

Electronic Data Transfer: Project-specific Web Sites

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SUMMARY

Most project-specific Web sites are not equipped to prevent unauthorized or accidental changes to the substantial number of documents shared through them. Data transfer agreements and disclaimers are tools that firms can use to minimize the inherent risks of Web-based data transfer. This article is part of a series on electronic data transfer. See Resources/More Best Practices for related Best Practices articles.

WEB-BASED DATA TRANSFER

Members of design teams share a significant volume of electronic data through project-specific Web sites. The sharing of instruments of service in real time over the Internet introduces ambiguity with respect to authorship and the proper allocation of responsibility and risk.

In most cases, the sharing of design documents and the constant stream of project communication through e-mail or a project-specific Web site may not increase the risk to the architect or to other members of the design team. Systems that appropriately track communications and the transfer of unalterable records may help streamline and improve the transmittal documentation that should occur on any project. Most project-specific Web sites, however, lack sufficient safeguards to prevent unauthorized or inadvertent changes to documents or to ensure that all communications are recorded properly. The risk is high that a team member might rely on documents inappropriately, which could place the author at risk of liability.

Interestingly, there is little or no insurance claims history related to Internet transfer of information among design professionals. Nevertheless, a

prudent design professional should carefully assess the risk of any information-transfer technology.

AGREE TO TERMS AND CONDITIONS

All parties using project-specific Web sites should sign electronic data transfer agreements acknowledging the inherent risks and limitations of the technology and explicitly accepting responsibility for risks that others cannot reasonably assume. The terms and conditions to which the parties using a project-specific Web site should agree to include the following:

- The signed and sealed printed documents are the only true contract documents of record.
- Electronic information is a component of the instruments of service and is made available only for the benefit of the client on the specific project and for a specific use.
- The author of the electronic information makes no representation concerning the suitability of the information for other than its intended purpose or concerning the durability of the information or the medium through which the information is furnished.
- Any use of the information for other than its intended purpose is at the risk of the recipient, who shall defend, indemnify, and hold harmless the author of the information from any and all claims, costs, losses, or damages.
- Transfer of the information does not constitute a transfer of any license to use the underlying software or any obligation on the part of the author to provide the software.
- Transfer of the information does not extinguish the right of the author to reuse the information in the general course of professional practice.

POST A DISCLAIMER

Many firms that use project-specific Web sites do little or nothing to alert users of the site to the purpose, accuracy, and timeliness of the information provided or to warn users that it is not reasonable to

rely on the information for other than its intended use or by other than the intended parties.

If a third party hosts or coordinates the Web site, the coordinator should be required to conspicuously display an appropriate disclaimer. Such a disclaimer might read as follows:

The delivery of information in electronic format is for the benefit of the client for whom the design services have been performed. Nothing in the transfer of preliminary information should be construed as conveying to any party any right to rely on the information provided or as constituting approval by the authors of any documents prepared by others that are based on the information. It is the professional opinion of the authors that the electronic information consists of design information current as of the date of its release. Any use of this information is at the sole risk and liability of the user who also is responsible for updating the information to reflect any changes in the design following the preparation date of the information.

RESOURCES

More Best Practices

The following AIA Best Practices provide additional information related to this topic:

- 10.02.01 Electronic Data Transfer: A Sample Disclaimer Notice
- 10.02.05 Electronic Data Transfer: Electronic Signatures
- 10.02.06 Watch Your Language: The Risks of E-mail

For More Information on This Topic

See also “Technology and Information Systems” by Michael Tardif, Assoc. AIA, *The Architect’s Handbook of Professional Practice*, 13th edition, Chapter 13, page 373.

See also the 14th edition of the *Handbook*, which can be ordered from the AIA Bookstore by calling 800-242-3837 (option 4) or by email at bookstore@aia.org



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Key Terms

- Practice
- Information management
- Office information resources



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