



PRACTICE NOTE 05: STANDARD CONSTRUCTION DOCUMENTS

The "new" Canadian Standard Construction Document "Stipulated Price Contract" CCDC-2/94 has now been in print and in use for a year, replacing the 1982 edition. Very little difficulty has come to our attention with its actual implementation.

The largest problem has been the reluctance of some Owners to adopt it in the first instance, citing either their unique way of doing business or their reservations about the new alternate dispute resolution (ADR) mechanisms.

This Practice Note and its attachments are intended to provide a compendium of advice concerning professional standards; highlights of the improvements in the 1994 edition; comments regarding ADR; and information about complementary documents.

1. PROFESSIONAL STANDARDS

The current national form of "Stipulated Price" (or lump-sum) construction contract is a product of at least 3 years of concerted, joint efforts by the construction associations, the architectural and engineering professions, the specification writers and related interests, with some Owners' input and extensive, experienced legal advice. The AIBC's Standards of Practice Committee was an active "reviewing agency" throughout the document's development, being mindful of not only the need for rigorous technical and practical content but also the necessity for contract terms which are equitable and enable its professional administration.

CCDC-2/94's terms are consistent with the expectations for architectural service expressed in the national standard Client-Architect agreements (CCAC-6 and CCAC-7, its abbreviated version); the AIBC-endorsed provincial forms of client-architect agreement (Ministry of Health and Ministry of Education) and the AIBC [Tariff of Fees for Architectural Services](#).

In short, CCDC-2/94 is the "industry standard" and architects are encouraged to recommend and specify its usage. Be wary of other "custom" forms of contract and one-sided, onerous or unfair supplementary conditions. Under [Bylaw 31.4](#) an architect is bound as a matter of professional ethics to administer a construction contract impartially. Under [Bylaw 33.1](#), similarly, an architect must not knowingly violate any law or regulation. It is not professionally supportable for an architect's documentation to include inequitable or contrary terms, even if supplied by the Owner and/or disclaimed. (See AIBC [Practice Note 3, Section E](#)).

2. HIGHLIGHTS OF IMPROVEMENTS

The current (1994) edition of CCDC-2 benefitted from accumulated experience over the twelve years its predecessor edition was in use, as users submitted questions and suggested modifications. Attached are three outlines of what modifications took place (one published nationally by the CCDC; a second by the CCAC; and the third by the Architect/Engineer/Contractor Provincial Joint Advisory Committee in this province). The three outlines are thorough and self-explanatory. Architects in particular might wish to note further:

1. The "Contract Price" excludes GST (but the "total amount payable" includes the GST, and that inclusive figure remains the basis of percentage-fee determination).
2. The term "Total Performance" is obsolete.
3. The new trust account for lien holdback monies is not administered by the architect.
4. Many Supplementary Conditions that evolved after 1982 have been incorporated in the 1994 edition but, as a preferred approach, Supplementary Conditions (other than ones that are truly necessary because of a project's unique frame of reference) should be avoided.

Subsequent Practice Notes will cover in greater depth such topics as Alternate Dispute Resolution; toxic and hazardous substances; and client-architect agreements.

3. ALTERNATE DISPUTE RESOLUTION METHODS

The architect's traditional and familiar role with respect to providing interpretations and findings and being the party of first recourse should there be any question or confusion, remains essentially unchanged.

The former (1982) contract was silent as to mediation . . . but, if the parties were aware and willing, they could elect to pursue mediation. The current (1994) contract calls for mediation, first, of a dispute; arbitration, next, if mediation fails.

Under the former (1982) contract, arbitration was available if both parties agreed to it; in the current (1994) contract, either party may invoke arbitration. Should neither party call for arbitration, then litigation remains available.

Experience with ADR is growing and some parties are apprehensive about unfamiliar processes. Other parties simply seem to prefer to take problems to court.

The clear intent of CCDC-2/94 is to make all reasonable effort amongst the parties to the contract to resolve disputes in timely, cooperative and cost-effective ways.

Architects (and their clients) are encouraged to become familiar with the principles and rules of ADR through available publications and professional development offerings.

4. COMPLEMENTARY DOCUMENTS

Along with CCDC-2/94 there now exist these new complementary documents, to assist with standard implementation:

- CCDC-10 (94): Stipulated Price Bid Form
- CCDC-12 (94): Project Financial Information
- CCDC-20 (94): Guide to the Use of CCDC-2/94
- CCDC-40 (94): Rules for Mediation and Arbitration of Construction Disputes

They are available from CCDC directly; the Amalgamated Construction Association; or the AIBC. Still under development (and AIBC review) with publication scheduled in early 1996, are four other new, complementary documents:

- CCDC-11 (94): Contractor's Qualification Statement
- CCDC-21 (94): Guide to Construction Insurance
- CCDC-23 (94): Guide to Calling Bids and Awarding Contracts
- CCDC-24 (94): Guide to Model Forms and Support Documents

Your feedback to the attention of the AIBC's Director of Professional Services (Michael A. Ernest, MAIBC) will be appreciated.

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