

Construction

EXECUTIVE

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INSIGHTS

FROM
LEADERS

IN INSURANCE AND

BONDING

BY DONALD BERRY

Construction Executive reached out to top executives at leading sureties and insurance

companies, as well as CPAs and attorneys who specialize in construction, to learn:

- how surety bonding helps contractors compete for private projects;
- how to lower the cost of workers' compensation insurance;
- what to bring to an initial meeting to establish a bond limit;
- how a CPA firm can help establish a contractor's bonding capacity;
- why professional liability insurance coverage is important; and
- how BIM is changing the dynamics of liability.

“HOW IS BUILDING INFORMATION MODELING CHANGING THE DYNAMICS OF LIABILITY AMONG CONTRACTORS, ARCHITECTS, ENGINEERS AND OWNERS?”



MICHAEL X. MCBRIDE
Managing Partner and
Co-Chairman, Construction
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Building information modeling (BIM) offers significant efficiency and cost benefits to an owner during the design, planning and building processes. At its core, BIM is a model-based technology that integrates project information in one database. The true benefits from BIM lie not with its

repository capabilities, but rather its interactive features that enable construction team members to control and manipulate data for structural design, fabrication, erection, scheduling and cost estimations.

The use of BIM has the great potential to reduce conflicts, errors and waste, but it also raises questions about scope management, quality control and risk allocation. Architects and engineers may be viewed as assuming responsibility for design elements provided by unregulated parties, particularly when electronic decisions are made by construction entities or a computer program working on preset rules. Owners and their construction managers also could be held to a higher standard for ensuring the accuracy and suitability of project information.

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**—Michael X. McBride,
Connell Foley LLP**

To reduce these risks, construction managers must consult licensed design professionals on all design updates during the BIM process. Design professionals will need to respond in a timely manner to all updates to ensure scheduling efficiencies. Current agreement forms make the legal differentiation between design work as professional services subject to a duty of care and construction work subject to contractual and warranty obligations. BIM-based documents should be amended to allocate and share responsibility for the generation of digital design-build information. Even with these efforts, it will be difficult to clearly delineate each party's responsibility without interpretation through the legal system.