

Frequently Asked Questions – AIA Contract Documents and ConsensusDocs

1. Who is responsible for developing the content of AIA Contract Documents?

The AIA Documents Committee, assisted by AIA Contract Documents staff, develops the content of AIA Contract Documents.

The AIA Documents Committee consists of 25 to 30 AIA member volunteers, all of whom are active in architectural practice. They represent a cross-section of the profession in terms of gender, practice size and focus, and geographic location. Appointments are staggered to maintain continuity of membership and to allow members to develop experience and expertise over time. AIA Contract Documents staff attorneys assist the Documents Committee in analyzing issues, advising on legal issues, and developing document text.

Documents Committee members are assigned to task groups. Each task group takes responsibility for specific AIA Contract Documents, typically in a particular document family or series. Working with the staff attorneys, the task groups prepare and circulate drafts of new or revised documents to the committee, document stakeholders and industry experts. At quarterly Documents Committee meetings, the task groups report the progress of their work to the full committee. Ultimately, the majority of the Documents Committee must approve any new or revised document before it can be published.

2. What is the process for writing AIA Contract Documents?

The development and revision of AIA Contract Documents is a highly collaborative process that involves, among other things, the following activities:

- Investigating the impact of industry practices, and determine the need to revise existing documents, or to create new ones, to reflect current industry practices;
- Seeking input from organizations and attorney groups representing owners, contractors, subcontractors, architects, engineers; and from other experts, including insurers and sureties;
- Analyzing legal decisions and trends, and identify key issues;
- Drafting and revising documents taking into account information received from all sources;
- Circulating draft documents to industry stakeholders and soliciting additional feedback;
- Meeting with industry stakeholders and experts to discuss and develop full understanding of comments received; and
- Evaluating positions and comments; revising and finalizing drafts; obtaining Documents Committee approval; and finalizing documents for publication.

3. What role did the Associated General Contractors (AGC) and other contractor and subcontractor organizations play in the development of the 2007 Update to AIA Contract Documents?

One-third of AIA document users are contractors and subcontractors and their interests are important to the AIA. Because so many contractors use AIA Contract Documents, the AGC and other contractor organizations have always provided input to the AIA in the development of owner/contractor agreements.

For the 2007 Update, the AGC, the Associated Specialty Contractors (ASC) and the American Subcontractors Association (ASA) made many valuable contributions. They provided many comments both on our 1997 contractor agreements and on our 2007 drafts. The AIA met jointly with the AGC, ASC and ASA in day-long meetings held over a three-year period to review and

discuss their comments. The Associated Builders and Contractors also provided feedback on owner/contractor agreements and on the contractor/subcontractor agreement.

The most commonly used AIA agreement is A401, the contractor-subcontractor agreement. The Associated Specialty Contractors announced in November of 2007 that it had endorsed A401–2007 (see attached press release).

4. Which industry groups provided input into the 2007 Update to AIA Contract Documents?

The AIA invited comments and suggestions from over a dozen industry groups including:

- Associated General Contractors,
- Associated Specialty Contractors,
- Associated Builders and Contractors,
- American Subcontractors Association
- Council of American Structural Engineers,
- National Association of State Facilities Administrators,
- Commercial Owners Association of America,
- Owner, Contractor and Architect's Attorneys from Divisions 2, 3 and 12 of the ABA Forum on the Construction Industry, and
- American College of Construction Lawyers.

The AIA also spoke to insurance experts and to construction contract auditors. Many AIA members participated from committees such as The Committee on the Environment, the Risk Management Committee, and from AIA Knowledge Communities such as Technology and Practice, Practice Management, and Small Project Practitioners. We also received input from the Large Firm Round Table.

5. What are the differences between ConsensusDOCS and AIA Contract Documents?

There are a number of differences between ConsensusDOCS and AIA Contract Documents. Three significant differences include the following:

(a) The ConsensusDOCS do not provide a significant role for the architect during the construction phase of the project. The role of the architect during construction, under the ConsensusDOCS, is principally limited to certification of payment applications and certification of substantial completion.

By contrast, under AIA Contract Documents the Architect serves as a representative of the owner and provides valuable assistance to the owner throughout the construction process. Among other things, the architect (1) evaluates and facilitates communications between the owner and the contractor; (2) reviews and evaluates contractor submittals, proposals, and payment applications; (3) periodically visits the site and reports to the owner observed defects and deficiencies in the work; (4) assists the owner in evaluating proposed site superintendents and subcontractors; (5) processes change orders; and (6) may serve as the initial decision maker in disputes between the owner and contractor.

(b) There was little or no input from the design industry in the ConsensusDOCS process. Neither the AIA, nor the Engineers Joint Contract Documents Committee (EJCDC), including the engineering associations comprising the EJCDC (American Council of Engineering Companies, National Society of Professional Engineers, and the American Society of Civil Engineers) has endorsed the ConsensusDOCS.

(c) The AIA has been publishing standard form documents for 120 years. AIA documents are time tested and widely used. A huge body of case law exists around AIA contract provisions. By

contract, the ConsensusDOCS are largely either new documents or edited versions of former AGC documents, the vast majority of which were first written in or after 1997.

6. Did the AGC invite the AIA to participate in ConsensusDOCS?

Yes, however, the AIA did not feel that participation in ConsensusDOCS was in the best interest of the AIA. ConsensusDOCS do not provide a meaningful role for the architect during the construction phase. For that reason, they represent a construction philosophy that the AIA cannot support. Secondly, AIA Contract Documents are widely used and respected in the industry. The AGC developed ConsensusDOCS to compete directly in the marketplace with AIA Contract Documents. The AIA could not justify a reason to support a program that intends to be its direct competitor.

7. Why did the AGC choose not to endorse the A201™–2007?

The AIA is disappointed that the Associated General Contractors (“AGC”) chose not to endorse A201™–2007, General Conditions of the Contract for Construction, as it has done in the past. However, given the current competitive environment, the AIA did not expect the AGC’s endorsement.

8. What are the major changes in AIA’s new edition documents?

In general, both the owner-architect and the owner-contractor agreements were revised to correspond better to varying degrees of project size and complexity. Revisions were also made to provide options in the dispute resolution process. New digital practice documents were developed to facilitate the exchange and use of digital data on the project.

The AIA has created a Web site, www.aiacontractdocuments.org, dedicated to providing information about AIA Contract Documents. This Web site contains, among other things, Podcasts and articles about the 2007 Update documents; commentaries on the A201-2007 and B101-2007; and the following Comparative/Comparison documents that allow users to identify the precise changes made to the text of key AIA Contract Documents:

A101™–2007 Compared to A101™–1997;
A102™–2007 Compared to A111™–1997;
A103™–2007 Compared to A114™–2001;
A107™–2007 Compared to A107™–1997;
A201™–2007 Compared to A201™–1997;
A401™–2007 Compared to A401™–1997;
B101™–2007 Compared to B151™–1997;
B102™–2007 Compared to B141™–1997 Part 1; and
B201™–2007 Compared to B141™–1997 Part 2.

13. Where can I get more information about the 2007 Update to AIA Contract Documents?

You can go to www.aiacontractdocuments.org to find out more about the 2007 Update. The site has articles, Podcasts and resource tools you’ll need to help you understand the 2007 Update. You should make it a habit to visit this site on a regular basis. We will update this site with new materials about AIA Contract Documents when available and, when appropriate, about the ConsensusDOCS.

14. Who can I contact to assist in working with local legislatures to incorporate 2007 AIA documents into state and local procurement codes?

Ken Cobleigh, Esq., from the AIA Contract Documents staff, together with AIA Government Affairs, will work with local components to support their efforts. Contact Ken at kcobleigh@aia.org