

New Zealand Institute of Architects Incorporated



Date 5 July 2013

To Ministry Business Innovation and Employment
Procurement.govt.nz
Consultancy.coe@mbie.govt.nz

From Teena Hale Pennington
Chief Executive

Re **A Request for Information (RFI) – Consultancy Services**

The New Zealand Institute of Architects (NZIA) represents more than 90 percent of all Registered Architects in New Zealand and a majority of recent graduates making their way into the profession. We have a total membership of around 2,700. The NZIA is active not only in promoting the services of our members but also in promoting practices and education that will help ensure improvement and on-going sustainability of the built environment.

Our members are involved in providing a range of design consultancy services to Government. A significant amount of work is undertaken in the Ministries of Education, Health, Business Innovation and Employment (Building and Housing) and Justice, the Department of Corrections as well as in community projects (galleries, libraries). The services provided by our Members includes design and documentation, contract administration, observation, planning and urban design, procurement, seismic design and strengthening, fire engineering and project management.

Direct responses to the Request for Information (RFI) have been made by our Members. Given the significance of the work undertaken by our Members and the potential changes to Government procurement, the NZIA is keen to ensure that the Ministry is across both the key issues and opportunities as they relate to 'Architectural services'. The comments below reflect the experiences and insights of our Members and specifically respond to Question 16, All-of-Government procurement included in the request for information.

We are keen to assist the Ministry in developing solutions that work for 'architectural' consultancy services. We can offer insight and expertise across the country through eight NZIA Branches, through Members on current Ministry Panels (e.g. Corrections and Justice) and experiences in other procurement models. We would welcome the opportunity through a small group of NZIA members to workshop and/or meet with the Ministry to discuss our comments and ideas on the opportunities for Government procurement.

Outlined below are some key issues, direct feedback we have had from a Member survey and a response to the issues raised in Question 16.

Key issues for New Zealand Institute of Architects

Some key issues to emerge for NZIA and its Members are:

- Understanding the proposed relationship between this potential 'consultancy services' procurement and existing Ministry procurement panels – Education, Justice, Corrections, etc. Whilst it is noted that MBIE will be working with the agencies who lead these contracts, clarity is needed for the industry around the procurement model and terms of engagement. Some of these existing arrangements are unsustainable – fixed rates for potentially 9 years; and/or inconsistent with existing best practice (For example, utilisation of the Government Model Contract, significantly redrafted, rather than using *NZIA Agreement for Architectural Services* that is advised to Departments and Ministries by MBIE as being the form of contract to be used for engaging Architects).
- We note the comment on page 7, that MBIE does not anticipate the inclusion of Property and Construction Consultancy Services before the expiry of the initial contract term for the *Syndicated Construction Consultancy Services Panel* established by the Department of Corrections. Given this is not until June 2015 we would appreciate understanding how the information gathered in this RFI will be used at that time.
- We note that the Ministry of Education is proceeding to develop a 'new' contract for engagement for Architects on education projects. We would appreciate any clarification you can provide around how this initiative will be incorporated into the findings of the RFI.
- The training and expertise of Architects enables them to lead and deliver projects from project conception and design to post occupancy. This is an important point given that no other profession can be involved in a building and construction project in this way. The separation of 'Project Management' services by default assumes that this service is needed for a building and construction project, when in effect, a Registered Architect could undertake all of this work. Any procurement process should recognise this opportunity – as it has the potential to deliver cost savings, time efficiencies and innovation across the project.
- Ensuring the full range of services able to be undertaken by Architects is recognised – for example, interior design, urban design, heritage and conservation advice, quality assurance, contract management, site evaluation, tenancy coordination, full documentation of building works, on-site coordination with Head Contractor and/or Principal, process payments, sign-offs/warranties/approvals, coordination of remedial works, ensuring code of compliance certificate.
- That all processes, be it, Request for Information, draft Request for Proposal, Request for Proposal, Expression of Interest, Call for tenders, all seek to minimise the cost of participating for potential providers and appropriately coordinate decision making at each stage to minimise both evaluation effort and wasted submission time.
- Due consideration be given to using procurement processes that match the scale, complexity and value of work undertaken. It may be that a dollar value threshold can be identified for certain projects and/or Departments and/or Ministries where a mini competition process is run, rather than the full Government procurement process. All appointments, whether competitive or not, would require a brief from the responsible Department and/or Ministry.
- Procurement processes that emphasise lowest design fee place overall project value for money at significant risk, when the design portion of a full project is usually less than 10%. For example poor quality design co-ordination bought about by unsustainable fees can lead to construction cost variations many times the value of the design fees.

NZIA survey results

In response to the MBIE Request for Information, the NZIA undertook a small sample survey of members on the key issues around Government procurement. Some of the key findings were:

- Registered Architects are currently significantly involved in Government Department and Ministry projects.
- The work undertaken by Architects is primarily 'new build' and/or 'refurbishment' projects.
- Majority of projects are procured under the *NZIA Agreement for Architectural Services (NZIA AAS)* or *Conditions of Contract for Consultancy Services (CCCS)*.
- Significant time and legal cost for Members and the procuring Ministries and Departments is involved in contract negotiations where NZIA AAS or CCCS are not used.
- Often a lack of acceptance by Departments/Ministries of Architects fee rates and scope of fees for requested works. This often leads to unsustainable discounting.
- Project Managers often complicate or confuse the relationships and obligations of parties rather than ease the progress of the project.
- Imbalance between considerations of quality and value with cost. Regular experience is that the lowest priced submitter is awarded the work. The lowest price does not guarantee value for money and/or quality of project outcomes – just a project completion.
- Lack of understanding across Departments/Ministries of the skills and competencies of Registered Architects
- Fees are predominately calculated on a combination basis of lump sum, time charge and percentage

From the small Member survey sample, we identified that NZIA members over the last two years had been involved in building work valued in excess of \$690 million.

All-of-government solution

Overall, we would encourage the Ministry to develop procurement responses that provide for fairness, value for money and quality. In our opinion, this can be achieved by Government for 'Architectural services' but it will require changes from existing procurement practices. As the Institute represents Registered Architects, we bring expertise and a professional willingness to find a way forward on these issues.

In response to the questions raised in Section 16, we offer the following advice:

- **Procurement process** – needs to recognise the scale and variance of expertise available within a profession like Registered Architects or Engineers. It should also seek to provide opportunities for locally based businesses, particularly where roles such as observation or inspections are required as part of the work.
- **Insurance and liabilities** – need to be managed through the provision of proven contract bases (i.e. *NZIA Agreement for Architectural Services (NZIA AAS)* or *Conditions of Contract for Consultancy Services (CCCS)*).
- **New businesses** – must be afforded an opportunity to enter an All-of-Government procurement process on a regular basis. This assists with maintaining appropriate competitive tension as well as ensuring emerging talent, innovation and capability is accessible to the Government.
- **Efficiencies are possible**, for example:
 - identification in procurement documentation about locational needs
 - standardised Contract being used
 - establishing realistic project scope, timeframes and budgets
 - using Registered Architects for the full range of services they are trained in
 - establishing a pre-qualification process. This could be managed through NZIA membership and/or Architects Registration requirements

- using a Registered Architect for certain scale, complexity and/or dollar value of works.
 - procurement of teams for projects, rather than individual silo's of expertise. A team offers efficiencies through proven working relationships, opportunity to innovate and proven delivery and performance.
- **Visibility of Government work programme** – will assist the industry in identifying priorities and ensuring adequate and appropriate resources. This could be a twice yearly briefing of the building and construction industry – both of the work programme and any changes, along with accurate publication of all of government programmes of work.
- **Procurement processes** – depending on the size of a panel of Providers, inefficiencies and additional costs could be borne by the profession to participate. A response to this might be to use a low cost, minimum information approach for Registration of Interest processes. This could then be followed by a draft Request for Proposal which the profession can provide feedback on. This step would ensure the best possible Proposal is put into the marketplace to establish the panel environment. The NZIA would be happy to assist the various Departments/Ministries in formulating briefs for projects – to achieve procurement and appointment efficiencies.
- **Competitions as the procurement model** – it is unclear from the documentation how 'competitions' might be used in procurement. The NZIA would advocate that in certain circumstances 'competitions' provide an efficient, quality and fair procurement process and alternate to panels. The use of competitions is a common method of procurement in projects involving Architects. We would be happy to work with the Ministry on how this could be included and potentially facilitated.
- **Quality of supplier** – there are several aspects to consider around this – feedback through Professional Institute (e.g. IPENZ, NZIA, ACENZ, etc.), project outcomes (on-time, budget, scope, innovation) evaluated at both an individual and team level need to have appropriate prominence.
- **Best practice processes** – the research findings included in the document, "*Best Practice Procurement in Construction and Infrastructure in New Zealand Discussion Document*" published by NZCIC in October 2004, are still relevant in 2013 and must be addressed through the panel process. This research found that procurement practice in the construction sector in New Zealand has tended to be based primarily on competitive pricing models that focus the process on:
 - Economic objectives (e.g. return on investment)
 - Cost over value
 - Short rather than long-term outcomes (the construction of a building, road etc to meet an immediate need or opportunity)
 - Construction and not whole-of-life costs
 - Risk and liability transfer to suppliers/providers

It further found that this could result in:

- Hidden costs coming from increased maintenance, building re-fitting, and increased health and safety risks
- Design quality and integrity, health and safety, training, the environment and innovation sometimes being compromised or inhibited as pressure is exerted to

minimise costs

- Bidders, seeking every possible cost-efficiency, underestimating actual costs associated with undertaking the work and pricing at unsustainable levels at the tender stage in the procurement process
 - Risks being inappropriately allocated or transferred to suppliers/providers (often through fixed-price contracts) who are not always in a position to control or manage them
 - Increased tender and construction costs as suppliers/providers seek to cover the increased risks and/or recoup costs through variations requiring greater client input in contract management.
- **Best value** should be the goal when procuring 'consultancy services'. 'Best Value' would be measured against financial and non-financial criteria. Essentially it represents purchasing a service that delivers the optimal outcome, and is cost-efficient, after taking into account the following non-financial attributes:
 - Quality
 - Impact on communities and the environment
 - Design integrity
 - Innovation
 - Whole-of-life considerations such as maintenance
 - Training and development opportunities
 - Excellent health and safety practices, and
 - Capital invested
 - **Measuring the savings** – there are three key procurement areas which could be evaluated - contractor performance; opportunities to improve processes; and incorporation of process improvement.
 - **Appropriate assessment weightings for 'Architectural services'** – too often generic evaluation and assessment weightings are used within and across Government procurement processes. The NZIA would encourage the Ministry to develop clear criteria around 'architectural design' services – a service where quality and creativity are critical. For example: 60%-80% quality and 20%-40% price

Staying involved

The New Zealand Institute of Architects wishes to be actively involved in the development of possible all-of-Government procurement models. Please contact Teena Hale Pennington, Chief Executive on thalepennington@nzia.co.nz

Yours sincerely,



Teena Hale Pennington
Chief Executive