

Communication is Key – Especially Written Communication

by Alison Mullins

It may seem like an obvious premise, but communication is key for a successful construction project. Communication helps manage expectations and avoid elevation of issues on a project. Last month's article provided cautionary advice about the pitfalls in issuing written communications. This article aims to provide insight as to what can be important to put in writing, and improving your written communication skills.

The Dilemma - Client Emails

In a world of instant gratification and mobile devices being "glued" to most people morning, noon, and night (including weekends), when a client contacts you, they expect a prompt response. How can you provide a response and keep the lines of communication open, while at the same time maintain your sanity and life outside of work?

If you do not provide a response the client will likely have a negative reaction. Among other things, the client may think that you are ignoring them, that they are not an important enough client, or that you made a mistake and are trying to cover it up. On the other hand, if you provide a prompt response that is not well thought out, reviewed or investigated, you may be giving an incorrect response. Incomplete or incorrect responses that are not well thought out may (and likely will) come back to haunt you. What should you do?

Tip: Even if you do not have the answer to a client question or issue right away, a simple response that you "will look into it, and get back to them" is helpful and appreciated by the client. After you have had ample opportunity to review the question raised by the client, follow up to the original email with a well thought out written response. Thus, the approach should be two-fold: a prompt initial response followed up by a more detailed response, if required.

The Dilemma – Addenda/Change Orders

Almost every contract for a construction project dictates that all addenda/change orders be in writing and signed by both parties. However, too many times while on site, during a meeting or telephone call, or informally in an email, a client will ask you to perform some services/tasks outside the original scope of your contract. What should you do?

Tip: First and foremost, communicate in writing that the client has requested you perform services/work outside the scope of the original contract, and include a description of the extra services/work. Next, prepare a written addendum/change order as soon as possible after the client's request. Then send the client an email or letter attaching the written addendum/change order, signed on your company's behalf. Politely advise the client that if the addendum/change order is not signed and returned within a specified number of reasonable days, and you are instructed/allowed to proceed with the services therein, the addendum/change order will be deemed accepted by the client. This is not as good as a fully executed addendum/change order – but it is better than nothing.

The Dilemma – Project Dispute

You get a letter from the client that they have an "issue" with your drawings and/or services. You disagree. What should you do?

Tip: Written communications outlast memories, which fade over time. This makes written communications helpful in remembering events past – and are often the best form of evidence. Therefore, if you get a letter regarding an "issue" on a project to which you disagree, provide the sender of the letter with a written response. Such response should be drafted in a thoughtful

manner, reviewed my management internally, and possibly sent to your insurance claims representative and/or legal counsel for review. At a minimum, this will create a record of your position, and may be useful in resolving the issues sooner rather than later.

Conclusion

Keep the lines of communication open with clients, and subconsultants. Clear, written communications can, and often do, keep the risk of disputes to a minimum. For better or for worse, clear, written communications time and again provide the best form of evidence, and recollection of a project's history. Thus, it is important to always strive to improve your communication skills, and again, always think before you write.

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This article is not intended to provide specific legal advice, but instead as general commentary regarding legal matters. You should consult with an attorney regarding your legal issues, as the advice you may receive will depend upon your facts and the laws of your jurisdiction.