

The Newfoundland Association of Architects

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POSITION PAPER:

PROPOSAL CALLS

This position paper is in response to the growing trend toward public invitations for architects to submit proposals for design services. These invitations to consultants, and more specifically to architects, come from various levels of government, a wide range of quasi-government organizations such as crown corporations, and, as well, corporate bodies. Invitations to submit proposals, or statements of qualifications, are an acceptable means of soliciting consulting design services, and this practice is endorsed by the Newfoundland Association of Architects. However, of late, there has been an increasing proliferation of “invitations” for projects which:

1. Are apparently indefinite, i.e., no funding is in place, the necessary approval of a board of directors / specific government department has not been given or sought, or the project is merely a “consideration”;
2. Seek to solicit design services, construction estimates, or fees other than those provided in the fee schedule published jointly by the Newfoundland Association of Architects and the Association of Professional Engineers and Geoscientists of Newfoundland;
3. Have been subject to considerable preliminary, paid design work to determine their viability, and in which case, continued affiliation with that professional is logical and acceptable.

Indefinite Requests:

The Newfoundland Association of Architects recognizes that proposals are a very necessary part of the business of architecture, and that the cost for writing and preparing such responses is part of every design professional's overhead, whether as a sole practitioner or as borne by a larger firm.

In many respects, this first issue may be a product of difficult economic times, a fact recognized by our members. However, all too often, solicitations for design proposals reach the newspapers without analysis as to their economic viability or practical feasibility (physical, political or environmental). Others appear to have somehow bypassed the normal protocol of conscientious business practice and have taken on the appearance of being “fishing expeditions” by persons other than those in authority. Such requests for proposals not only place unnecessary financial hardship on the architectural community, but can lead to public embarrassment of our clients. Both are unfortunate and preventable.

In cases where, for reasons beyond the owner's control a project is delayed or postponed, the winning proposal should be “shelved” along with the project. That is to say, the proposals should be evaluated and a winner selected. Then, at *any time* in the future, should the project proceed, the winning firm asked to confirm their proposal and proceed with the design contract. All things being equal, another proposal call should not be held.

Design Services in Response to a Proposal Call

Under no circumstances should a request for proposals be used to determine a project's viability or simply to solicit fee information. The latter is available from our association and is structured to define basic services in the context of the public's safety and the best interests of our clients.

As you may be aware, the Newfoundland Association of Architects is in part regulated by a Code of Conduct which states that "in response to a proposal call, design services shall not be rendered". The code goes on to clearly, and indisputably, define "design services". Providing design work without remuneration is regarded as unethical, and subject to penalty. When *invitations to propose* request design work, or suggest that design work will be taken into consideration as part of the selection criteria, architects are immediately launched into an extremely difficult position, one in which there should be no alternative but to decline the proposal call.

Construction estimating is defined as part of an architect's basic service. To request even a "ballpark" estimate in a proposal is therefore premature. On the part of the architect, to respond would be, at best, poor judgement. In situations where a lump sum fee estimate is stipulated, the architect would be penalized for an increased budget if his proposal were, in fact, based on a percentage fee (in accordance with the published fee schedule). The result would be inevitable cost cutting which may lead to poor performance. This could further result in low client satisfaction, or worse still, possible compromise of public safety.

We would reiterate that recommended consulting fees are published. The fee scale is designed to cover the cost of "basic design services" and has been developed in the interests of client satisfaction and public safety. If design professionals are not paid to provide the full spectrum of services required, client satisfaction is likely to be elusive and risk, to everyone involved, higher.

The Importance of Continuity

Finally, in situations where a architect has been hired to perform work on a project, usually in the form of feasibility studies, space programming or conceptual design to determine a project's viability, our association encourages continued negotiation with that professional to further or complete the design work. The rationale for this is simple: who better to provide the building solution? The pressure, particularly within bureaucratic circles, to "spread the work around" is sometimes counterproductive to good design. Consider the reaction of most design professionals when one of the criteria for award is "understanding of the problem" or "familiarity with the work" and they are fully aware that one of their competing colleagues has previously been involved in pre-design services for the project. In some instances, that colleague may even have been paid to assist the client in developing the terms of reference for the proposal. This is a situation that can only lead to suspicion and the potential for controversy.

Governments are not bound by the Public Tendering Act in the hiring of professional design consultants, but this is a fact that appears to be lost on many bureaucrats and quasi-government bodies. Our association holds the position that design professionals hired to provide pre-design services should be retained to continue with the work unless the services provided are deemed unsatisfactory or, as is the case with certain programming work and consulting for design-build scenarios, it is desirable to seek a counterbalance to the work already performed. In this case, the author of the pre-design services should be declared ineligible and/or retained to provide review services on behalf of the owner.

Staying with the design professional that has performed all your preliminary work makes good design and economic sense. It will also spare the design community the tremendous cost of preparing proposals for projects whose award may be (or may be perceived to be) pre-determined.

As a professional association, it is our mandate to inform our clients of practices which may be detrimental to the delivery of quality professional design services in this province. We offer the foregoing for your consideration and would be delighted to receive your comments. Our council is available to answer any questions on the subject of proposal calls and, should you feel it necessary, will make ourselves available for a meeting on this or any topic of mutual concern.