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RFIs: WHAT'S GOOD, WHAT'S BAD & WHAT'S UGLY ABOUT THEM

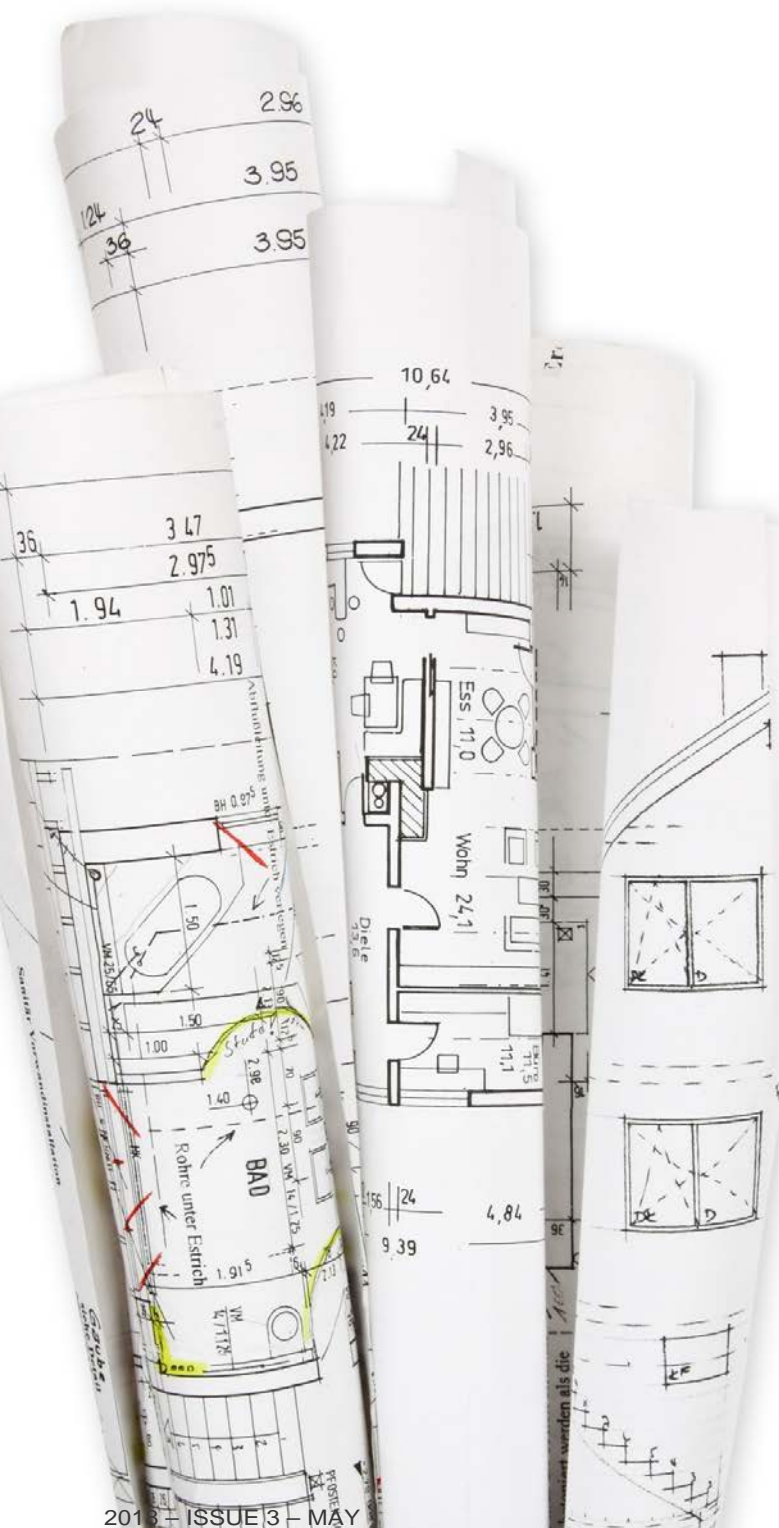
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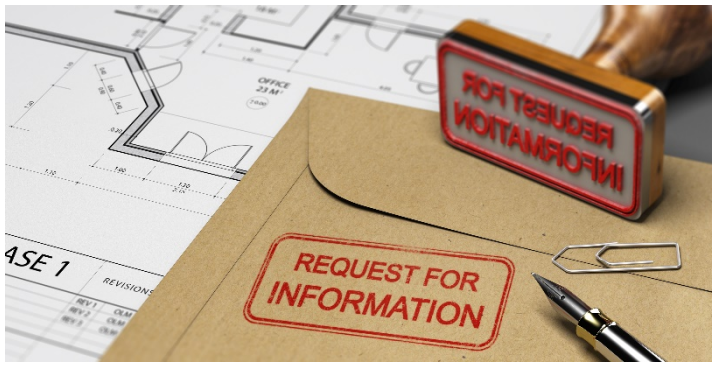
A SIMPLE DEFINITION OF AN RFI (REQUEST FOR INFORMATION):

A written and/or graphic communication from a general contractor to the A/E during construction (i.e., after the owner-contractor agreement has been executed), seeking information related to the contract documents prepared by the A/E. This information may concern a wide range of topics, including interpretations, clarifications, additional information, or the discovery of previously unknown or concealed conditions. The A/E's response to the contractor should also be written and/or graphic. Contractors can also submit RFIs during the bidding phase. The A/E responds to a bidder's RFI by means of an addendum, so that all bidders receive the same information.

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With most projects, it's inevitable that some information in the contract documents will be missing or inconsistent, so when handled well the RFI process can work in a project's best interests. But while RFIs can be a force for good, they can also be bad or even ugly.

What's So Good About RFIs

Contractors can use RFIs to partner with the A/E to fill gaps, resolve conflicts, or clarify ambiguities in the contract documents, and thus often avoiding costly corrective measures down the road. For example, sometimes the contractor has a better solution to a construction problem than the A/E showed in the drawings. However, when contractors and A/Es use meetings, site visits, and other forms of face-to-face communication, many RFIs can be avoided.

What's So Bad About RFIs

Contractors can also abuse the RFI process. This can happen when contractors use RFIs to broadcast the A/E's mistakes (either errors or omissions) in order to generate a change order. Another form of RFI abuse occurs when the contractor asks for information that is contained in, or is reasonably inferable from, the contract documents, rather than properly researching the documents to find the information. This shifts legitimate contractor duties to the A/E, and wastes the A/E's valuable time (and money). Another form of RFI abuse occurs when the contractor submits so many urgent RFIs that the A/E cannot respond in a timely manner. Even poor documents are no excuse for this; the contractor is responsible for examining the documents well in advance to avoid such last-minute urgency. This sort of abuse (of RFIs and A/Es) often results in delay claims by the contractor, for which the A/E is often blamed.

Still another form of RFI abuse happens when contractors use RFIs to get substitutions approved, rather than using the process defined in Division 01, or when seeking the A/E's review or approval of contractor's means and methods, or project site safety. Finally, one more small but annoying form of RFI abuse: When the contractor submits RFIs at 4:30 on Friday afternoon, thus causing the A/E to lose two days from the ticking RFI clock.

What's So Ugly About RFIs

RFIs can become ugly they're used to expose a serious A/E mistake in the contract documents. The mistake may result in a change order for additional time or money (or both); it may also result in an unhappy owner. When owners become very unhappy, they may try to get the A/E to pay for the mistake, resulting in an ugly dispute between the A/E and the owner (and often the contractor as well). Sometimes the A/E's only defense is to argue that the mistakes were omissions, which the owner may have paid slightly extra to buy, but would have needed anyway, and thus are considered "betterment."

Summary

Successful projects—for A/Es, owners, and contractors—finish on time, on budget, and without disputes. Not coincidentally, they are usually the ones with the fewest RFIs. Yes, RFIs can sometimes be good, but they are bad or ugly often enough that they need to be handled with care. Avoiding them can be good for projects—and A/Es.

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About the Author

Eric O. Pempus, FAIA, Esq., NCARB, ORSA has been a risk manager for the last 12 years with experience in architecture, law and professional liability insurance, and a unique and well-rounded background in the construction industry. He has 25 years of experience in the practice of architecture, and as an adjunct professor teaching professional practice courses at the undergraduate and graduate levels for the last 30 years. As a Fellow of the American Institute of Architects and a member of the AIA National Ethics Council, he has demonstrated his impact on architectural profession. He has presented numerous loss prevention and continuing educational programs to design professionals and architectural students in various venues across the United States and Canada.

THE FINISHED PROJECT

PICTURES AND STORIES OF OUR CUSTOMER'S PROJECTS

Do you have a completed project that proved to be challenging, exciting, unique, or has a special story behind it? If so, now is your time to share your story!

If you would like your project highlighted in our newsletter, please submit a brief summary and several photos to:

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FACT:

Empire State Building Revenue

The Empire State Building Generates More Revenue from its Observation Decks than from its 85 Floors of Office Space

In 2014, while the building's two observation decks generated \$111 million (40% of total revenue), its office space leases netted just \$104 million (37% of total revenue).

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