

## News & Alerts

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### **AIA Takes Leap Forward With New BIM And Digital Data Forms**

In June, the American Institute of Architects (AIA) released new contract addendums for use on projects utilizing digital data or building information management (BIM) technology. The explosion in digital data and BIM prompted AIA to accelerate its historical once-a-decade update cycle for its contract forms. The new forms include four intended to bring order to the digital cyclone of today's projects:

- C106™–2013, Digital Data Licensing Agreement
- E203™–2013, Building Information Modeling and Digital Data Exhibit
- G201™–2013, Project Digital Data Protocol Form
- G202™–2013, Project Building Information Modeling Protocol Form

These forms have the look and feel of mere administrative protocols, but can impose new and substantial contract requirements on all project participants.

C106™–2013, the Digital Data Licensing Agreement, is the most straightforward. This agreement merely establishes that a party transmitting data to another party also grants a limited license to the receiving party to use that data in connection with its work on the project. By transmitting data, the transmitting party also warrants that it has the necessary ownership or copyright permissions to share the data.

From there, the new forms seek to use collaboration among project participants as the framework for establishing and abiding by digital data protocols. The process begins with E203™–2013, the Building Information Modeling and Digital Data Exhibit, which is a new form intended to be attached to the contracts of all project participants. The E203 serves as a generalized statement of intent and goals that is established at the time of the earliest outset of contracting for the project. It covers four primary functions:

1. Requiring all project participants to adhere to the same digital data and BIM protocols for the project by incorporating the exhibit and later-developed protocols into all project contracts;
2. Establishment of limited licenses, warranties, uses and unauthorized uses regarding digital data, and BIM models;
3. Identification of the types of digital data to be used and whether a centralized management system will be used;
4. The way in which BIM will be utilized on the project; and
5. A process for developing more detailed protocols for digital data exchange and BIM through collaboration "as soon as practical following execution of the agreement" through the

use of forms G201™–2013, Project Digital Data Protocol Form and G202™–2013, Project Building Information Modeling Protocol Form.

Some important rights and remedies are created. All project participants are made third-party beneficiaries of the incorporation requirement. Thus, every project participant can enforce the incorporation obligation against any other project participant if it is damaged by a breach. §§ 1.2, 1.2.1. The exhibit also waives the right to make a claim for additional time or costs due to the use of protocols unless notice is given within 30 days of receipt of the protocols. §§ 1.3.1, 1.3.3. Additionally, a party is made liable for any unauthorized use of digital data or BIM Model. §§ 3.4, 4.7.

Once the “groundwork” has been laid by the E203, the parties are to collaborate to specifically define the role and goals for digital data and BIM. The G201 assists the parties with specifying digital data management protocols for all project participants, including:

- Electronic data management system usage
- System requirements
- Storage requirements
- Archiving standards
- Formats for transmitting specific types of information

While the G201 is not intended to be attached to every contract, all project participants are expected to know of and abide by it by virtue of the requirements of the E203.

Finally, the parties also are to provide a detailed path for the use of BIM through adoption of the G202™–2013, Project Building Information Modeling Protocol Form. These forms come in several versions to accommodate the BIM product on the market, but the substance is the same: establish the level of development for the BIM model and standardize the input and use of the model by project participants. The G202 has three primary functions:

1. Standardizing hardware, software, inputs, and management of the model;
2. Establishing the “level of development” (LOD) descriptions for the model in the form of minimum contents requirements for stated phases of the project; and
3. Confirming how much reliance can be placed on the model by project participants. The LOD concept seeks to eliminate miscues among a project team in the use of BIM for communication and collaboration on project design and construction. LOD 100, for instance, is merely a conceptual model. LOD 400, in contrast, may be akin to the detail and description set forth in the submittal and shop drawing process.

The G202 does contain more than guidance, however. All project participants are expected to understand and adhere to its protocols. Authorized uses of a model element at a particular LOD stage are limited to the specific uses stated. The LOD descriptions are notice that regardless of how developed a model may appear, at a particular stage it only can be relied upon for the uses and to the extent described. Any further reliance, therefore, would be at that participant’s sole risk and expense. The G202 also imposes a requirement upon model users to notify the model manager of any conflicts discovered in the model.

The technology, utilization, advantages, and risks of digital data and BIM are constantly evolving. The new AIA forms take a big step in the direction of identifying and establishing standards for the use of this technology. While the use of digital data and BIM introduces some new risks to its users – such as licensure, unauthorized uses, and incorrect data – the increase in front-end collaboration and communication to standardize and understand the protocols to be used should help minimize these risks. As always, however, participants must take the time to review, understand, and implement the contract requirements for the project.

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