

For the Client

Is the Submittal Process Unnecessarily Burdensome?

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Submittals bridge the gap between the design requirements in contract documents and the details necessary to fabricate and install portions of the work. As such, an efficient and effective submittal process is essential to the timely progress and completion of the work.

Of course, the first step in establishing an effective submittal review process is to clearly state review procedures and responsibilities in the general conditions of the contract for construction. Fortunately, the standard form general conditions published by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2002 Edition) and the American Institute of Architects (AIA A201-1997) do just that.

So, what could go wrong? Consider the following all-too-common problems associated with the submittal review process:

- Absence of a submittal schedule—notwithstanding contract requirements;
- Submittals that have not been reviewed by the contractor prior to being submitted to the design professional—notwithstanding contract requirements; and
- Submittals that are used in an attempt to affect changes to the contract—notwithstanding contract requirements.

Yes, there are also other problems often associated with the submittal review process, but the short list above indicates that this critical process often receives inadequate attention from project participants. Sometimes this results from a failure to appreciate the importance of the relevant contract requirements by their primary beneficiary—the project owner.

Procedures and Responsibilities

During the construction phase of services, the design professional is generally an agent or representative of the owner, with a limited, fairly specific scope of authority

that is defined in the agreement with the owner and then repeated in the general conditions of the contract. It is important that these contractual responsibilities are properly coordinated and that all parties—owner, design professional, and contractor—perform in accordance with them. EJCDC and AIA simplify coordination by creating families of internally coordinated contract forms.

Design professionals generally have discretion to request submission of shop drawings and samples that they want to review. If they believe in their professional judgment that it is important to review the information in question, then they should request it for review.

EJCDC and AIA documents also spell out what the design professional's review is to accomplish. In short, it is to compare the information in the submittal to the information and the design concept expressed in the contract documents.

What are the contractor's obligations? First, remember that nothing in the submittal review process relieves the contractor of its obligation to comply with the contract documents. The contractor is responsible for all aspects of construction means and methods and for measurements, quantities, and other field conditions and criteria, whether or not shown on a submittal. Additionally, submittal review is not an authorization for changes in the work. Changes should be accomplished through properly executed change orders, not through the submittal process.

Typically, submittals are produced by subcontractors or suppliers and forwarded to the design professional by the contractor. EJCDC and AIA documents require the contractor to review and coordinate these submittals and place an approval stamp on them before submitting them to the design professional. This step is as important as the design professional's review because the contract allocates review responsibilities between the contractor and design professional *without overlap*. When both have approved the aspects for which they are responsible, there is full approval coverage.

Submittal Schedule

EJCDC and AIA documents require the contractor to submit a schedule for submittals that incorporates the required time for review and resubmittal, if necessary. Since part of this schedule affects the services of the

design professional, the contract requires the design professional to approve this schedule, in contrast to the construction schedule, which the design professional merely reviews. ("Approval" means that the design professional has the power to require changes in the submittal, while "review" implies that the submittal is for information only.)

Also, EJCDC and AIA documents require that the submittal schedule be prepared in conjunction with the construction schedule, so that submittals are made in logical sequence and in a timely manner in order to be reviewed and approved when called for by the construction schedule. The review time allowed should take into account the size and complexity of the submittal, in addition to the volume of other submittals that may be under review at the same time.

Of course, contractors often claim that they can't provide the required submittal schedule because they have not yet "bought out" the job. That is a bogus argument. The contractor has contractually committed to provide coordination and superintendence of all of the work. If the contractor can contractually commit to a completion date for the project and furnish a construction schedule for the project reflecting that completion date, it is axiomatic that it can and should provide allowances for submittal review and approval in that construction schedule—notwithstanding the fact that it hasn't bought out the entire job.

It is easy to dismiss the submittal process or some of its requirements as unnecessarily burdensome. Experience demonstrates that a well-defined submittal process that allocates responsibilities to the appropriate parties is vital to a successful project. Claims resulting from project delays and faulty construction are the alternative.

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