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Facility Agility: Planning for Facility Emergencies

By Erin Gloeckner

What is facility agility? Facilities might be static assets that can't be considered *agile*, but nonprofit leaders must remain agile in order to resume or maintain operations in the wake of a crisis or emergency. The NRMC team has heard more than a handful of horror stories about nonprofit leaders who believed their buildings were bulletproof, and who later experienced unexpected facility failures, leading to loss of assets and the need for temporary workspace.

Nonprofit leaders can approach facility emergency preparedness in different ways. For example, facility-based emergency preparedness programs are specific to an individual facility owned or operated by a nonprofit. Other approaches to facility emergency preparedness might be more broad or comprehensive, intending to address many types of hazards, disasters, or crises that could occur at any facility operated by the nonprofit. No matter the approach you take to safeguard your nonprofit's property, consider implementing these essential emergency preparedness tips that address the *who*, *what* and *how* of facility agility.

WHO: Facility Guardians

Your ability to bounce back from facility fiascos will largely be determined by the

Facility Agility: Planning for Facility Emergencies

decisions that your team makes during an emergency. You can't predict how your team members will act in these moments of extreme stress, but you can empower them to do their best by following these tips:

- **Clarify roles.** Offer clear roles and responsibilities to all your staff members regarding facility emergency preparedness and response. Even if most team members will simply be expected to follow instruction or retreat to safety during an emergency, tell them that ahead of time! If you have identified a facility manager or other facility leader, reiterate to your staff that they can all support the manager's efforts regarding facility emergency preparedness; for example, if anyone notices a facility hazard or a potential weakness in your organization's ability to respond to a facility emergency, then it is critical to report concerns immediately to the facility manager.

- **Follow the leader.** If your facilities warrant it and personnel constraints allow, empower a facility manager or other facility leader(s) to fortify your properties and implement emergency preparedness and response plans. Commit to give ample consideration to any recommendations made by your facility leaders as priorities for emergency preparedness. Especially in nonprofit organizations, it is often challenging to invest internally in infrastructure and training, because team members understandably prefer to prioritize directly mission-advancing activities, such as programs. Don't let this bias blind you to the important recommendations your facility leaders might make. Though a facility-related emergency might be highly unlikely, your facility staff probably know the vulnerabilities of your properties better than anyone.

- **Craft a chain of command.** In advance of an emergency (now, if you haven't already!), establish a chain of command and a specific team to lead emergency response across your facilities. The emergency response team should include your facility leader(s), who can help lead evacuations or protect critical property and equipment during an emergency. Also consider expanding the chain of command and emergency response team to every facility you operate. The various facility-based teams can be ready to act independently when crisis strikes at their respective properties, or the teams can collectively report to the lead emergency response team in an incident that threatens multiple facilities operated by your nonprofit.

- **Heed the call.** When alarms begin blaring in an office building, a common sight is people pausing to decide whether to react or continue working. Any facility alarm could be the real deal, so urge your staff members to heed every alarm as if it were a chance to save lives. Ensure that all personnel at your nonprofit—especially senior leaders—heed emergency response leaders, facility alarms and other authority figures and warnings. Allowing even one team member to skip an emergency drill could dramatically alter your team's understanding that emergency protocols are urgent and of utmost importance. Make it clear that there are no work tasks that are more important than the safety of your team. Employees shouldn't feel pressured to continue working; they should always be ready to put aside work in order to respond to an alarm or safety instructions. Members of the executive team must lead by example and participate in safety and evacuation drills—even if alarms or drills occur during important meetings or with project deadlines looming.

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WHAT: Facility Agility Tactics

Implement these preventive measures and emergency response systems to prepare your property before catastrophe comes.

- **Facility checks:** Frequently conduct facility checks to ensure that emergency response equipment is in working order, and to reduce the risk of secondary hazards being present in your facilities during an emergency event. The Occupational Safety and Health Administration (OSHA) offers guidance for developing and carrying out workplace safety checks in its Small Business Handbook. The Handbook provides sample self-inspection checklists that address topics like fire prevention, walkways, stairs, exit doors, and more.

- **Emergency action plans:** Consider creating both facility-specific emergency response plans, as well as an overarching plan for response to a crisis that affects all your nonprofit's properties. While crafting your plans, remember that they should be easy-to-reference action plans, not verbose manuals. Some organizations distribute simple written charts or graphics depicting response protocols for specific types of emergencies (think airplane safety booklets), which can be shared with staff or posted on the walls in the distinct sections of each facility. No matter where a staff member is in your facilities, he or she should be able to quickly access simple, clear instructions for immediate response to facility hazards such as a fire, flood, active shooter, earthquake, etc. If you prefer not to create response plans that address specific potential hazards and emergencies, then draft a flexible plan suitable for any emergency and test it against various scenarios during situational training.

- **Evacuation, lockdown and sheltering drills:** Practice myriad crisis response scenarios to reduce deer in the headlights syndrome when a real emergency occurs. Engage your staff teams to practice evacuation, lockdown, and sheltering drills regularly. Learn more about emergency exit routes from OSHA, and learn how to create emergency exit diagrams and lockdown and shelter procedures recommended by Safe-Wise Consulting, LLC. When conducting drills, allow your facility leaders and other emergency response leaders to take charge during these exercises. Both tabletop (mental response) and physical response exercises are incredibly helpful preparation, though many organizations opt to focus on tabletop exercises to reduce costs associated with drills and physical exercises. Before conducting any physical response exercises (e.g., pulling the fire alarm and practicing fire evacuation), notify local first responders (e.g., the fire department) that the drill is occurring. First responders might be willing to participate in the drill with your nonprofit's team. For any emergency response exercise, try to create a scenario in which normal protocols or the normal operating environment are changed drastically or unexpectedly; this will enable your team to practice following emergency protocols in a stress-inducing environment that somewhat mimics that of a real crisis. The culture of each exercise should be that safety is paramount, and that emergency response leaders are empowered to make judgment calls to save lives and to maintain as safe an environment as possible. After completing tabletop scenarios or physical exercises, conduct an immediate after action review or debrief with participants—known as a *hot wash* in emergency management lingo—to determine crisis response

strengths and weaknesses. Record every success and failure that is identified during the hot wash, and take time to define follow up actions and responsible parties. This is a critical stage in emergency preparedness; your response capabilities will only improve if you and your team truly hold yourselves accountable for making necessary changes to your response protocols. After a hot wash, schedule a secondary debrief to share lessons learned and to provide time for teams to complete their action items and report back about new and improved emergency response procedures.

■ **Emergency reporting protocols:** Establish and communicate your organization's protocols for reporting an emergency and getting the word out across your facilities. Whether it is dialing a number, pushing a button, or preferably a mix of available emergency reporting options, convey to all staff that reporting emergencies immediately is crucial. In case a team member is unsure whether a situation qualifies as an emergency, reiterate that you would rather welcome false alarms than let hesitation get in the way of emergency response.

■ **Emergency notification systems:** Ensure that emergency notification systems are present and working throughout your facilities, to indicate that a crisis is occurring and the appropriate response (e.g., evacuation, sheltering, etc.). Notification should be two-part, including an alert to local law enforcement, medical, and emergency agencies, as well as alerts to the appropriate stakeholders of your nonprofit. Some alert systems allow users to send a GPS signal to police using a cellphone, or push a panic button that sends police a GPS signal for a specific facility. Educate your stakeholders about how to initiate the emergency notification system,

> **"Read your insurance policies thoroughly, involve your facility leaders, and work with your insurance broker or agent to determine whether there are gaps in coverage for damage to or destruction of your facilities, and for lost income and extra costs you might incur while restoring operations and facilities."**

so that a broad notification can be sent as soon as possible by anyone affected by the emergency. Also verify that any language and graphics used in notifications are clear, and their meanings have been communicated to your stakeholders before use during an emergency situation. Many types of emergency notification system exist, such as computer screen alerts/pop-ups, email alerts, text alerts sent to employee cell phones, or alerts on digital clocks (often present in university classrooms). A notification system should be layered if possible, to increase the chances that your staff and volunteers will quickly receive a notification in at least one format. When seeking notification support from third party providers, ask specific questions

to determine which products best meet your needs. For example, some notification systems may advertise their ability to notify thousands of subscribers immediately, but what does *immediately* really mean? A delay of just one or two minutes could mean many lives lost in a whirlwind emergency situation. Aside from a broad emergency notification system, also confirm that your facility leaders and emergency response teams can stay in touch while countering a crisis. Establish a communication system that works in and across your facilities, and have a backup plan in place in case preferred protocols and communication devices fail.

■ **Correct coverage:** Understand your insurance policies that offer coverage for property damage or loss, and

> ## "Business continuity planning helps determine which activities must be sustained without interruption, and also how to maintain mission-critical operations in the immediate wake of a crisis or emergency."

business interruption (income) and extra expense. According to one source, under a business interruption policy, "the carrier is liable for the reduction in net income that results from suspension of operations—whether wholly or partially—due to a physical loss at the insured's premises." Extra expense coverage is for expenses incurred by your nonprofit during the period of restoration. Examples of extra expense include the cost of renting temporary space and the cost of notifying service recipients and the public about your temporary location. Many nonprofit leaders feel a sense of assurance after purchasing insurance, but understanding policy language is key to ensuring that your coverage can truly instill confidence. Read your insurance policies thoroughly, involve your facility leaders, and work with your insurance broker or agent to determine whether there are gaps in coverage for damage to or destruction of your facilities, and for lost income and extra costs you might incur while restoring operations and facilities. Understand the incidents or types of property damage that are excluded from coverage, and if needed, consider extending your insurance coverage or developing a contingency plan for managing costs associated with such exposures.

HOW: A Facility-Focused Mindset

Follow through with these five fail-safes to fortify your approach to facility emergency preparedness.

1. **Step into someone else's shoes.** According to a brief article in a July 2017 Safe-Wise Consulting newsletter, *Emergency Planning: Accommodating for People with Disabilities,* "when preparing or reviewing your emergency plans, it's important to involve people with disabilities in identifying needs and evaluating effective emergency management plans. Issues that have the greatest impact on people with disabilities include: notification, evacuation, areas of refuge, access to their mobility devices or service animals, and access to information. In planning for emergencies, you should consider the needs of people who use mobility aids such as wheelchairs, scooters, walkers, canes or crutches, or people who have limited stamina. Plans should also include people who use oxygen or respirators, people who are blind or who have low vision, people who are deaf or hard of hearing, people who have a cognitive disability, people with mental illness, and those with other types of disabilities. Additional support and information is available at ADA.gov and from the US Department of labor (DOL)." Visit the Safe-Wise Online Resource Library for more information about facility safety and emergency preparedness.

2. **Call in the cavalry.** Work with first responders to bolster your facility emergency response plans before an emergency occurs. When asked, local first responders such as fire departments, police, and emergency medics might offer guidance about

appropriate evacuation and response strategies based on the quirks of your facilities. Any prior knowledge these first responders have about your facilities will help them manage logistics during a crisis. By working with these representatives, you can also inform your staff teams of what to expect from first responders if an emergency occurs. For example, supporters of your nonprofit might not know that first responders could bypass injured people if the priority is containing or minimizing a threat (e.g., active shooter, biological or chemical hazard, etc.). Clarifying these expectations will better enable every stakeholder group to think clearly and prioritize action steps during a crisis.

3. **Meet your neighbors.** Especially if your nonprofit operates in a densely populated area or an area with limited assembly points (in case of evacuation), consider contacting other local businesses to discuss appropriate emergency procedures should a major crisis affect your city or town. You don't want to compete with other nearby businesses for evacuation and assembly space during a life-threatening emergency. If possible, also keep a line of communication open with neighbors during an emergency, in case your evacuation and assembly needs change.

4. **Hope for the best, prepare for the worst.** In case a crisis occurs, always plan for facility downtime and getting your facilities back to their normal operating status. *During* a crisis, what will you do if heating, air conditioning, electricity, or other systems and utilities stop functioning? These considerations could be especially critical if stakeholders are asked to shelter in place for an extended time. Or, for example, at a healthcare or social services facility that houses client prescriptions that must be refrigerated, or operates life-saving or life-supporting

medical equipment for clients. Also consider various contingency plans to allow your nonprofit team to maintain mission-critical operations and services if your facilities are inoperable *after* a crisis. For example, establish a practical emergency telecommute plan for staff, and consider developing a reciprocal agreement with another organization to provide temporary office space and equipment. Develop a plan to ensure the continuity of mission-critical operations—regardless of the reason for disruption—and reflect on the steps that will be necessary to get your facilities and other programs/services back in operation. Business continuity planning helps determine which activities must be sustained without interruption, and also how to maintain mission-critical operations in the immediate wake of a crisis or emergency. A typical business continuity plan might outline a nonprofit's needs for workspace, equipment, technology, communications, vendors, and any other supports necessary to keep core programs and services available—even if the nonprofit's regular facilities are inaccessible or destroyed. Though planning for worst-case scenarios feels like the dark side of risk management,

your team can benefit from anticipating various scenarios in which facilities are unusable, when a Plan B or Plan C must be adopted. Consider multiple possibilities for facility breakdowns and develop Plan B and Plan C in advance.

5. **Communicate constantly.** *Constantly* might be an exaggeration, but effective communication of emergency plans and response procedures is <u>essential</u> to emergency preparedness. Messaging about emergency response should be clear, repeated often, and instill a sense of urgency and significance. Similarly, thorough documentation during and after an emergency will enable your team to reflect effectively and better prepare for the next crisis. One easy but effective communication tip is to provide every staff member and volunteer with a personal reminder of initial emergency response steps. For example, a wallet-sized card or graphic could be attached to employee badges, added to work and personal cellphones, or kept at the desk of every employee in the facility. The card might include a basic map of the building with an easy-to-read evacuation route, plus basic protocols for reporting an emergency:

- Stay calm and take a moment to assess the situation.

- Call 911 if anyone is hurt or if the situation is serious. If you are not sure, call 911 just to be safe!

- Start ABC Nonprofit's emergency response procedure by: _____ (e.g., triggering the emergency notification system, calling the emergency response team, etc.).

- If you are told to evacuate or you believe evacuation is necessary, follow the evacuation route on the back of this card. Go to our assembly point _____. Watch out for hazards as you evacuate.

Facilities are literally the roof over your nonprofit's head. Proactive planning for facility emergencies will significantly benefit your mission whenever disaster strikes. When planning for facility emergencies, don't forget that *agility* refers to the ability to change direction quickly. To achieve true facility agility, always be willing to reflect on and revamp your approach to facility emergency preparedness. Take the time to learn from each emergency you experience, and you will fortify not only your facilities, but your nonprofit's mission.

Erin Gloeckner is Director of Consulting Services at the Nonprofit Risk Management Center. Share your facility agility questions and tips with Erin at 703.777.3504 or <u>Erin@nonprofitrisk.org</u>.

Resources:
- OSHA Emergency Exit Routes Factsheet, <u>http://safe-wise.com/wp-content/uploads/2015/04/emergency-exit-routes-factsheet.pdf</u>
- Business Interruption Insurance: 8 Terms to Help You Understand What is Covered, <u>www.marsh.com/us/insights/research/business-insurance.html</u>
- Covering Losses with Business Interruption Insurance, <u>www.iii.org/article/covering-losses-with-business-interruption-insurance</u>

Lost in Space: Managing Facility Rental Risks

By Melanie Lockwood Herman

The goal of maximizing the use of your nonprofit's facilities is an admirable one. For many organizations, permitting—or encouraging—other nonprofits to use temporarily or regularly vacant space is a practical way to advance your organization's reputation in the community and support the missions of kindred agencies. Despite the myriad potential upsides of sharing your space with others, the risk of loss or harm stemming from visitor use of your premises warrants thoughtful consideration by risk leaders. Taking things like contracts, leases and insurance into consideration will decrease the chances that someone will react with a "Warning, warning!" like the Robot from the TV series *Lost In Space* (1965-1968), when confronted with the possibility of another nonprofit using your facility.

To Contract or Not: Is That The Question?

One issue that arises from an openness to let others use your space is when and whether to enter into a written contract with users of that space. Although a written contract to use a conference room, foyer or patio room for a few hours may seem like overkill, forgoing the formality of a contract can lead to painful and costly consequences, such as:

■ Lack of clarity about who is responsible for property damage or other harm occurring during the visitor's use of the space

■ Unintentional violation of your nonprofit's privacy policies or protocols regarding confidential information about your agency or your clients

■ Missed opportunity to share important rules about the safe and appropriate use of your space

■ Uncertainty or unnecessary stress regarding the terms of the use, such as number of days, time of day, or limits on the use of the space (e.g., team-building workshop, choir rehearsal, watercolor painting class, etc.)

Ten Key Provisions for Temporary Use Space Agreements

Using a written agreement anytime your nonprofit permits use of its space is a crucial first step in managing the potential downside risks. At a minimum, the drafting of a written agreement requires focus on the possible what-ifs associated with use of your buildings, office space and other facilities. At its best, the use of an agreement will ensure that key issues are sorted out between the parties before occupancy or before something goes wrong. Some of the most important components of a space use agreement include:

1. **Timetable –** indicate when the space may be used.

2. **Description of space and permitted use –** note the specific room, area, or

Lost in Space: Managing Facility Rental Risks
CONTINUED FROM PAGE 7

space your visitor is permitted to use and the general purpose (or limitations) for the use (e.g., the main conference room may be used for your upcoming board meeting).

3. **Points of Contact –** include the name, phone number and email address of the primary point of contact at the visiting nonprofit as well as similar information for your nonprofit.

4. **Insurance –** specify your insurance requirements, including whether you require evidence of the visiting nonprofit's coverage and designation of your organization as an additional insured.

5. **Rules –** in straightforward terms, describe the rules pertaining to the space to be occupied by the visiting group. Keep in mind that a long, overly broad list of applicable and inapplicable rules may be easily dismissed; a simple, succinct list appropriate to the space is always preferable. For example, you might want to prohibit visitors from attaching things to the walls in a wallpapered conference room, or ask visitors not to move heavy furniture in a room with soft pine flooring.

6. **Maximum capacity –** remind your visitors about the maximum capacity for the space, which may be at or under the maximum set by building and fire codes in your area.

7. **Equipment –** if applicable, note whether equipment in the room is available for the visitor's use, and if so, whether there are rules related to that use.

8. **ADA applicability –** reference whether use is subject to the public accommodations provisions of the Americans with Disabilities Act (learn more at www.access-board.gov, or Chapter 1: Using the ADA Standards).

> **"Using a written agreement anytime your nonprofit permits use of its space is a crucial first step in managing the potential downside risks."**

9. **Use of Name and Marks –** note whether you permit or prohibit the use of your nonprofit's name on promotional materials related to the event or activity, or require that the name be used (but not your logo) in a certain manner, such as "The location of the workshop is: ABC Nonprofit, 123 Main Street, 1st floor, Anytown, USA."

10. **Fees –** confirm the fee for use, if applicable, and if there is a fee, when and how it must be paid.

Risk Tips

Although drafting and finalizing a contract will help clarify terms between your organization and the people and agencies using your space, there are some other risk tips to consider as well.

- **Is it UBIT? –** If your nonprofit rents space to other groups, the income you receive from those rentals might be *unrelated business income* (UBI). Whether or not rental income is UBI subject to *unrelated business income tax* (UBIT) is based on whether (or not) the rental substantially relates to furthering your nonprofit's exempt purpose. For example, a nonprofit formed specifically to foster collaboration and reduce inefficiency among nonprofits is likely furthering its exempt purpose when it rents space to other tax-exempt nonprofits. According to the NEO Law Group, "If the same nonprofit were to begin renting some of its space to for-profits, the income from such rentals would likely be subject to UBIT and may even cause the organization's activities to be viewed as too commercial in nature to qualify as exempt." In her article *UBIT – Issues for Shared Spaces*, Erin Bradrick adds that, "…if an exempt organization with a completely unrelated purpose had extra space in its building and decided to rent it to other nonprofits or to for-profits, those rentals would unlikely be considered substantially related and the rental income may be subject to UBIT." The IRS website explains that tax exempt organizations with $1,000 or more of gross unrelated business income must file the Form 990-T. These organizations must also pay quarterly estimated tax if they expect their yearly taxes to be $500 or more.

- **Schedule a Safety Briefing** – Before turning over any space in your facilities to a visiting group, it's a good practice to conduct a short safety briefing with your point of contact at the visiting organization. To prepare for that briefing, make a list of what the user might need to know in an emergency, such as:

  - Should an alarm or smoke detector go off while you're here, it's our policy that everyone in the building must evacuate. Lead your group to the rear section of our parking lot, which is our designated assembly point. Do not re-enter the building until directed to do so by emergency response personnel.

  - If a member of your group experiences a medical emergency, call 911 without delay. Confirm our address with the 911 operator: 123 Main Street, 1st floor, Anytown. For minor injuries, please feel free to use the supplies in the first aid kit located above the sink. Let us know that you've used these supplies before leaving, so we can re-stock the kit!

- **Equipment and Internet Use –** Like the pre-visit safety briefing, explain to your guests what equipment, supplies, and

Wi-Fi networks are available for their use. Many organizations offer a guest Wi-Fi network to ensure that the main Wi-Fi network remains secure. Consider posting guest Wi-Fi access instructions in the room(s) available to visitors. Be sure to notify visitors if any networks, equipment or supplies are off limits.

When and How to Use a Lease

In some cases, the permitted use of your facilities or grounds may be more than temporary and casual. Use a lease anytime your nonprofit wants to permit the occupancy and use of your property for more than a short time, and keep in mind that a written lease is an enforceable contract that should contain specific types of information. For example, when parties (A) and (B) agree that (B) will rent space from (A) in order to do purpose (C), the lease should include the following key terms:

1. Contact information of the specific person(s) renting property from you, including name, telephone number, and street address (if available, a street address other than the address of the property the lessee is renting from you). The organization name should also be included with this information, but the primary purpose of obtaining this information in the lease is to know who will be the contact person should the need for contact arise.

2. The address and a specific description of the leased property, with a statement about the property's current condition (include reference to common areas the lessee may use and any limits on that use).

3. The specific duration for which the property will be leased.

4. The rental amount due, when, where, and in what form, including whether late fees will be assessed if rent is not paid on time, whether there is a late payment grace period, and what charges the
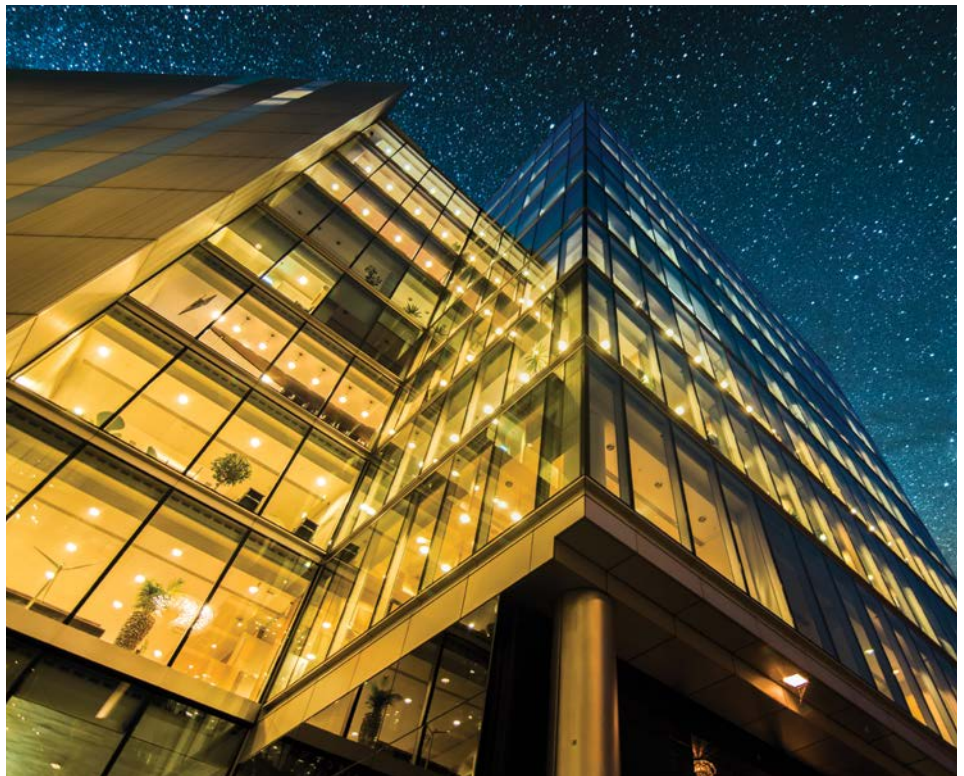
lessee may expect to incur should the check or other payment bounce.

5. Any security deposit you obtain from the lessee and whether interest will be earned on the amount, and whether any legally permissible nonrefundable fees will be assessed (e.g., for cleaning or pets).

6. Any right you have to enter and inspect the property at reasonable times and upon reasonable notice, including the amount of notice required.

7. Permission to do any credit or reference checks (such as speaking with prior landlords) that you want to do.

8. The permitted uses of the property and any specific limitations on the uses.

9. That the lessee can't make any alterations to the property without prior written permission.

10. Who is responsible for the property and/or liability insurance on the property and the evidence that this insurance is in force.

11. Who is responsible for repairs and maintenance of the property, and when the lessee must notify you of any unsafe or defective conditions in the property.

12. An indemnification clause protecting the nonprofit from liability arising out of the rental of the property and requiring the lessee to name your nonprofit as an additional insured on the lessee's general liability policy.

13. When and how the lease will end, including whether there is an automatic or other renewal provision.

14. An acknowledgement by both parties that the lease is binding (typically by signature and date signed).

Certificates of Insurance

Property owners often request a certificate of insurance (COI) from short-term facility users and lessees. A certificate of insurance is a document that delineates the types of insurance policies written, policy dates, coverage limits, and the insuring company or companies in force at the time the certificate

is issued. A certificate of insurance is commonly referred to as *proof of insurance*. However, most certificates have a disclaimer such as the one on the ACORD Certificate of Liability Insurance (ACORD 25-S 7/97):

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

Consequently, if the certificate is wrong, you as the certificate holder have very limited (if any) recourse against the insurer of the entity represented by the certificate (the insured). If your rental agreements or leases require that your nonprofit be added as an additional insured on the visitor or lessee's policy, they have not met the terms of the contract until the insurance company actually endorses the policy. A certificate showing the party as an additional insured is meaningless unless an endorsement has been issued.

COIs: When and How

You should request a certificate from another party when you want to confirm

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that they have insurance. You want to ensure that the other party has insurance so that if they cause a loss, you will have confidence that they have a source of funds from which to pay for the loss. Ideally you should request a certificate anytime your nonprofit permits use of your space or facilities. And if you ask for the other party to provide you with additional insured status, request a copy of the actual endorsement. After receiving the certificate, check it for accuracy to make certain that it syncs up with the insurance requirements (type of

coverage, limits of liability, etc.) in your rental agreement or lease. After verifying the certificate, file it for future reference. Retain the file as active for the life of the contract or agreement (and any relevant indemnification period). If the agreement extends beyond the current insurance policy period, you need to establish a system for requesting or issuing a new certificate when the present one expires. Retain the contract file and applicable certificates based upon your organization's records retention program for contracts and agreements.

Additional Insured Status

An *additional insured* is a person or entity, other than the *named insured*, that is protected by a particular insurance policy. An additional insured endorsement is the contract by which additional insured status is granted. When your nonprofit requires that a lessee or agency using your space add your nonprofit as an additional insured, the agency has not met the terms of the contract until the agency's insurer endorses the policy, contractually extending additional insured status.

Fans of the TV series *Lost In Space* (1965-1968) or the movie remake from 1998, may recall watching the intrepid Robinson family cope in the cosmos, after their space flight was sabotaged by a stowaway. Although it was unclear whether the Robinsons considered contingencies before setting off on their voyage to Alpha Centauri, the show's theme reminds us that strange and unpleasant things sometimes befall even the nicest people. Considering possible mishaps involving the nice groups that want to borrow or rent your facilities is key to reducing their likelihood and ensuring that you're ready to respond.

Melanie Herman is Executive Director of the Nonprofit Risk Management Center. She welcomes your questions about facility risk management at Melanie@nonprofitrisk.org or 703.777.3504.

Resources:

- *UBIT – Issues for Shared Spaces*, by Erin Bradrick, NEO Law Group
- Chapter 1, Using the ADA Standards, United States Access Board
- *EXPOSED: A Legal Field Guide for Nonprofit Executives*, available at www.nonprofitrisk.org
- *COVERED: An Insurance Handbook for Nonprofit Executives*, available at www.nonprofitrisk.org

Contracting Process Tips

As described in the NRMC book *EXPOSED: A Legal Field Guide for Nonprofit Executives*, establishing a contracting process is "very important to protect the long-term health and valuable assets of a nonprofit." NRMC recommends that a contracting process include the following elements:

- A written contract approval policy assigning certain contracting or purchasing decisions to specified employees.
- A clear statement to all members of the organization (employees and volunteers) about their contracting authority or lack of contracting authority.
- Tips or recommendations to employees and volunteers who do not have contracting authority about what they can do to avoid inadvertently committing the organization to a contract.

- A statement specifying what the nonprofit requires before a contract will be approved.
- The position(s) in the organization (or outside legal counsel) responsible for reviewing legal, programmatic, and financial content of contracts.
- The position(s) in the organization responsible for overseeing performance, communicating problems, authorizing changes in scope or deadlines, or recommending contract termination.
- The position(s) in or outside the organization responsible for reviewing the insurance and indemnification provisions in contracts to make certain that promises to indemnify are adequately supported by insurance and that coverage required under the contract is reasonable and in place.

- The position in your organization responsible for making certain that the nonprofit's assets, such as copyrights and trademarks, are adequately protected.
- The position(s) in your organization responsible for reviewing and approving the financial terms contained in proposed contracts.

A Blueprint for Facility Risk Management

By Eric Henkel

Nonprofits own and operate many different kinds of facilities. Although in other business functions, risk may be less visible or apparent, the facilities we occupy are under our feet and above our heads every day. From warehouses to recreational spaces to commercial kitchens and traditional office space, the facilities that nonprofits occupy provide the infrastructure to bring a charitable or community-serving mission to life. Managing risk in facility use and operations is therefore an integral part of a holistic approach to risk management.

Your specific approach to managing facility risks will vary depending on the size and scope of your facilities. A nonprofit that leases space for an office occupied by a handful of staff may share responsibilities among the staff and rely on the landlord in the process. A larger nonprofit with multiple types of facilities may have a dedicated facilities manager, or perhaps a team working together on various facility issues, such as managing maintenance, expansion, and facility rentals. Consider the following topics and tips as you work to strengthen facility risk management in your nonprofit.

Facility Risks from the Stakeholder's Point of View

The most visible part of facility risk management is the day-to-day use of your buildings. Staff and volunteers need to be able to do their work, clients need access to services, and third party vendors need to be able to provide the resources necessary to support your operations. Wearing your risk champion hat, reflect on the types of issues that could impair operations for each group of stakeholders. For example:

- **Staff and volunteers –** The primary concern of paid and volunteer staff may be their workspace. Environmental components like poor lighting, an uncomfortable chair or an office that is cold and drafty can all have detrimental effects on productivity. Conversely, ensuring that your staff and volunteers are comfortable and are using appropriate equipment can enhance their ability to get work done.

- **Clients, consumers and customers –** These people are the heart of your nonprofit's mission, so consider the elements of your facilities that help or hinder the people you serve. For example, parking or access to public transportation may be an issue for your clients. Address this issue proactively when you choose a location for your office, or if your space is set in stone, consider designating specific parking spaces for client use only. Addressing other facility-related issues that affect clients might require coordination between your facilities team and other departments.

- **Third party vendors and contractors –** Contractors often provide valuable support to a nonprofit, providing unique external perspectives and sharing their expertise with internal teams. Third parties may be responsible for specific facility management tasks ranging from housekeeping to food service, or facility management overall. Understanding and—when appropriate—accommodating the facility-related needs of your vendors and contractors reduces the likelihood that contractors will be stymied in their efforts to support your mission.

Considering facility risks from the perspectives of your stakeholders is crucial, and you can solicit more actionable information by asking these groups to participate in facility risk management. Convey to all your nonprofit's stakeholders that they can participate in your efforts by helping to identify and report hazards and other concerns about the workplace. No hazard should go unreported; even if a team member is unsure whether a hazard truly exists or is significant, those concerns should be reported without hesitation. Although there may be a designated person or team responsible for *leading* facility risk management, a commitment to facility risk awareness and risk reporting should be embraced and embodied organization-wide.

Facility Risks from the Physical Perspective

Various facility risks may emerge according to the type of user in the facility. However, the physical aspects of a facility are also important to consider, no matter who plans to visit your property.

- **Environment –** Internal and external environmental conditions can create or exacerbate risks to your organization. For example, lighting and weather are environmental factors that warrant careful consideration. Lighting is an issue both inside and outside of the facility; incidents—including injuries and abuse—may be more prevalent in spaces that are improperly lit. Weather can also put your stakeholders and facilities in jeopardy. In the summer, extreme heat can tax the electrical and cooling systems of your facility. Are you prepared with a contingency plan for a scorching summer power outage? Extreme weather often causes a ripple effect of subsequent consequences and facility damage. For example, an overtaxed air conditioning unit might leak water into your facility, quickly creating a moisture and mold hazard that is difficult to remedy and poses

health risks to your staff and clients. Even seemingly simple environmental features like landscaping should be carefully monitored. Overgrown vegetation can provide cover for an unauthorized intruder. A dead overhanging tree branch could fall and injure an unsuspecting passerby. And don't forget an often-overlooked hazard: ergonomic hazards like worn down or ill-fitting office furniture that can cause injuries related to repetitive use and stress. Whether it's wicked weather, a cracked sidewalk, or boxes blocking an emergency exit, a keen awareness of environmental conditions and accountability for remedying these conditions will keep environmental risks at bay.

- **Equipment –** There are three key considerations for managing equipment properly: equipment use, storage, and maintenance. Using specialized heavy equipment like power tools or forklifts requires care and an understanding of operation guidelines and potential safety hazards. Use of heavy machinery, chemicals, and other potentially hazardous equipment might also warrant the use of personal protective equipment (e.g., gloves, goggles, helmets, etc.) by any team members who come in contact with these materials. Between uses, store all equipment properly; consider a wide range of injuries and incidents possible related to storage mishaps. Could a young volunteer suffer a chemical burn if strong chemical cleaners are kept in an unlocked cabinet? Could a staff member suffer a back injury if heavy equipment is placed on a high shelf? Also commit to maintaining and inspecting your equipment— both during use and while in storage. Regularly inspect your equipment and storage conditions, and keep records of inspections and any recommended and completed maintenance actions. For example, look for specific equipment

malfunctions like a frayed electrical cord or a leaky sink, but also test the functionality of facility-wide systems such as smoke detectors, fire alarms and fire suppression systems like sprinklers. Vigilance in safe equipment use, storage and maintenance will help prevent workplace injuries that should never have the chance to occur. Encourage your team members to promote a shared culture of safety and accountability for proper handling of equipment; if you see something, say something—even if you have to tell your own boss to put her protective goggles on.

- **Access –** Consider how people access your facility and its various parts as well as how they can move around the facility. Access to your facility will depend greatly on the mission of the organization as well as the populations served. Options for physically controlling public access to your facility may range from simply using a locked door, to more elaborate controls like gated entryways, check-in desks staffed by security personnel, visitor logs, and identification badges used by your personnel and your visitors. In addition to controlling general access, limiting access to specific areas of your facility may also be necessary. For example, a nonprofit team dedicated to youth programming might want to limit youth access to certain parts of the building, and also control who has access to young visitors during programming times. Controlling access to information—including IT infrastructure and stored data and files— is another critical component of facility access. Broadly speaking, define your approach to facility access by evaluating the layout, condition, and usage of the entry, egress and transition points of your buildings.

Your facility might include mission-specific areas that are subject to unique considerations and regulations. For example, playgrounds and pools are two common

recreational facilities that require special attention. Organizations that deal with food storage, preparation and delivery will have to address requirements related to public health concerns. Be aware that modifying the services provided by your organization can subsequently create different facility demands and related risks.

Ultimately, your approach to the physical aspects of facility risk management will be dictated by the facility itself. In many cases, you won't have much choice about your facility. It may be a building that the organization has occupied for some time and has adapted to carry out your mission. In this case, you will need to consider practical modifications that can be enacted to address the risks posed by the facility, in relation to the activities that take place in that facility and the people participating in the activities. Nonprofit teams should strive to strike a balance between managing risks, investing resources, and accepting the physical limitations of the facility.

In the future, you may have the opportunity to seek out a more appropriate facility for your nonprofit's needs. Having a thorough understanding of your current operations and anticipating future facility demands will save time and financial resources down the road as your organization occupies a new facility.

Compliance Requirements

Ensuring that day-to-day operations go smoothly is a top-of-mind concern in facility risk management, but compliance and safety issues should be priorities as well.

The commitment to compliance begins with understanding the various federal, state, and local laws and regulations that apply to the type of facilities owned and used by your nonprofit. The Occupational Safety and Health Act (OSH Act) and the Americans with Disabilities Act (ADA) are two examples of complex laws with associated regulations that affect facility risk management.

- The OSH Act is the primary law governing occupational health and safety in both the private sector and federal government. OSHA—the Occupational Health and Safety Administration—is the agency that administers the OSH Act. Various issues arise when considering OSHA regulations and requirements. For example, there are standards governing access to and egress from the building, particularly in emergency situations. Other guidelines focus on environmental concerns like sound and temperature.

- ADA regulations guide access to and use of your facility. Title III of the ADA prohibits discrimination on the basis of disability in the activities of places of public accommodation. Your nonprofit is a place of public accommodation if it falls into one of 12 categories listed in the ADA. These categories include: schools, day care facilities, recreation facilities and doctors' offices, among others (see www.ada.gov/ada_title_III.htm). Newly constructed or altered places of public accommodation generally must comply with Title III of the ADA.

These are only two examples of applicable laws and guidelines; conduct research or consult experts to ensure that your team is aware of legislation associated with facility access and safety. As indicated earlier, your organization may have mission-specific facilities whose use is subject to regulation.

Your insurance coverage might also dictate particular safety efforts necessary to maintaining coverage for property and other physical assets. Communicate regularly with your insurance carrier and broker to ensure that you understand and can comply with any facility-related requirements.

Seeing the Bigger Picture

For additional insights on facility risk and safety, we reached out to Michael Gurtler, Managing Partner and Senior Consultant at Safe-Wise Consulting. Mike has worked with youth-serving organizations for over 30 years and has been an expert resource to NRMC throughout our history.

NRMC: What are the most commonly overlooked practices in facility risk management?

MG: Nonprofits often struggle with planned replacement and often defer things due to budgetary constraints, which can increase costs in the long run. Regular preventative maintenance often gets overlooked, leading to consequences such as water damage and other property claims. Slips and falls are the most common cause of injuries among clients and staff. These injuries are often related to the failure to properly plan for weather effects (water, snow, ice), which can cause slippery surfaces. Poor lighting and damaged flooring, carpet, or transition areas can also lead to injuries. Untrained (or not regularly reoriented) staff can easily suffer injuries.

NRMC: What strategies do you suggest to engage stakeholders in supporting and contributing to facility risk management?

MG: The best way to engage people is to communicate your plan and prevention strategies to them; make them part of the solution to managing risks. Don't stop there; make sure your stakeholders know how things are going, get credit for a job well done, and know when it's time to change or adapt the plan.

Facility risk is most visible and apparent at the operational level; it is easy to see how a broken handrail or a slippery floor could potentially cause injury. However, it is also important to consider how facility risk management issues intersect with other risks faced by your organization. Facility risk management is an easy discipline to approach but a complex one to master. Addressing facility risks in a thoughtful, systematized manner can help ensure that your facilities truly facilitate the mission and programs of your nonprofit.

Eric Henkel is Project Manager at the Nonprofit Risk Management Center. Contact Eric with your questions about facility risk management at Eric@nonprofitrisk.org or 703.777.3504.

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