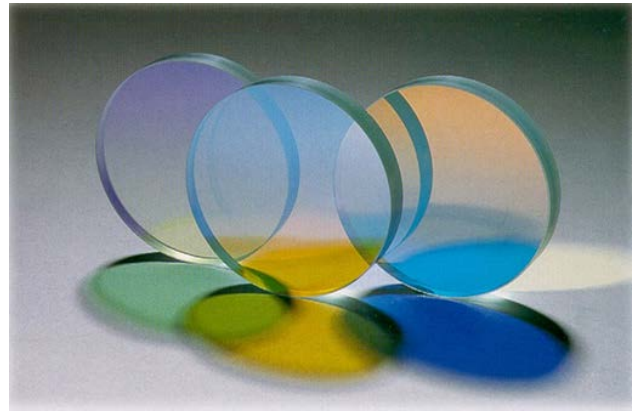


Materials Transparency: The Movement Continues to Gain Traction

Materials transparency has quickly become a recognizable term in our industry. Simply put, it is the requirement of manufacturers to disclose the material content of building products with the goal of creating a more sustainable and healthful indoor environment. It requires additional information in the specification of materials and systems, as well as reports of material content by suppliers and contractors in the submittal process. New trends, like this one, can often translate into risk management exposures for design professionals.

The materials transparency initiative is being driven by building owners/developers, design firms and associations, based on their corporate or institutional philosophies of sustainable principles and related concerns about the ecological and health impacts of products and building materials. Both the USGBC's current LEED Rating System and the WELL Building Standard address material transparency, and the American Institute of Architects has published a Position Statement encouraging architects to promote transparency. Information promoting materials transparency is increasingly becoming available in standard formats like Environmental Product Declarations (EPDs) and Health Product Declarations (HPDs).

While these (currently) voluntary open standards will help to maximize disclosure and accuracy of building product data, it is important to understand and properly limit the scope of your participation in the review of such information.



To help you manage the risks and expectations of design services related to this emerging area of practice, we've developed the following general disclaimer and recommend that you add it to your professional services agreements as a supplement to the disclaimer commonly provided relative to hazardous material:

The Design Professional shall have no responsibility to investigate, analyze or assess the environmental or health impacts or chemical content in connection with any disclosures of the content of building materials or products used or specified for the Project.

Delving into the topic in greater detail, be advised that the AIA has developed model language for three situations you may encounter. These are contained in Section 20 of its Guide for Amendments to AIA Owner-Architect Agreements, AIA Document B503™ – 2007. Each situation is summarized below:

1) When the Architect has adopted a corporate policy but is not obligated by his or her client to address materials transparency, consider the following language in your professional service agreement:

To the extent the Architect collects product manufacturer materials disclosing product contents, the Owner acknowledges that it is not relying on the Architect for any analysis of material composition or the human or environmental health impacts of specific material selections. Any assessments or evaluations of this kind should be conducted by a toxicologist or other trained professionals retained by the Owner.

2) When the Owner's program includes seeking LEED or other third-party certification, you will need to obtain disclosure or transparency documents for building materials to earn points under required or optional credits, review them and then determine whether the product data does or does not conform to the specific requirements. In such cases, consider the following language in your professional service agreement:

By training and experience, the Architect does not possess the expertise to assess the environmental and human health impacts of varying types and quantities of substances contained in building products. To the extent the Architect collects product manufacturer materials disclosing product contents for purposes of pursuing LEED [or insert the name of any other third-party certifications such as Living Building Challenge or WELL Building being pursued on the Project], the Owner acknowledges that it is not relying upon the Architect for any analysis of material composition or the human or environmental health impacts of specific material selections. The Architect shall be entitled to rely exclusively on information furnished by manufacturers and material suppliers. The Owner acknowledges that the Architect does not possess the expertise to (1) evaluate the specific chemical composition of products or materials, (2) recognize that a product includes any particular chemicals or substances, or (3) evaluate the information furnished by the manufacturers or material suppliers, in order to determine the environmental and human health impacts of varying types and quantities of substances contained in building products. To the extent the Owner requires such analysis, any assessments or evaluations of this kind shall be conducted by a toxicologist or other trained professionals retained by the Owner.

3) If the Owner requests that the products specified for the Project contain few or none of the substances found on one or more reported health or environmental impacts lists, the Owner and Architect should agree on a definitive list of substances to be considered in the evaluation of building materials. You should advise the Owner to engage consultants with the necessary expertise to analyze the information included in manufacturer-provided disclosures. Under these circumstances, the Architect is required to factor the data contained within disclosure documents into the Architect's product selection process, and this should be considered an Additional Service. In order to clarify responsibilities and create risk-sharing strategies around materials transparency, consider contract language similar to the following:

*The Owner has provided to the Architect specification criteria that identifies those chemicals or substances that the Owner desires the Architect to avoid when specifying products to be included in the improvements being designed for the Owner. The Architect shall endeavor to specify products from manufacturers that have made information disclosing product contents publicly available and shall further endeavor, based solely on a review of the information furnished by the manufacturers and material suppliers, to avoid specifying products that contain the substances identified by the Owner. The Architect shall be entitled to rely exclusively on information furnished by manufacturers and material suppliers. The Owner acknowledges that the Architect does not possess the expertise to (1) evaluate the specific chemical composition of products or materials, (2) recognize that a product includes one or more of the identified chemicals or substances, or (3) evaluate the information furnished by the manufacturers or material suppliers, in order to determine the environmental and human health impacts of varying types and quantities of substances contained in building products. Accordingly, the Owner warrants that it will retain a chemist, toxicologist or other qualified professional to determine the environmental and human health impacts of varying types and quantities of substances contained in building products or to make other assessments required by the Owner.
[Insert, or attach as an exhibit, a list of substances that the Architect shall endeavor to avoid specifying or reference a published list of such substances.]*

More transparency in the ingredients of our indoor fixtures and furnishings is long overdue. It is a welcome evaluation criteria on healthfulness for designers and consumers. Proceed with caution, however, because your active participation comes with added risk.

References:

AIA Material Transparency Knowledge Community <http://www.aia.org/practicing/groups/kc/AIAB104034>

AIA Document B503™ – 2007 <http://www.aia.org/groups/aia/documents/document/aia076859.pdf>



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About The American Institute of Architects

Founded in 1857, the American Institute of Architects consistently works to create more valuable, healthy, secure, and sustainable buildings, neighborhoods, and communities. Through nearly 300 state and local chapters, the AIA advocates for public policies that promote economic vitality and public wellbeing. Members adhere to a code of ethics and conduct to ensure the highest professional standards. The AIA provides members with tools and resources to assist them in their careers and business as well as engaging civic and government leaders and the public to find solutions to pressing issues facing our communities, institutions, nation and world. www.aia.org.

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