

**2ND PROJECT AND CONSTRUCTION MANAGEMENT
PROFESSIONS CONFERENCE**

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**ALTERNATIVE MODALITIES FOR GUIDELINE FEES FOR THE
PROJECT AND CONSTRUCTION MANAGEMENT PROFESSIONS**

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Introduction (1)

- **Built Environment Councils were established to protect the ‘public’:**
 - **Society at large**
 - **Workers, supervisors, and managers**
 - **Other Built Environment Practitioners (BEPs)**
- **Issues relative to Tariff of Fees:**
 - **Delivery of a service**
 - **Resources to deliver the service**
 - **Changed and changing nature of the built environment:**
 - **Contractor development**
 - **Community engagement**
 - **Community contracting**
 - **Mentoring – more emphasis e.g. candidacy**
 - **Perception that fee structures are anti-competitive**
 - **Non-fee structure arrangement → price cutting → reduced service → problems and / or → reduced profit → reduced practice sustainability → collusion?**

Introduction (2)

- **Competition Commission ruling has yet to be finalised after years of ‘debate’**
- **The respective ‘identities of work’ have yet to be finalised**
- **The changed and changing nature of the built environment amplifies the need for a review of what influences professional fees:**
 - **Hence the SACPCMP CPM Professional fee survey (Slides 13 and 14)**
 - **Can be completed on line:**
http://mycouncilonline.sacpcmp.org.za/surveys/?id=FACTORS_THAT_INFLUENCE_CPM_FEES

Project and Construction Man. Professions Act (1)

Section 34 'Professional fees':

- **(1) The council must, in consultation with the voluntary associations, formulate recommendations with regard to the principles referred to in section 4(k)(v) of the Council for the Built Environment Act, 2000**
- **(2) The council must annually, after consultation with the voluntary associations determine guideline professional fees and publish those fees in the Gazette**
- **(3) The CBE may review the guideline professional fees published by the council, and refer the fees back to the council for reconsideration**
- **(4) If the council, after review by the CBE of the guideline professional fees, is aggrieved about that review, it may refer the matter to the Minister for a final decision**

Project and Construction Man. Professions Act (2)

- **(5) Any person who is aggrieved by the guideline professional fees published in terms of subsection (2), may bring the matter to the attention of the CBE within 60 days from the date of such publication**

Competition Act, 1998 (Act No.89 of 1998) (1)

- **Amended in 2009**
- **Chapter 2 Prohibited Practices, Part A – Restrictive practices, 4 Restrictive horizontal practices prohibited:**
 - **Agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if –**
 - **(a) it has the effect of substantially preventing, or lessening, competition in a market, unless a party to the agreement, concerted practice, or decision can prove that any technological, efficiency or other procompetitive gain resulting from it outweighs that effect, or**
 - **(b) it involves any of the following restrictive horizontal practices:**
 - **(i) directly or indirectly fixing a purchase or selling price or any other trading condition**
 - **(ii) dividing markets by allocating customers, suppliers, territories, or specific types of goods or services**
 - **(iii) collusive tendering**

Competition Act, 1998 (Act No.89 of 1998) (2)

- **Professional associations may apply to have all or part of their rules exempted from Part A of Chapter 2 of the Act (relating to restrictive practices)**
- **Exemptions may be granted if the rules are not found to be anti-competitive in nature, or, if they are anti-competitive, can be justified as being reasonably required to maintain professional standards or the ordinary function of the profession**
- **Professional associations, which may apply for an exemption have been designated in Schedule 1:**
 - **(1) A professional association whose rules contain a restriction that has the effect of substantially preventing or lessening competition in a market may apply in the prescribed manner to the Competition Commission for an exemption in terms of item 2**

Competition Act, 1998 (Act No.89 of 1998) (3)

- **(2) The Competition Commission may exempt all or part of the rules of a professional association from the provisions of Part A of Chapter 2 of this Act for a specified period if, having regard to internationally applied norms, any restriction contained in those rules that has the effect of substantially preventing or lessening competition in a market is reasonably required to maintain:**
 - (a) professional standards, or**
 - (b) the ordinary function of the profession**

Six project stages

- **Project initiation and briefing**
- **Concept and feasibility**
- **Design development**
- **Tender documentation and procurement**
- **Construction documentation and management**
- **Project close out**

Guideline Scope of Services and Tariff of Fees for Registered Persons

- **Guideline scope of services:**
 - Normal services
 - Additional services - pertaining to all stages of the project
- **Guideline tariff of fees:**
 - Application of tariff of fees
 - Fees for normal services
 - Fees for additional services
 - Time based fees
 - Expenses and costs

Application of tariff of fees (1)

- **Should the tariff of fees contained in the Schedule be found to be inappropriate to any project, works, services or part thereof, the client and construction project manager may agree, in writing, a fee deemed more appropriate, prior to the commencement of the works. Contributing factors to be taken into account, although not limited to, may include all or any of the following:**
 - **Complexity: Where the works call for the application of new, unusual or untried techniques or designs or application of complex project delivery, systems or processes or excessive complexity of the whole or part of the works**
 - **Small projects: Where projects are small in monetary value and the tariff of fees for normal projects does not compensate the construction project manager reasonably for the normal services to be rendered**
 - **Cost of the works: Where the cost of the works is abnormally low relative to the normal services required from the construction project manager**

Application of tariff of fees (2)

- **Time duration: Where the works are executed over an appreciably shorter or longer than normal or realistic time periods during any of the stages defined in clause 3, or where the client orders suspension of the services between stages for periods in excess of 21 calendar days in the aggregate for any stage**
- **Level of responsibility, liability and risk: Where unusually high demands in respect of these factors are expected to be carried by the construction project manager**

Application of tariff of fees survey (1)

Factor	Unsure	Does not	Minor Major				
			1	2	3	4	5
Value of project	U	DN	1	2	3	4	5
Complexity of project	U	DN	1	2	3	4	5
m ² of structure	U	DN	1	2	3	4	5
Height of structure	U	DN	1	2	3	4	5
Location of project	U	DN	1	2	3	4	5
Type of project e.g. new build, refurbishment	U	DN	1	2	3	4	5
Private or public sector project	U	DN	1	2	3	4	5
Building or civil engineering sector project	U	DN	1	2	3	4	5
Client	U	DN	1	2	3	4	5
Client requirements	U	DN	1	2	3	4	5
Scope of service	U	DN	1	2	3	4	5
Conditions of contract	U	DN	1	2	3	4	5
With or without bills of quantities	U	DN	1	2	3	4	5
* Partnering (see below table) as a project requirement	U	DN	1	2	3	4	5
Composition of design team	U	DN	1	2	3	4	5
Pre-qualification of design team	U	DN	1	2	3	4	5

Table 1A: Extent to which factors influence CPM fees

Application of tariff of fees survey (2)

Factor	Unsure	Does Not	Minor Major				
			1	2	3	4	5
Targeted procurement	U	DN	1	2	3	4	5
Pre-qualification of principal contractor	U	DN	1	2	3	4	5
Extent of community engagement	U	DN	1	2	3	4	5
Labour intensity (Labour intensive construction)	U	DN	1	2	3	4	5
Community contract (Community labour requirement)	U	DN	1	2	3	4	5
Single principal contractor	U	DN	1	2	3	4	5
Multiple principal contractor	U	DN	1	2	3	4	5
Number of specialist contractors	U	DN	1	2	3	4	5
Environmental management system requirement	U	DN	1	2	3	4	5
H&S management system requirement	U	DN	1	2	3	4	5
Quality management system requirement	U	DN	1	2	3	4	5
Project risk	U	DN	1	2	3	4	5
Project communication requirements	U	DN	1	2	3	4	5
Degree of repetition	U	DN	1	2	3	4	5
Degree of untried and / or untested technologies	U	DN	1	2	3	4	5
CPM practice marketing strategy	U	DN	1	2	3	4	5
CPM practice workload	U	DN	1	2	3	4	5

Table 1B: Extent to which factors influence CPM fees

Way forward

- Please complete the questionnaire on line:
http://mycouncilonline.sacpcmp.org.za/surveys/?id=FACTORS_THAT_INFLUENCE_CPM_FEES

References

- Republic of South Africa. 1998. Competition Act, 1998 No.89 of 1998. Pretoria.
- Republic of South Africa. 2009. Competition Amendment Act, 2009 No. 1 of 2009 Government Gazette No. 32533. Pretoria.
- South African Council for the Project and Construction Management Professions (SACPCMP). 2011. Guideline Scope of Services and Recommended Guideline Tariff of Fees Government Gazette No. 34858. Midrand: SACPCMP.