

**County & City Managers' Association,  
Olaf House,  
35/39 Ushers' Quay,  
Dublin 8.**

**27<sup>th</sup> January 2004**

markets@tca.ie  
**Competition Authority,  
Parnell House,  
14 Parnell Square,  
Dublin 1.**

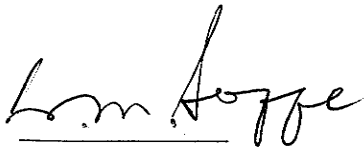
**Attention: Reuben Irvine  
Re: Study of Competition in Professional Services in Ireland  
Consultation Document 2 – Architects**

Dear Mr. Irvine,

I enclose a submission on the above document on behalf of the County & City Managers' Association for your Authority's consideration.

My apologies for the delay in responding.

Yours sincerely,



**W.M. Soffe,  
Chairman,  
County & City Managers' Association.**

Encl.

**SUBMISSION TO COMPETITION AUTHORITY ON ARCHITECTS  
BY  
COUNTY AND CITY MANAGERS' ASSOCIATION**

**Selecting Architectural Consultants**

The Local Authorities engage consultant architects to provide services for both large and small-scale projects. The projects are mainly housing projects but also include unique buildings such as libraries, community centres, local area offices and headquarter buildings. Consultant architects are also engaged for urban design projects. Some Local Authorities have expert staff (architects) to assist them in engaging architectural consultants, others do not.

In all cases the Local Authorities are proscribed by Public Procurement Guidelines: "the green book" for services with an estimated value of under €249,681 and by EU Directive 92/50/EEC for consultant services over that amount. We also have the onus on us as clients to appoint a competent Project Supervisor (Design stage) under the Safety, Health and Welfare at Work (Construction) Regulations 2001 for all construction projects.

The majority of projects requiring architectural services are below the EU threshold. The Local Authorities work from panels of consultants, which are formed following public advertisement, for these projects. This process is an enormous undertaking by the various Local Authorities as it entails vetting a large number of consultant firms. (152 firms requested to be placed on lists for Dublin City Council and 55 on lists for Galway City Council when last advertised). Generally a fundamental criteria for inclusion on the list is:

- Qualification under EU Directive 85/384/EEC (as there is no registration of the title "architect" in Ireland, Irish practices that qualify are those whose partners have a professional qualification).
- Architectural Practices that are on the Minister's List.

Once the list or lists for different types of projects have been formed it is the norm to select three firms randomly for particular projects, to interview the three firms and place them in order using the following criteria:

- Relevant Experience
- Quality of projects carried out over the previous 5 years
- Availability, suitability and quality control systems
- Qualifications & experience of partners of practice
- Qualification & experience of employees of practice carrying out project
- Size of turnover

The fee for the project is then negotiated with the firm placed first by the interview panel. If agreement on fees and service cannot be reached the second firm is then approached. The Local Authorities have built up a knowledge base on the level of fees charged by consultants and have become proficient in negotiating. The size and complexity of a project usually governs whether an agreed fee is a "lump sum" price for the service or whether the fee will be based on a percentage of the contract works. Housing projects lend themselves to "lump sum" fees as the scope of work required, time-frame and estimated value are known to all at inception stage. Expenses can be dealt with as part of the agreed fee or by a separate allowance, which is usually capped.

We are concerned that the Competition Authority appears to have based most of its arguments on the premise that value for money is mainly based on competition on the level of fees charged. We agree with the argument as set out in paragraph 2.10 but not as set out in paragraphs 2.11 and 2.12. Quality of design is a very important element in engaging consultant architects. The quality of the built environment is an important aspect of the Development Plans that the Local Authorities are endeavouring to promote. It is important that the Local Authorities lead by example and that projects designed for them are of a high quality. It is essential that consultants that have a good quality design record are chosen, for a fair and competitive fee, to carry out works for the Local Authorities. Equally important is the ability of the architect to interpret the brief and to design a functional building that meets the clients' requirements. Whereas ultimate responsibility for cost control rests with the quantity surveyor, who is appointed and reports separately from the architect, architects must be able to be flexible in their approach to deliver projects within the clients' budgets.

### **Competitions**

Another way of engaging consultants and ensuring quality and functionality is to have a design competition. We have followed this path on several large-scale unique projects. They have been run for us by the RIAI. We have had no problem with their running of the competitions.

The competitions in most cases have been in two stages. Practices enter anonymously showing an outline sketch design in answer to the brief. The number of designs (usually 5 -6) as stated in the Competition Rules are selected by the jury (nominated in accordance with EU regulations) to go forward to stage 2 for which they will be given a fee. This process insures competition in which young firms can compete for public projects against experienced firms. Part of stage 2 is normally an interview to ascertain that the practices selected have the expertise to bring the project to completion. We would insist that young firms that have got to stage 2 form an alliance with more experienced firms. This gives us, the clients; the benefit of good design and the knowledge that the competency is there to have the project carried out to completion like for example Fingal County Hall.

### **Professional Indemnity Insurance**

The Irish Public Bodies Mutual Insurance Ltd. are our advisors on the level of Professional Indemnity insurance that we should require from consultants engaged by us. If the advice was strictly adhered to it would be impossible to engage consultants for smaller projects as the cost would be prohibitive, even if available. We agree with the Competition Authority as stated in paragraph 4.40 that there should be a sliding scale of professional indemnity insurance required depending on the size of the project. The Department of Environment, Heritage and Local Government should publish a scale similar to the Department of Health and Children.

### **Current Regulatory Environment**

Pre the early 1990's Building Bye-Laws were only in force in three local authorities: Dublin City Council, Dublin County Council and Cork City Council. They dealt with structure, ventilation and drainage & waste disposal. The three local authorities engaged a large number of staff who had to check all consultants' drawings and specification for construction projects and issue approval notices before commencement on site and then inspect all projects during construction to ensure that they complied with the Bye-Laws.

The Building Regulations, which came into force in 1992, are much more comprehensive. They deal with: structure, fire safety, site preparation & resistance to moisture, materials & workmanship, sound, ventilation, hygiene, drainage & waste disposal, heat producing appliances, stairways, ramps and guards, conservation of fuel & energy and access for disabled people.

Consultants are obliged to obtain a Fire Certificate showing compliance with Part B: Fire Safety from the Fire Authority before commencement on site. A fee is charged for this service. The remaining Regulations are self-certified by consultants at the moment. The Local Authorities carry out spot checks on a percentage of construction projects to check compliance and when requested to do so on foot of complaints from the public.

The Competition Authority's proposal as stated in paragraphs 3.21 and 3.31 that a full inspection regime be implemented would have major implications for the Local Authorities. They would have to employ large numbers of suitably qualified staff to carry out the work. In Fingal alone it is estimated that the numbers required would go from the present structure of 7 staff approx. to 30 staff approx. Apart from such an increase being contrary to current public service recruitment policy, there is great difficulty in securing the employment of suitably qualified local authority engineers, technicians and architects. It is unlikely, therefore, that such staff could be recruited even if that were permissible. The system would be impossible to administer without such suitably qualified staff. The Local Authorities would have to charge clients for these inspections and the indemnity insurance they would have to carry thus increasing the cost of construction projects. We feel that monitored self-certification by suitably qualified persons should continue.