

## An Offering of a Contractor's Standard of Care

**Executive Summary.** Many are familiar with a design professional's standard of care (SOC). Why don't contractors have a standard of care? This is the start.

**Research by the author - nothing.** Go to Google, go to agc.org, go to abc.org, go to a Top 10 contractor and type in "standard of care" or "standard of care for contractors" in the search window. Good luck. You're not going to find anything. I think there should be a SOC for contractors. It's a protection for owners, designers, and, yes, the Contractor!

**What is a standard of care?** It is a legal term used often to defend a Designer against a claim from a hurt party. The language varies slightly, but generally says *the designer has to provide the same level of service as the designer down the street in the same industry*. There's no requirement for error-free work.

**Why should Contractor's have an SOC?** The construction industry is regulated – you have to have a license to *practice* construction. This is no different than having to have a license to practice engineering, medicine, law, et cetera. Contractors need licenses because the public has determined over time that there needs to be some level of competence in building things because construction deeply affects every human being's quality of life.



Because an individual, up to an entire community or even country, must benefit and be protected from ill effects from the end product, it is fair to say that Contractors who build these facilities should be held to a standard.

**Does this benefit me as a Contractor?** Yes. The argument could be made by a Contractor that "I have enough rules to follow to get the job built, to get paid – why should I add more requirements?" The answer is that a Contractor's SOC defines the limits of your role based upon the Owner's provided scope of work. This is an offensive and defensive tool which relies on the quality of the information provided in order to dictate Contractor deliverables.

**Here's a draft SOC.** The design professional SOC says "be as good as the guy down the street". In contracting, the "guys'" quality varies to a much higher

degree than engineers. The point being, Contractors cannot “be as good as the guy down the street” because the first guy down the street works out of a 1988 pickup truck, while the second guy down the street does \$4 billion a year and has a latte machine next to the gourmet air fryer in their company kitchen on the 26<sup>th</sup> floor overlooking the river. The proposal here is that the Contractor’s SOC meets minimum standards, not the existing wide range of what the guy does down the street. I propose the following:

***Contractors, in their duty as professional constructors, shall provide an installed product in a manner which minimally abides by:***

- ***applicable safety standards as established by law, local agency, and project-specific contract documents***
- ***quality standards established by project-specific contract documents and industry standards***
- ***mutual good faith and cooperative dealings in identifying, documenting, and negotiating changes in the work resulting in cost or schedule impact***
- ***contractual time is of the essence requirements to the extent that work is unhindered by factors outside the control of the Constructor***
- ***conduct becoming of a professional in work product and human behavior in execution of the work***

**My story.** My career in construction has now surpassed the 30-year mark and I’ve served the most recent 7 years or so of it doing more work for the Owner. I see the value of an excellent contractor. I see the struggles of working with a fair to bad Contractor.

I hope that an SOC for Contractors can lead to an SOC for Owners. An maybe even an SOC for design professionals a little better than “I’m as good as the guy over there, so you can’t touch me.” For true project success, these three pillars of parties must get honest on what it takes for overall project success – it starts with a look in the mirror. The Contractor can lead the transition to project success with their own Standard of Care. Work safe!

