



## **AIA Best Practices:**

# **A no-drama approach to changes and change orders**

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### **Summary**

Change orders may cause unease with some clients, but calmness and a thorough explanation of each change may lessen the potential of conflict. This article offers advice on how to deal with changes and change orders and details a checklist of mitigating factors.

## **The nature of change**

Changes on construction projects are the rule, not the exception. Construction documents are not intended to be exhaustive or to anticipate every possible circumstance; many factors outside the architect's control can affect the cost or schedule of a project once construction has begun. Everyone expects changes on a construction project, but somehow changes still become a common source of claims against architects, alleging errors and omissions in the preparation of the construction documents. The inevitability of changes can be exacerbated by the tendency of some contractors to bid low on a project, eliminating profit in the bid in hopes of winning the job and recouping the profit through change orders.

## **Changes and the role of the architect**

The client and contractor sign the construction contract; the architect does not. The architect has no authority to authorize changes to that contract. Only the parties to the agreement—the client and the contractor— may approve changes, including changes to the contract sum or contract time.

Construction contracts should contain provisions for preparing and executing documentation related to changes. Some standard construction contracts authorize the architect to interpret the contract documents and make minor changes that do not affect the cost or the schedule. The architect should be mindful of the conditional nature of this authority, and not make changes that affect cost or schedule without the client's prior knowledge and express written consent.

Under the terms of typical construction contracts, the contractor, client, and architect must sign all change orders. The role of the architect is to advise the client on whether or not the change is in general conformity with the overall design concept and intent, and whether it adequately protects public health, safety, and welfare. In other words, the architect has a duty to apply the same standard of care in preparing, reviewing, and approving change orders as in the preparation of the original construction documents.

## Keep your cool

Changes typically take place in a highly charged atmosphere. The work is under way on the construction site, and the client is spending a lot more money. There can be considerable pressure on the architect to move things along quickly. Every member of the architect's team should be aware that the degree of professional liability is the same no matter how or when construction documents are prepared. The possible implications of a proposed change on other parts of the project are especially important considerations. Because changes occur in an environment of greater haste and urgency, there is a heightened need to track them in an organized way, with sufficient documentation to show that the architect met the reasonable standard of care.

## Educate and inform the client

Before construction begins, it may be useful to advise the client that changes are inevitable and that some changes may add costs. The project budget should include a line item for contingencies sufficient to cover the cost of possible changes that might be reasonably anticipated by analyzing statistical data on projects of similar type, size, and scope.

It is important to propose changes to the client in sufficient detail to enable the client to make an informed decision and the contractor to incorporate each change into the work. Proper documentation takes time. The owner-architect agreement should include provisions to properly compensate the architect for that time. It may be helpful to review these provisions with the client before construction begins and to explain the scope and importance of the architect's services related to changes.

## Administering changes

The following may be helpful in administering changes and change orders.

- Use standard change order forms.
- Use the same care in preparing change orders as in preparing the original documents.
- Initiate a change order only after considering its necessity and propriety, alternative methods of accomplishing the work, the mode of compensation, the effect on contract time and other parts of the project, and an estimate of additional cost.
- Inform the contractor and client immediately if the time needed to prepare drawings and specifications related to changes will affect the construction schedule or cost.
- Document the reasons for changes.
- Communicate all changes and the reasons for them to the contractor and client.
- Do not issue any change orders until the client approves them in writing.

- Document all telephone conversations related to changes, either in a log book or a memorandum to file. Include the date, time, the name of the person to whom you spoke, and a summary of the conversation.
- File correspondence related to changes so that it remains accessible.
- Inform the client if a change order involves additional compensation to the contractor.
- When a contractor proposes equipment substitutions, require the contractor to obtain approvals from all applicable regulatory authorities.
- Before altering construction documents, make a reproducible file copy of the original. It is essential to be able to track any changes made to construction drawings after the contract is signed.
- Maintain an in-house record of all construction change directives and the history of all drawings. This may help control the cost of a job as well as future claims. It is important that the history of changes be traceable through drawing revision blocks and construction change directives.

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