This policy shall be followed on all public improvement projects which, by law, must be submitted to the Bureau of Real Estate Management (BREM) for review and for approval of the selection of Architectural and Engineering (A/E) and Landscape Architectural services[[1]](#footnote-1).

Purpose

There are two methods for determining design fees. Public improvement projects which will have a total fee amount under $25,000 should determine design fees by documenting specific tasks with an associated fee for each task. The objective of this policy is to describe the considerations for determining Architectural and Engineering design fees for Design-Bid-Build projects over $25,000 in total fee amount when the sum-of-fees-for-specific-tasks methodology is not used.

Definitions

For the purpose of this policy, the following terms have the following meanings:

*Owner*. The contracting state agency, Community College, Maine Maritime Academy, Maine Judicial Branch, school administrative unit or other entity.

*Consultant*. The firm providing architectural/engineering services to the Owner.

*Bureau or BREM*. The Bureau of Real Estate Management; the approval authority.

*Comprehensive Architectural/Engineering Projects*. Public Improvement design and construction projects which require three or more distinct architectural and engineering design disciplines working in a coordinated way to complete the project.

*Construction cost*. The budgeted or estimated value of the construction contract for new construction. Fees for projects which have a combination of new construction and renovation should be calculated on pro-rated basis.

*Renovation cost modifier*. The rate added to the corresponding new construction cost rate to determine the overall fee rate.

*A rate*. The reference A/E fee rate on projects of ordinary complexity, shown on Table 1 as a percentage of the budgeted or estimated construction contract value. Examples are garages; pole barns; aircraft hangers; parking structures; warehouses; enclosures or structures housing utilities; simple office buildings; et cetera.

*B rate*. The reference A/E fee rate on projects of moderate complexity, shown on Table 1 as a percentage of the budgeted or estimated construction contract value. Examples are office buildings with unusual program requirements; educational facilities including an ordinary mix of classrooms, auditoriums, cafeterias, and office space; dormitories; athletic facilities; public safety, correctional, judicial, or other facilities with a limited amount of segregated public and secure spaces; armories, readiness centers and similar military facilities; simple medical facilities; et cetera.

*C rate*. The reference A/E fee rate on projects of extraordinary complexity, shown on Table 1 as a percentage of the budgeted or estimated construction contract value. Examples are correctional or judicial facilities with multiple separate spaces for security, administrative, public, and operational functions; laboratories with various specialized power and HVAC requirements; medical facilities with several interrelated and segregated functions; data centers; et cetera.

Method

One method for developing A/E fees is to describe each task in each phase of the work, all of the personnel needed to complete the services, the time needed for each task, and the associated fee. This method is used in single-source procurement when the total fee is under $25,000, however, it is not limited to that procurement. Projects which have a limited number of disciplines involved, or only one discipline, would use this method.

Another method for developing A/E fees is to utilize the attached *Table 1 Recommended Fee Schedule for Architectural/Engineering Projects*. The *Fee Schedule* framework establishes a reference point from which to negotiate the fee by identifying a certain rate in the form of a percentage of the estimated construction cost. Projects which have coordinated Architectural and Engineering disciplines involved would use this method.

Irrespective of the basis of the fee calculation, the Owner shall create a written justification for the fee amount by documenting the fee negotiation and the rationale for the particular fee amount.

The fee recorded on the agreement will show as a *stipulated sum* for the given scope of services, or an *hourly rates, not-to-exceed* amount, or as *mixed fees, not-to-exceed* amount when both *stipulated sum* and *hourly rates, not-to-exceed* are used.

Protocol

The Owner shall complete each of the following steps, in the order shown, so as to document a fair fee as a component of an agreement between the Owner and Consultant which is approvable by BREM or other approval authority.

*1. Select Consultant*. Using the BREM Prequalified Professionals List or a Request for Qualifications (RFQ) process, with interviewed firms ranked and the highest-ranked firm selected to negotiate the agreement.

*2. Solicit proposal from Consultant*. Provide the written project description, schedule, scope of services and any other relevant information so that the Consultant can prepare a proposal.

*3. Negotiate fee*. Using the table below and the project parameters, document the fee negotiation. Document the rationale for the particular fee amount.

*4. Draft agreement*. Send draft of agreement to all parties and BREM or the approval authority, if not BREM, which will pre-approve the draft agreement.

*5. Approve agreement*. The agreement is finally signed by Consultant, Owner, and BREM or the approval authority, if not BREM. No work shall commence until the agreement is approved by BREM or the approval authority.

Table 1

Recommended Fee Schedule for Architectural/Engineering Projects

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Construction Cost | | | A rate | B rate | C rate |
| up to | | $249,999 | Negotiate fee amount based on hourly rates  or a percentage of construction cost  (maximum 10.0%, 11.0%, 12.0% respectively). | | |
| $250,000 | to | $499,999 | 8.2% | 9.2% | 10.2% |
| $500,000 | to | $999,999 | 7.7% | 8.7% | 9.7% |
| $1,000,000 | to | $3,999,999 | 7.0% | 8.0% | 9.0% |
| $4,000,000 | to | $14,999,999 | 6.3% | 7.3% | 8.3% |
| $15,000,000 | to | $49,999,999 | 5.8% | 6.8% | 7.8% |
| $50,000,000 | and above | | 5.0% | 6.0% | 7.0% |
| Add to the negotiated rate for new construction the rate shown at right for that portion of the project which is renovation. | | | 2.0% | 2.5% | 3.0% |

1. The reference in statute is Title 5, Chapter 153, Section 1742, subsection 6. [↑](#footnote-ref-1)