," abusing the RFI process, or requesting an excessive number of change orders), additional services may be called for as a defensive measure. While you can give general guidance to a project representative about these service issues, a project-specific Project Representative's Manual will be far more effective.
3. This Project Representative's Manual calls upon the project representative to gather a substantial amount of information

regarding the project. Most of this information must be gathered from the project architect/engineer, the contractor, subcontractors, other design firms and the client. You will want to prepare or purchase checklists, forms and other tools that will assist your project representatives in gathering such information on a consistent basis.

4. Tailoring a general manual to the needs of a specific project requires in depth discussion of the project. This communication process will benefit both the project and your firm.

The sample manual that follows was prepared by members of the Professional Liability Agents Network (PLAN), an association of professional liability insurance specialists serving design firms and other professionals throughout North America. This is the fourth edition of the manual, which was originally prepared exclusively for PLAN by John Philip Bachner. Bachner based much of his work on materials previously produced by the Design Professionals Management Association (DPMA) and Risk Analysis and Research Corporation, a risk management organization that was headquartered in Monterey, California. A draft version of the manual was reviewed by members of PLAN as well as a number of attorneys, architects, consulting civil engineers and other design professionals. PLAN extends its deepest appreciation and thanks to all of these individuals.

Important: PLAN believes that the suggestions conveyed through this sample manual are reliable. Nonetheless, the contents of the Project Representative's Manual are not intended for direct distribution and application. Use the publication solely as a starting point to spur your own discussion and research, so you can develop a customized manual or series of manuals suitable to your own firm, the projects involved, the individuals and organizations associated with those projects, and the codes, standards, regulations and statutes that apply in the jurisdiction where the project is located.

PLAN welcomes your comments about this publication and suggestions for improvement. Please address your comments to PLAN at [info@plan.org](mailto:info@plan.org), or to your PLAN representative.

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# PROJECT REPRESENTATIVE'S MANUAL

*[Name of Your Firm]*

# CONTENTS

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## **INTRODUCTION / 3**

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## **PRE-CONSTRUCTION ACTIVITIES / 7**

- Project Representative's Orientation
- Contract Documents Review
- Pre-bid Conference
- Project Team Meeting
- Pre-construction Submittals Review
- Pre-construction Conference
- Testing Conference

---

## **FIELD OBSERVATION / 13**

- Maintaining a Balance
- Limits of Authority
- Communication
- Routine Recordkeeping and Reporting
- Non-routine Recordkeeping and Reporting
- The Field Office
- Site Safety
- Testing/Inspection Procedures and Records
- Interpretation of Plans and Specifications
- Noncompliance
- Shop Drawing and Samples
- Change Orders
- Substitutions
- Construction Progress Meetings
- Progress Payment Applications
- Field Record Documents
- Final Review

---

## **PROJECT CLOSE OUT / 19**

- Guarantee/Warranty Period
- Project Feedback

---

## **EXHIBIT I / 20**

---

## **EXHIBIT II / 20**

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# INTRODUCTION

Congratulations! As our project representative, you have been entrusted with a significant responsibility. Your role is that of project facilitator, contributing to the process of helping the contractor's work progress as planned and achieving a completed project that meets design intent and fulfills the owner's expectations in terms of budget, schedule, appearance, function and quality.

**As project representative, you need to be a keen observer, a tactful communicator and a well-informed administrator familiar with every project detail. In short, your focus is the project itself and its successful completion.**

**C**ontractors typically focus on completing their projects within budget and on schedule, while achieving a reasonable profit in accordance with their bids. To accomplish that result, they need to plan and coordinate effectively. They know that, during construction, they will have many questions that only the design team is in a position to answer. They will regard you, the project representative, as the person responsible for obtaining timely and accurate responses to their questions and concerns so they can achieve their budget, schedule and profit objectives. They also understand that you are responsible for evaluating their work's general compliance with design plans, specifications and intent. Contractors should want to work with you in tandem so defects can be caught and corrected quickly, permitting continued progress toward a successful project.

When evaluating a contractor's work, keep a positive attitude. Form your own opinions based on what you see and hear, but don't be overly critical with your oral or written comments. Do not suppose that contractors know less than you do about the project (they may know much more) or that they are less interested in the success of the completed project. They need referrals, too, and have bonding companies to work with and portfolios to expand.

Owners, of course, want their projects delivered on time and within budget. Those with experience understand that achieving such objectives is not simple. They realize that construction documents almost always contain errors or omissions, and even the best design

plans contain ambiguities and inconsistencies. Your job is to manage expectations and resolve problems that crop up before they grow into crises by providing guidance in the field and eliciting prompt response by the appropriate parties in our office. Above all, owners want no major delays, no significant extra costs and no disputes between parties to the project.

As our project representative, it's your job to help prevent the owner from being disappointed. An owner's typical position when a problem arises is: "I bought and paid for a properly designed and constructed project. I don't care if it is a design or construction problem – all I want is the problem fixed."

Remember that you are dealing with a variety of people with a variety of perspectives: the owner and owner's representative; the contractor, subcontractors, and their site superintendents; subconsultants (or if you are a sub, lead designer); local, state/provincial, and sometimes federal agency representatives; and even your coworkers back in the office who invariably have their own deadlines to meet and resent having to give up their time to you. The ability to "read" and work with diverse personality types is very important, as is a good sense of humor.

Be sure to let others involved in the project know what you expect. You're the head cheerleader for the project, so show your enthusiasm. Let others know that you understand their viewpoints, but will not permit their interests to override the needs of the project.



This does not mean you have to be inflexible, of course. In fact, just the opposite is true: You will encounter unanticipated events and developments every day that demand flexibility. How you deal with obstacles and surprises and how you get all parties involved to work together to overcome problems will, in large measure, be the key determinants of project success. At times you will have to be forgiving; on other occasions you must insist that specific tasks be accomplished by a hard deadline.

Recognize that as project representative, you will serve as project historian and record-keeper. You are the individual in the best position to accurately report what happened – where, when, why and how. You will be counted on to keep accurate and complete records not only to meet the project's day-to-day needs, but also its long-term needs. Questions, concerns and disputes may arise months or even years after our services are complete, and you may be called upon to produce needed documentation, records and other evidence of what really happened.

We would be remiss if we failed to inform you about the serious professional liability problems to which our firm can be exposed. The principal source of such legal problems is not unrelated third parties urged on by personal injury attorneys to collect damages for alleged losses. Rather, the majority of professional liability claims we face are filed by our clients. Most others are filed by the contractors and subcontractors working with us on the project.

Generally speaking, the law assumes that our firm owes a duty of care to any party that could foreseeable be damaged by our negligent professional acts, errors or omissions. Unfortunately, many courts do not assess damages according to the degree of fault. Under the concept of joint and several liability, a party responsible for a small percentage of a problem may be liable to pay 100 percent of

the damages. Typically, that party will be the one with the "deepest pockets," not necessarily the one who did the most damage.

Although we are insured against professional liability losses, insurance only goes so far. It will not pay out more than our limits, nor will it pay any amount within our deductible. Plus, insurance will not pay for the time we have to spend, or the frustration and anxiety we must endure, as a case moves through the various stages of dispute resolution. Even were we to be found not liable, we might have to expend tens if not hundreds of thousands of dollars' worth of our time. Given a typical net profit of five percent of revenues, we must earn \$20 for every \$1 we expend on a claim.

What's more, these cost calculations do not account for the fact that we probably will lose what otherwise could have been a client for life. As such, instead of having a client we could rely on for profitable repeat business and referrals, we would have a disgruntled former client who not only will never retain us again, but will likely denigrate us among colleagues and friends.

The majority of claims we are likely to face involve events that arise during construction. These include events caused by our design errors or omissions as well as errors and omissions of the contractor. Sometimes contractors do their utmost to blame the designer for their construction errors. As project representative, you become the most important defense we have against disputes and litigation. What you do and how well you do it will have a profound impact on the project, the owner, the contractor, the subcontractors, the subconsultants – and your friends and colleagues at work.

We have given you the important assignment of project representative because we believe you are capable of fulfilling it well. And, thus, we conclude this introduction as we began: Congratulations!

# PRE-CONSTRUCTION ACTIVITIES

## PROJECT REPRESENTATIVE'S ORIENTATION

Because project representation is such an important element of every job, receiving a complete orientation is essential to your effective performance. Unfortunately, project architects/engineers do not always place a high priority on providing such a project orientation. They may claim to be extremely busy trying to complete designs or meet another important deadline. In those circumstances, the natural inclination is for the project architect/engineer to put your needs on the back burner.

Don't let this happen. As soon as you learn that a project has been assigned to you, set up an appointment with the project architect/engineer to discuss key issues. Request, obtain and review a set of project documents, including the project proposal, the client contract and copies of elevations and renderings. Become as familiar with the project as you possibly can. Pay particular attention to the proposal's or contract's scope of services. It should indicate not only what our firm is required to do, but also what we are not hired to do. Note any tasks you believe should be included in the scope but are not.

Be fully prepared for your meeting with the project architect/engineer since his or her time is at a premium. Determine exactly what's expected of you in your role as project representative and be candid in discussing your strengths and weaknesses as they match those responsibilities. Do not be embarrassed to admit that your experience or capabilities may be limited in certain areas. It's far better to identify shortcomings and obtain the help you need to improve those skills than to conceal a weakness that later leads to an error or omission in services rendered.

Your mission is to not allow the meeting to conclude until all of your concerns and questions have been addressed. If the lead architect/engineer must cut the meeting short before you have all the information you need, schedule a follow-up session with a targeted agenda.

Following the meeting, you should know answers to the following:

1. Who is the project owner?

2. What are the owner's goals and objectives?
3. How many other projects has the owner been involved in?
4. Have we worked with this owner before?
5. Does the owner have realistic expectations about the budget and schedule?
6. What has been the owner's general attitude toward design firms?
7. Has the owner been litigious?
8. Who is the contractor on the project?
9. Have we worked with this contractor before? If so, what was our experience?
10. What is the contractor's history and reputation?
11. Is the contractor known for high-quality work?
12. Is it known as a firm that seldom submits change orders, or is it a company that traditionally asks for substantial changes?
13. Does the contractor have a history of filing or threatening to file claims against design professionals?
14. What are the procedures for submittal reviews?
15. How often and at what project stages will I be expected to be on site?

Examine your own schedule. Will the project be ongoing during your scheduled vacation? Who will handle your responsibilities when you are unavailable? Which oversight procedures will be used when others take on temporary project representative duties? Who will orient and train your backup?

Insist on receiving a thorough project orientation. Remember: You are representing our firm, not any given individual within our firm. If you are not in a position to implement your responsibilities well, the whole firm suffers. Accordingly, if you find it difficult to obtain the thorough project orientation we insist you have, speak with someone in high authority. We need you to have the ability and confidence to do the

quality job we expect you to do, and which we know you cannot do unless you are properly oriented.

As project representative, you are our primary facilitator. Clear and consistent communication with all major parties to the project is essential. Pointing out problems, even when you don't have the solutions, is a sign of strength, not incompetence. It is your job to ask the tough questions that need to be asked and get the team to thoroughly address any and all problems at the earliest opportunity.

## CONTRACT DOCUMENTS REVIEW

As part of your orientation, thoroughly review the contract documents independently. Ideally, you will initiate this review as contract documents are first being drafted, and continue through the final plans and specifications. Your goal is to identify potential design and construction problems. Look for errors, inconsistencies, discrepancies omissions and ambiguities. Then sit down with the project architect/engineer to review the contract documents together.

Make sure all of your questions are adequately answered before ending this review. Don't fear that asking questions will cause others to conclude you are unqualified or simply don't understand this project. Above all, don't make assumptions. It's your responsibility to get informed answers from those in the best position to provide them.



To an extent, you will need to function as a devil's advocate, anticipating questions the contractor may have so you can accurately answer those questions in the field. Any questions you have about plans and design intent are likely to exist in the contractor's mind as well. Obtain the answers now and record them in your daily field report (DFR) or journal. (More on these to come.)

Review project specifications closely and list every standard they refer to. Obtain a copy of each standard, or make arrangements to have what you need available on site. Check with the specifications writer to verify that each standard you receive is the current version.

Also, list the shop drawings, project data, samples and mock-ups called for. Use this list to evaluate the completeness of the contractor's shop drawing schedule and to help facilitate coordination and oversight of the submission and review process.

Become familiar with the various checks and balances built into the design and construction process. What are the contractor's submission requirements? What are the project architect/engineer's requirements? What happens to shop drawings that were not requested or that were required but are incomplete? Given that the contractor usually submits shop drawings directly to the project engineer/architect, specify how you want to be in the loop to provide the oversight required.

## PRE-BID CONFERENCE

The pre-bid conference is held to answer prospective bidders' questions about the project and contract documents. Participants usually include, in addition to the project representative, the owner, project architect/engineer, construction manager, and interested contractors and subcontractors.

Your principal role in the pre-bid conference is to help the project architect/engineer answer questions. To do so, you need to be thoroughly familiar with the project's design concept, scope and objectives. You might be asked to help the project architect/engineer interpret the contract documents for others. By listening to the questions asked by pre-bid conference participants, you should be able to identify those aspects of the documents that seem to require further revision or clarification.

The pre-bid conference presents a good opportunity to familiarize yourself with the owner's expectations. Do they seem realistic? If not, make notes and be prepared to address your concerns with the project architect/engineer soon after the conference is concluded. Steps should be taken either to meet the owner's expectations, or to make the owner's expectations more realistic. Unmet owner expectations are a leading cause of project disputes and claims.

In some cases, the client may ask your opinion of prospective contractors. Be careful not to provide subjective opinions not supported by documented facts. If word gets back to a contractor that our firm has disparaged his or her reputation, we could be held liable for slander.

You might ask yourself, "Is attending the pre-bid conference really part of my responsibilities? Isn't it up to the project architect/engineer to initiate and lead such a meeting?" The answer is that client satisfaction, and the loss prevention it affords, are the responsibility of everyone in our firm. If you believe you can help clarify and meet client expectations, it is your duty to do so. Solutions to client issues you find obvious might go overlooked by others. Don't assume everyone sees what you see. Remember: Your primary concern is a successful project. Your goal is to make the owner, contractor and design team satisfied with the end result and the design and construction process through which that result is achieved.

## PROJECT TEAM MEETING

The project architect/engineer will arrange for a project team meeting, soon after the construction contract is awarded. The meeting's purpose is to assign responsibilities, establish lines of communication, promote smooth project progress and prompt effective action by team members should progress stall.

Invited to the project team meeting are the client and/or its representatives, the project architect/engineer, other key design professionals and consultants, the specifications writer, the job captain and you as project representative. Agenda items may include:

- Self-introductions, noting specific project roles, responsibilities and objectives
- Project organization, perhaps presented as a flowchart
- Official lines of communication
- Construction schedule and milestone dates
- Special risk factors
- Zoning, building code and other regulatory concerns
- The construction budget
- Field observation services in general and operations involving particular issues and concerns
- Procedures and timing requirements associated with shop drawing submission and review
- Change-order review and approval procedures
- Substitution review and approval procedures
- Review, verification and approval of progress payment requests

- Jobsite safety responsibilities and proper procedures when potential hazards are observed
- Construction progress meeting schedule (participants, day/date, time, location)
- Requests for information (RFIs)
- Project close-out (punch lists)
- Pre-construction conference (participants day/date, time, location)
- Assignment summary.

A memo should be sent to all prospective attendees, notifying them of the meeting's date, time, place and agenda. At the same time, the project architect/engineer should make arrangements for recording the proceedings and preparing detailed minutes, and then issuing a memo and the minutes to all participants confirming understandings.

The meeting's minutes or a separate fact sheet should identify the names, addresses, telephone numbers (office, cellular, and home), fax numbers and e-mail addresses of:

- Owner's representatives
- Project architect/engineer
- Project representative
- Other design professionals and consultants
- Specifications writer
- The various government agencies involved.

Verify to whom the minutes and/or fact sheet should be distributed, the date by which they will be distributed and, afterwards, that distribution has occurred.

## PRE-CONSTRUCTION SUBMITTALS REVIEW

Soon after the owner awards the construction contract, the general contractor will formally identify the subcontractors, material manufacturers and suppliers proposed for all portions of the work. After receiving the list, the owner and project architect/engineer will meet to review it for completeness and acceptability.

The project architect/engineer will then notify the contractor whether the list is approved as submitted or whether the owner has specific objections. If there are objections, the contractor must submit substitutes until acceptable ones are found.

As our project representative, you likely will be assigned follow-up responsibility relative to the contractor submitting substitutes. If so, you will need to establish an understanding with the contractor regarding the issues involved, confirm the owner's substitution requirements, set the date by which recommended substitutions and

relevant information must be submitted, and identify the parties to whom the substitution list must be furnished.

If the contractor is to send the substitution list directly to the project architect/engineer, have a copy sent to you at the same time. When you receive your copy, confirm with the project architect/engineer that he/she has received the list as well. Have an agreement with the project architect/engineer as to who should follow up with the contractor if the substitution submittal deadline is not met.

The contractor will be required to submit additional pre-construction documentation regarding the project. Work with the project architect/engineer to determine responsibilities and lines of communication for receiving these items. Additional pre-construction documents typically include:

- Insurance certificates indicating that the contractor and all subcontractors have owner-specified coverages in place. The owner should review these certificates to ensure they conform with requirements regarding policy limits, endorsements, notification of cancellation, named insureds and so on. (Do not offer your opinion as to what constitutes adequate coverage.) Note that the contractor usually is not permitted to begin work until the owner verifies that all coverages are acceptable.
- Progress schedules for use in reviewing the contractor's progress payment requests.
- Contractor's shop drawing and sample submittal schedule. Compare these to your own schedules and speak with the project architect/engineer about any variances.
- Schedule of values.

## PRE-CONSTRUCTION CONFERENCE

The pre-construction conference may be the most important activity of the project's construction phase. Its two key purposes are:

1. To help principal project participants understand what is expected of each other
2. To encourage participants to get to know one another and nurture communication, coordination, and cooperation.
3. To build a common understanding of project objectives and scopes of work.

Using your design and construction experience in general and your analysis of the given project in particular, you should identify the problems that are most likely to arise during construction, methods for avoiding them and techniques for resolving them when problem avoidance is unsuccessful.

Pre-construction conference participants typically include:

- Owner
- Contractor
- Major subcontractors
- Project architect/engineer
- Project representative
- Other design professionals and consultants.

Other key parties to the project, such as construction managers, may attend as well.

A pre-construction conference agenda typically includes:

- Self introductions



- Design concept, scope, and objectives
- Project organization (principal parties and their respective responsibilities)
- Working relationships and lines of communication among and between principal parties
- Documentation, recordkeeping and notification requirements
- General and special conditions
- Construction schedule
- Testing requirements and reports
- Shop drawing submission/review requirements
- Change order submission/verification/approval procedures
- Substitution notification/review/approval procedures
- Advanced notice for construction staking, testing and observation
- Progress review meeting schedule (participants, day/date/time, location)
- Safety responsibilities
- Progress payment application/review/approvals
- Requests for information (RFIs)
- Discovery of unanticipated regulated substances
- Review of any outstanding issues
- Assignment summary.

The project architect/engineer should determine if conference proceedings are to be recorded and should identify the person responsible (possibly you) for preparing and issuing minutes for those in attendance and others. For larger projects, it may be appropriate to prepare visuals for the conference (preliminary drawings, aerial views of the jobsite, etc.) and to assemble and distribute project notebooks to each participant. Project notebooks would include lists of names, street addresses, telephone numbers, email addresses, websites, social media and other contact information.

## TESTING CONFERENCE

Testing consultants typically are responsible for examining and testing soils and construction materials. The materials are tested before, during or after their placement to ensure conformance with project specifications. Although the project architect/engineer or another member of the design team (e.g., the structural engineer) may be principally responsible for selecting the testing consultants, these testers may contract directly with the owner.

Communication, coordination and cooperation are required to ensure timely interaction between testing consultants, the contractor and



subcontractors. A testing conference is typically held for that very purpose. As project representative, your role is to help facilitate this communication, coordination and cooperation and alert the project architect/engineer when material conformance with project specifications is in question.

Conference attendees generally include:

- Owner
- Contractor
- Principal subcontractors
- Selected design professionals or consultants
- Project representative
- Testing consultant(s).

Testing consultants usually are responsible for preparing and issuing detailed minutes of the conference, possibly with a summary, to conference attendees and others who may benefit from the information.

Issues addressed commonly include:

- Materials to be tested
- Tests to be used
- Where materials will be tested
- Anticipated testing dates and schedule (based on the construction progress schedule)
- Distribution of test reports
- Requirements for notifying testing consultants, so they are present when needed
- Project participants' names and related contact information (office, cellular and home telephone numbers, email addresses, etc.)
- Procedures for re-testing when materials or installation fail to meet project requirements.

As with any other operation associated with a construction project, assume nothing. Contact the testing consultant ahead of time to verify responsibility for preparing minutes.