

## Proper email protocols on construction projects



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Communicating by email on construction projects is essential and likely the most common form of communication between participants on a project. More importantly, it is a great way to document issues that arise during the course of a project. However, with email being available on phones and tablets 24/7, and the fact that communications between different people on the project can become informal, there is a tendency to use email more frequently and less carefully than more formal means of communication.

Can you get in trouble with these convenient communications? Is there anything you should be doing to set yourself up better in the event of a dispute?

Whether it is a project manager communicating with the owner or a subcontractor communicating with a supplier, there are some simple guidelines that you should keep in mind when communicating by email on the project.

1. **Include a clear, direct subject line.** The subject line should include the name of the project that you are referring to since it is likely that you (and the recipients) are engaged in several projects at that time. Identifying the project will help you track these messages internally in the event that you need to retrieve them later. The subject can also contain certain other identifying words related to the message (e.g., "Delay Claim", "Schedule Update," or "Pay Application No. 2 Revision"). On a similar note, do not use your subject line for the actual message you wish to send.
2. **Keep it professional.** Avoid using foul language, sarcasm, or off-color humor. To put it simply, if you would not say it in a letter, then don't say it in an email. More importantly, if you wouldn't want to read the contents of your email in a room full of strangers (i.e., in a deposition or on the witness stand), then don't say it or find another way to make your point.
3. **Just the facts.** Keep your email communications to "just the facts" to avoid having your individual feelings and/or perceptions misconstrued in the event of a dispute down the road. Laying out your feelings or emotions in an email can only hurt and will likely come back to bite you. Avoid using legalistic and antagonistic language. Avoid judgmental comments. Avoid personal attacks. Just lay out (and document) the facts, all the facts, and nothing but the facts.
4. **Be direct with your message.** Don't dance around the point you wish to make. Make your point and move on. Vague messages can result in ambiguity during a

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dispute on a commercial construction project and can negatively impact your bottom line by, among other things, resulting in ineffective notice of a claim, creating ambiguity as to the claim being raised, and undermining the intent of the message you wish to send, etc.

5. **Avoid being self-critical in internal email communications.** It goes without saying that you should avoid being self-critical or critical of your company in external emails, but the same goes for internal emails. Just because you are discussing things internally during the project, and the other parties involved in the project are not a part of that conversation, does not mean that those emails will not ultimately come back to haunt you in the event that there is a claim that results in arbitration or litigation.
6. **Keep the discussion of your email related to a single project.** If you are involved in multiple projects with the recipient, keep an individual email related to an individual project as much as possible. This will help eliminate confusion related to directions being sent as to multiple projects and will help with your internal file management for the project.
7. **Be vigilant in maintaining the attorney-client privilege.** If you are communicating with an attorney representing your company on the project, then be careful about who you involve in those conversations. If you bring in a third-party, such as the architect or a consultant, the attorney-client privilege can be destroyed as to that communication and the matters discussed could ultimately be obtainable from the other side in the event of a dispute.
8. **If it is important, put it in a letter.** If the message you are sending is critical to the project or a claim that you are making on a project, put the message in a letter. You can still send the letter via email if you wish, but a written letter that has been signed by the sender and sent via email will be taken much more seriously than the relatively informal email message used to transmit the official notice. Please note, however, that your contract may require that certain notices be provided by means other than e-mail, such as certified mail or personal delivery. So, be sure to know what your contract requires before you submit project critical messages by email.

If you follow these suggestions and keep these points in mind when communicating by email on your construction project, you will avoid many of the common pitfalls with email communication on commercial construction projects. Abiding by these maxims will help properly document legal issues that may arise during the course of your project, reduce ambiguity as to disputes, and place your company in a superior position when it comes to prosecuting or defending a claim on your project.