

A wireframe architectural drawing of a building, showing the structural framework of the structure. The drawing is rendered in white lines on a blue background. The building has a complex, multi-story design with curved walls and a central tower. The drawing is viewed from a low angle, looking up at the structure. The background is a solid blue color with a large white triangle pointing downwards, partially overlapping the wireframe drawing.

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# SHOP DRAWINGS & SUBMITTALS 101

## FROM THE CONTRACTOR'S PERSPECTIVE

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Because no engineer or architect can design every detail of a project,

the design of certain elements may be delegated to you, the contractor, and those under your contractual umbrella. This allows those with more knowledge and greater expertise to design certain components, but it can also make you liable when things go wrong. That's why submittals, and the process by which they are reviewed and approved, are so important.

## SHOP DRAWING AND SUBMITTALS 101

### Reducing Risk

The American Institute of Architects (AIA) family of contracts defines shop drawings as drawings, diagrams, schedules and other data specially prepared by a distributor, supplier, manufacturer, subcontractor or contractor to show some part of the work. Submittals, which include shop drawings and other administrative documents, are how the contractor communicates what it intends to construct or what it or its subcontractors have designed. The shop drawing review and approval process formalizes the method for a contractor to demonstrate how it will accomplish these design obligations. The submittal process also allows the design professional to review the design and make sure they comply with the design intent.

But equally important is understanding what shop drawings and submittals are not. For decades, the items constituting contract documents have remained the same and include drawings, specifications, the agreement and general conditions. Notably absent from the list are submittals and shop drawings. The AIA's general conditions state specifically "submittals are not contract documents."

Contractors who understand the role submittals play in a construction project are better equipped to prevent misunderstandings and complications that impede projects. Understanding your responsibilities in the submittal process also goes a long way in reducing your risk of lawsuits.

### Know Your Obligations

Typically the contract documents assign primary responsibility for shop drawings to the contractor and secondarily to the design professional. As the contractor, you are obligated to review any submittal, including those of your subcontractors, for compliance with the contract documents and approve it before it is submitted to the design professional.

By sending the submittal to the design professional for review, you are saying to the owner and the designer professional that you reviewed and approve of the submittal; determined and verified materials, field measurements and field construction criteria, or will do so; and checked and coordinated the information in the submittal with the contract requirements. Several court rulings have found contractors liable for worker safety based upon the contents of a submittal.

Architects are not responsible for the accuracy and completeness of details, such as dimension and quantities, installation instructions or equipment performance. The AIA general conditions are clear that the architect's review does not constitute approval of safety precautions or construction means or methods, techniques, sequences or procedures.

## Call Out and Notify Architects of Deviations from the Contract Documents

If the shop drawings deviate from the contract documents, you have to get the architect's written approval for the proposed deviation. If the architect approves the shop drawing but does not provide the required specific documentation, the contractor remains at risk for the deviation in the submittals.

## Do Not Perform Work on the Submittal Without Written Approval

Contractors are prohibited by contract from performing any work covered by the submittal until the architect or engineer approves it. Work performed without the written approval is at the contractor's risk.

## Get Clarification if a Change in the Scope of Work is Based on Shop Drawings

Courts have differed on the role of shop drawings in cases concerning scope of work. In *United States v. Henke Const. Co.*<sup>46</sup>, a contractor sought recovery for the cost of additional labor and material as the result of the government-owner's refusal to "consider, approve or act upon" certain shop drawings. The general contractor argued that failing to approve or disapprove the shop drawings caused it damage because its installation reflected the work shown in the shop drawings and included work over and above what was called for by the contract. The court found against the plaintiff, citing the plaintiff's false assumption that shop drawings were required for the work.

However, if shop drawing review is required, the approval may affect the scope of work. In *Ozark Mountain Granite & Tile, Co. v. Dewitt Associates, Inc.*, the general contractor argued there was work within the scope of Ozark Mountain's contract not shown on the shop drawings. The court of appeals found in favor of Ozark Mountain, citing a reasonable inference that the disputed areas were within the contract, in part, because the definition of the scope of work referenced the "details of the shop drawings."

## Act in Good Faith

This includes doing everything you can to comply with the contract and following industry practices during the submittal process, especially those concerning "reasonable timeliness." In a recent case, the Missouri Supreme Court concluded there was sufficient evidence to show that a substantial part of the delay in a project's completion was caused by the state's untimely review of shop drawings.





To have a successful  
project of any complexity,

the submittal process must be followed and managed. Though not part of the contract documents, the shop drawings assure the owner is delivered what it wants, the designer's design is brought to fruition, and contractor complied with the contract's obligations. Careful attention to the contractual obligations related to the process and attention to details in the submission and review process will provide smooth project delivery without surprises, finger-pointing or additional expenses.



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## About Our Firm

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