



CONSULTANT SELECTION “BEST PRACTICE”

Do we avoid situations that seek, or exploit, design skills and concepts as part of competitive consultant selection processes? In this and other appointment processes, consultant architect agreements can be compromised at the outset. Do we negotiate sensible equitable co-ordinated consultant agreements?

In projects that are initiated competitively with say, an invitation to submit a no cost design idea, the architect is likely to have little or no say in consultant selection or their terms of engagement. These circumstances can also occur where architects are not involved in consultant recommendations for a selection by a client.

While clients have the right to choose how to competitively select their consultants, there is good reason for NZIA and NZACS to have the opportunity to suggest “best practice” and discourage the high risk apparently competitive processes offered by both naïve and experienced clients alike.

Such “best practice” guidance documents on project set-up and consultant selection have been developed by the Corporate Industrial Design Australia (CIDA) in Australia and are available in New Zealand through BOMA.

These documents are:

- Pre Qualification Criteria for Consultants
- Interim Australian Standards
 - i) Code of Tendering
 - ii) General Conditions for Engagement of Contractors
 - iii) Code of Ethics – Procedures for Selection of Consultants

As a consultant, care is required when being engaged, but equally care must be taken when you engage consultants.

On major projects consultant engagement is often through client prepared conditions of engagement. While it is possible that all consultants will be subject to the same agreement, one must check each separate agreement, read the fine print carefully, and ensure that you do not take on, or have transferred to you liability which rightly should rest with others.

When all consultants are engaged directly by the client your responsibility defined within your particular contract but you must be sure that you can satisfy those responsibilities without limitations contained in the separate contracts between client and the other parties with whom you must interact and co-ordinate.

For most commissions, best practice is to follow the current NZIA AAS document and use it wherever possible. When this is not possible it is important to have a written agreement with your client defining the extent of service to be provided, noting any exclusions or limitation from normal and defining the fees to be charged. The agreement should confirm any other responsibilities including your opinion of the client's terms of engagement and selection of other consultants.

When engaged as the primary consultant and you are required to directly engage sub consultants, it is essential that the conditions of engagement which apply to those sub consultants are identical with yours. Such consultant agreements run in parallel with the level of PI Insurance cover for each being the same. Do not hesitate to seek third party advice on agreements to be signed and payment for doing so.

Do not engage or become linked with any consultant who does not carry suitable PI Insurance the equivalent of your own without exclusions. Remember that Joint and Several Liability exists within New Zealand law. The performance of others may well have significant implications.

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