



Procurement Methods Requiring Design

The Alberta Association of Architects (AAA) is noticing an increase in requests for proposals (RFPs) requiring design before selection or award of contract. There are two reasons the AAA does not encourage such procurement methods: one, because the potential for an adequate fee for the successful candidate is very low; and two, because the perceived value of professional service is compromised. Both of these have the potential to increase risk to the client, the architect or licensed interior designer LID, and the public.

AAA does not currently have an official fee guide for a variety of reasons, however, we reference guidelines to help authorized entities anticipate the magnitude of a project when assessing fees. All of us, probably more often than we'd like to admit, have underestimated the fee and/or workload necessary to responsibly attend to a project. However, regardless of fee, we as self-regulated professionals are duty bound through the *Architects Act* to provide the standard of care our projects demand.

Procurement requiring a large amount of design work before award without remuneration, such as the recent Clover Bar Lodge RFP, places an undo burden on practitioners by expecting a level of care without contractual bounds. Moreover, they make it harder to encourage or even allow good design to drive the direction of a project.

Should a member choose to engage in work without compensation, the fact that there is no remuneration does not exclude them from upholding the responsibilities of their profession. We strongly suggest architects and LIDs consider the following before taking on such projects:

1. With inadequate compensation in a proposal, or in an engaged project, will your level of design work have the potential to meet the duty of care required should it be built?
2. Does the client or the design-builder expect to receive the intellectual property or copyright to your work regardless of whether the work is selected? You own your rights to your work products unless you willingly give them away under contract. Without a contract in place, asserting these rights is more difficult.
3. Will the client understand and accept the provision of "abridged services"? Do you commit your services under contract with the design builder specifically outlining your scope of work, regardless of the lack of compensation?
4. If the project being considered is design/build, what value recognition can realistically be expected from the owner when design build is by definition governed by the lowest price?
5. If the procurement process precludes fair compensation to begin with, are there provisions in place to re-assert the true compensatory value of your services should you be successful?

The AAA is currently addressing concerns surrounding these procurement methods with the provincial government. We are also refining Practice Bulletin 19 to better clarify competitions and RFPs requiring design without compensation. Architects and LIDs need to carefully consider the risks involved when engaging in such activities. Regardless of the level of compensation, our obligation to meet the standard of care befitting the professions is essential.

The Value of our Services

We have all noticed the increasing pressure to lower fees regardless of our obligation to provide a level of service commensurate with the *Architect's Act*. One of the key issues we as practitioners continue to battle is the lack of understanding that the products we sell are our ideas and knowledge.

We are starting to see more procurement similar to the recent Design Build RFP for the Clover Bar Lodge that offers no remuneration or informed adjudication for design services. This form of procurement creates a circumstance in which any architect or LID who agrees to participate may be willingly giving away expertise and services and in turn may inadvertently aide the perceived decrease in the value of our professions. Often the client does not understand or chooses to ignore the fact that we do not work as contractors do. We cannot provide backup receipts for our commodities; our ideas. They also may not truly grasp that the bulk of our work is complete before the contractor starts to dig.

Nonetheless, a sustained climate of uninsurable contracts and speculative or 'free' work is the most fertile ground for errors and unrelenting claims by dissatisfied owners who, despite helping to create this negative environment, expect to receive a complete level of professional attention. It must be noted that failure to provide the adequate services is the first measure in law to test and establish professional negligence.

We are seeing more complaints and disciplinary issues which may be the result of poor judgement in level of service provided. These are the tangible repercussions of reduced fees. We are also combating the less tangible reduction in perceived value of our services. As professionals in Alberta we must decide if we are satisfied with the status quo or if we truly want to see changes in procurement formats that bring back contractual control.

As the cost of technology, insurance and staffing rates go up, we find ourselves under continual pressure to reduce fees without reducing services. The AAA is dedicated to helping our members make informed decisions through publishing Practice Bulletins and Advisories. However, to create meaningful change to the diminishing perceived worth of our services we are going to need support of all our members through individual and collective action.

Our services intangibly affect people of this province in their daily lives. Our spaces affect the mental and physical demeanour and health of our citizens. The integrity of the profession can best be demonstrated through our authorized entities, making sound, insurable decisions while avoiding activities that compromise our ability to meet or exceed the duty of care. Beyond professional interest, this is a matter of our underlying obligation to protect the public. It is we, the members of the AAA, who are ultimately responsible to improve the perception of our value and efficacy in shaping Alberta's built environment.

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