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PRACTICE NOTE 03: PUBLIC SCHOOL FACILITIES

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*This third edition updates and supercedes the second, April 2005 edition (updated October 2005).
Substantively new material is within section C and is so flagged by sidebar.*

Practice Note 03 relates primarily to the delivery of public school facilities in BC. It comments on the following topics:

- (A) Professional Liaison
- (B) Client-Architect Contract
- (C) Insurance and Indemnity
- (D) Professional Fees for Service
- (E) Professional Practice

Architects who provide service to types of clients other than School Districts will find that this Practice Note contains some material (particularly Section C) that is relevant to a broad range of practice.

(A) PROFESSIONAL LIAISON

In January 2001 the AIBC created the AIBC Educational Facilities Committee (EFC). The EFC provides a forum for dialogue and recommendations regarding areas of mutual interest and concern in the realm of public K-to-12 schools and post-secondary facilities. There is representation on the EFC from several lower mainland School Districts, the Ministry of Education (MEd), the British Columbia Institute of Technology (BCIT), the Consulting Engineers of BC (CEBC), the Quantity Surveyors Society of BC (QSSBC) and Architects working in this sector.

The BC Chapter of the Council of Educational Facilities Planners International (CEFPI) has been active since the early 1990s providing professional development for consultants, School Districts and ME d representatives, usually in the form of conferences and seminars. Members and non-members alike can attend these events at which AIBC Continuing Education System Learning Units are available.

(B) CLIENT-ARCHITECT CONTRACT

Each school project typically has a prime consultant hired by the School District. The MEd’s former Standard Form of Agreement Between Client and Architect developed in 1995 and revised in 1999 is no longer mandated or maintained by the provincial government.

School Districts are encouraged instead to use industry standard agreements, using MEd-prescribed indemnity and insurance clauses. The AIBC strongly supports the use of RAIC-6: Client/Architect Contract, which is updated nationally; is consistent with industry standard construction contracts (e.g. CCDC-2) as well as with AIBC Bulletin 90 regarding minimum acceptable scope of architectural services; and is in compliance with AIBC Bylaw 28 and its corresponding *Code of Ethics* provisions.

(C) INSURANCE AND INDEMNITY

The Schools Protection Program (SPP) delivered from the BC provincial government Risk Management Branch (RMB), sets the insurance and indemnification requirements for school projects. Complete contract language is available from the RMB.

Effective April 27, 2006 and reflecting practical matters of reasonable risk and protection on projects of varying size, as well as availability and premium cost, the SPP insurance requirements feature a sliding scale of insurance limits. That scale, developed by the EFC and endorsed RMB, is tabulated below.

Value of Construction	Coverage per Claim (Architects and Subconsultants)		
	Automobile	PE+O	General Liability
under \$250,000	\$1.0 million	\$250,000 *	\$1.0 million provided by each Consultant
\$250,000 - \$2.5 million	\$1.0 million	\$250,000 *	SPP** provides \$10.0 million
over \$2.5 million - \$7.5 million	\$1.0 million	\$500,000 *	SPP** provides \$10.0 million
over \$7.5 million to \$15.0 million	\$1.0 million	\$1.0 million *	SPP** provides \$10.0 million
over \$15.0 million	\$1.0 million	Negotiated*	SPP** provides \$10.0 million

* Structural, Mechanical, Electrical and Civil Subconsultants’ insurance coverage to be based on the value of their scope of work.

** Schools Protection Program

Note: All other specialty consultants to carry a minimum of \$250,000 Errors and Omissions Insurance whatever the value of their scope of work.

With respect to indemnification, this is the SPP's clause, whereby an architect is exposed for claims arising only out of what an architect does:

“Notwithstanding the provision of insurance coverage by the Client, the Architect/Engineer hereby agrees to indemnify and save harmless the Client, its successor(s), assign(s) and authorized representative(s) and each of them from and against losses, claims, damages, actions, and causes of action, (collectively referred to as “Claims”) that the client may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Architect/Engineer or their Subconsultant(s), servant(s), agent(s) or employee(s) under this Agreement, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or the negligent acts of the Client, its other consultant(s), assign(s) and authorized representative(s) or any other persons.”

This clause has benefited from legal review; has support by the AIBC, the CEBC and professional liability insurers; and is also implemented on Health Care and BC Housing Management Corporation (BCHMC) projects.

(D) PROFESSIONAL FEES FOR SERVICE

AIBC Bulletin 54 was released in November 2000 with a revised “Tariff for Schools of Fees for Architectural Services” (Tariff). The 2000 Tariff altered the shape of the fee curve so that smaller projects receive a higher fee percentage than was the case in the 1996 Tariff, and the largest projects receive a smaller fee percentage than before. The fee categorization of school projects was expanded both in terms of the levels of complexity and the number of size categories. Middle schools are recognized and included in the same complexity category as secondary schools.

Where projects involve multiple additions it is recommended that fees be applied according to the size of each individual addition. The complexity of the approval process (i.e. as may exist within a specific municipality or School District) is also noted as a legitimate basis for adjusting the fee percentage. The 2000 Tariff also adjusted the recommended net, architectural percentage fees so that they can be applied against a Construction Cost without the GST included. That is consistent with the definition of ‘Contract Price’ in CCDC Construction Contracts.

In February 2001 the MEd published a new fee allowance for K-to-12 schools. The fee allowance for new construction is on a sliding scale, with a base rate of 10%, ranging from 9% to 11% for small projects. The fee allowance for renovations is 16%. School Districts are expected to cover the costs of all consultants' fees and disbursements within the fee allowance, including those for any special consultants hired directly by the School Districts. Contingency funds can also be applied to fee expenses if necessary.

The Ministry's fee allowance is applied against Construction Cost plus a net (1.92%) Goods and Services Tax (GST).

(E) PROFESSIONAL PRACTICE

In June 2003 the MEd Capital Asset Management Group published new Project Procurement Procedures and Guidelines as a guide for School Districts on the processes to be used to manage capital projects. It also covers the acquisition of sites and the construction, expansion, renovation and/or replacement of school facilities. The guide spells out the approval process at each stage of the project and outlines the requirements of a 2-Phase Feasibility Study to be completed for every capital project, prior to the Ministry's committing completion funds. The feasibility study process is currently under review by the AIBC EFC.

As with the former MEd Client-Architect Agreement, the Province of British Columbia's Stipulated Price Construction Contract Documents are no longer mandated or maintained by the provincial government. School Districts are strongly encouraged to use the industry standard Stipulated Sum Construction Document CCDC-2, which is updated nationally and is consistent with the RAIC-6 Client/Architect Contract. The AIBC endorses use of CCDC-2 in conjunction with the AIBC / BCCA-endorsed Standard Documents and Guidelines for a Stipulated Price Bid on Publicly Funded Projects with CCDC-2. These "front-end" documents and guidelines were produced by the AIBC Standard Document Working Group (which included client, construction, architectural and engineering representatives) and are available on the BC Public Construction Council website at www.pccbc.com/documents.

The CCDC-23 Guide to Calling Bids and Awarding Contracts is a very useful industry-standard reference. A new edition has been published (January 2005) to replace the previous (1979) document.

Architectural firms and School District clients are encouraged to provide feedback to the attention of the EFC chairperson and the AIBC's Director of Professional Practice.

The AIBC does not provide legal, accounting or insurance advice and expressly disclaims any responsibility for any errors or omissions with respect to legal, accounting or insurance matters that may be contained herein. Readers of AIBC documents are advised to consult their own legal, accounting or insurance representatives to obtain suitable professional advice in those regards.