

BOARD NOTICE 4 OF 2009**SOUTH AFRICAN COUNCIL FOR THE ARCHITECTURAL PROFESSION****ARCHITECTURAL PROFESSION ACT
NO. 44 OF 2000****Draft Professional Fees Guideline for Comment and Discussion**

SACAP is gazetting this guideline for public comment in respect of services rendered by person(s) registered in terms of the Architectural Profession Act, (No. 44 of 2000). Closing deadline for submissions to SACAP through website www.sacapsa.com or email address paregistrar@sacapsa.com by 20 February 2009.

Introduction**THE ARCHITECTURAL PROFESSIONAL'S SERVICE****Context**

A client appoints an architectural professional to provide a service for a project as contemplated by the Architectural Professions Act, Act No 44 of 2000 and the National Building Regulations and Building Standards Act No103 of 1977

The architectural professional accepts the appointment to exercise reasonable professional skill, care and diligence in the performance of obligations, for an appropriate fee, and defined in formal agreement

The architectural professional is authorised to act for the client, and fulfils an architectural professional's service using current standard contracts used in the building industry, such as the JBCC suite of contract documentation. For the construction stage of a project, the relationship between the client, contractor and architectural professional as agent, or principal agent is defined in the building agreement

The professional enters into a contract of agency in a suitable agreement, typical agreements provide for a standard service and for partial services. A standard service comprises appointment as Architectural Professional, Principal Consultant and Principal Agent

The parties to an agreement select the architect's service applicable to the project. Additional services are selected as the parties may deem appropriate

Fees description**Project 'cost based fees'**

Where fees are calculated as a 'project cost based fee', the fees consist of a 'base fee' and a percentage of project cost, these derive from 'bracketed project values'

Time charges

Where fees for architectural services are time charge fees, these are based on an hourly rate according to the rates published and shall be adjusted annually

Standard Service:

In a standard service the Architectural **Professional** is appointed to fulfil the obligations provided for as architectural professional, principal consultant and principal agent, described as a 'Full Service'.

The essential functions of each work stage relevant to the service are identified herein as: –

Stage 1: Inception

Receive, appraise and report on the **client's** requirements with regard to:
the **client's** brief
the site and rights and constraints
budgetary constraints
the need for **consultants**
project programme
methods of contracting

Stage 2: Concept and viability

Prepare an initial design and advise on:
the intended space provisions and planning relationships
proposed materials and intended building services
the technical and functional characteristics of the design
Check for conformity of the concept with the rights to the use of the land
Review the anticipated costs of the **project**
Review the **project** programme

Stage 3: Design development

Confirm the scope and complexity
Review the design and consult with local and statutory authorities
Develop the design, construction system, materials and components
Incorporate and co-ordinate all services and the work of **consultants**
Review the design, costing and programme with the **consultants**

Stage 4: Documentation and procurement

- 4.1 Prepare documentation sufficient for local authority submission:
co-ordinate technical documentation with the **consultants** and complete primary co-ordination
prepare specifications for the works
review the costing and programme with the consultants
obtain the client's authority and submit documents for approval
- 4.2 Complete **construction documentation** and proceed to call for tenders:
obtain the client's authority to prepare documents to procure offers for the execution of the works
obtain offers for the execution of the works
evaluate offers and recommend on the award of the building contract
prepare the contract documentation (and arrange the signing of the building contract)

Stage 5: Construction

Administer the Building Contract
Hand over the site to the **contractor**
Issue **construction documentation**
Initiate and/or check sub-contract design and documentation as appropriate
Inspect the **works** for conformity to the **contract** documentation
Administer and perform the duties and obligations assigned to the **principal agent** in the JBCC building agreements, or fulfil the obligations provided for in other forms of **contract**
Issue the certificate of **practical completion**
Assist the **client** to obtain the occupation certificate

Stage 6: Close out

Facilitate the **project** close-out including the preparation of the necessary documentation to effect completion, handover and operation of the **project**
After the **contractor's** obligations with respect to the building **contract** are fulfilled, the **architect** shall issue the certificates related to **contract** completion
Provide the **client** with as-built drawings and relevant technical and contractual undertakings by the **contractor** and sub-contractors

Partial Services

Partial services may be agreed, the options most regularly utilized are: -

1. appointed as architectural professional and principal consultant (not as principal agent)
2. appointed as design architectural professional (design only)
3. appointed as architectural professional of record (design by others, can be principal agent)
4. appointed as principal agent only
5. appointed as architectural professional to work stage 4.1 (documentation to achieve approval only)
6. appointed to perform additional services (formerly described as 'supplementary services')

Fees for Professional Services

Basis of fees agreement

The **client** agrees to pay the architectural professional the fees for the defined services as recorded in the agreement. Where a 'project cost based fee' is applied, the final fee is calculated on the final cost of the **works**

Project cost based fees for standard and partial services

The fees consist of a 'base fee' and a percentage of project cost, these derive from 'bracketed project values' and are determined annually and published in a **SACAP** board notice in the government gazette

For a partial service, assuming the fee is a 'project cost based fee' the percentage relevant to each work stage to be performed is agreed between client and professional

Fees Table

Apportionment of fees between work stages

The fee applicable to each work stage is apportioned according to the table below and may be adjusted by agreement:

Work stages 1 to 6	Proportion of fee	Cumulative total
1	5%	5%
2	15%	20%
3	20%	40%
4.1	20%	60%
4.2	10%	70%
5	27%	97%
6	3%	100%

Fees for additional services

Unless otherwise agreed, the fee for additional services is a time charge based on hourly rates as recommended in the current **SACAP** board notice: Whenever these rates are revised the new rates shall apply to work performed after the date of publication of such revision

Time charge fees

Where fees for the architectural professional's services are time charge fees, the hourly rate shall be according to the published rates and shall be adjusted annually

Fees for additions and / or alterations

The fee for work that includes **alterations** is based on the total **project** cost as a 'project cost based fee' and increased for that portion of the work comprising alterations by 30 per cent

Fees for a project that includes repeated buildings

For a **project** consisting of a number of repeated buildings erected under a single **building contract** for a single **client**, the fee may be reduced by agreement, subject to the repeated buildings being:

built on one site or a series of adjoining or closely related sites
 either wholly apart from each other or linked with screen walls, common walls or other similar means
 repeats of one or more prototype designs for units, blocks or elements and built from the repeated use of one or more sets of drawings and related documents with nominal or no modification for each re-use

The fee is calculated according to the formula:

$$Fa = (Ft - Ft \times Vr / Vt / 2)$$

Where: **Fa** = Fee after adjustment for repeats
Ft = Fee in terms of Fee Table for Total Project
Vr = Value of repeated units excluding first unit
Vt = Value of Total Project

Refer to example in the annexure hereto:

Fees for buildings repeated under separate building contracts

Unless otherwise agreed, where repeated buildings are erected under separate **building contracts** and the drawings and related documents for a **project** are re-used for subsequent **projects** with nominal or no modification, the fee shall be adjusted as below: -

The fee for modifying drawings and related documents and preparing site and service plans for each subsequent **project** shall be a time charge for the modifications, to which should be added a premium of 15% of the fee based on the final cost of each **project**

The fee where there is no requirement to render any services in respect of the re-use of drawings and related documents for a subsequent **project**, it is recommended that a royalty of 7, 5% of the fee based on an agreed estimate of the cost of the subsequent **project** is payable.

Fees for inspecting and administering building contracts

The fee for inspecting and administering **building contracts** shall be 30% of the fee based on the final cost of each **project**

Fees for Deployment of Employees

Where an employee of the Architectural Professional is deployed on site for extended inspection or other agreed purpose, the amount of the reimbursement shall be the total cost of employment plus 30%, or as agreed on proven cost

Extended construction period

In the event that the construction period is exceeded by more than 10% the architectural professional is to be remunerated for all additional work resulting from the extension of time at the hourly rates according to the current **SACAP** board notice together with related re-imbursable expenses

Adjustment of fees and disbursements

The **client** and the architectural professional acknowledge and agree that the fees and disbursements are based on the following parameters:

Scope of services
 Scope of the **project/works**
Project programme
 Cost of the **works**
 Cost of the **project**

Appointment of other **consultants**
Appointment of **contractor**

Should any material variation to the parameters as stated occur, the fees and disbursements shall be adjusted

Travelling time

Where the firm's fee is on a percentage basis, time charges shall apply only where the round trip distance between the destination and the firm's place of practice exceeds 50 kilometres

Where the firm's fee is on a time basis, time charges shall apply to the full round trip regardless of distance

Fees on Termination

Where the agreement between the **client** and the architectural practitioner is terminated, the **client** shall pay for that portion of the work that has been executed

Fees for dispute resolution services

For acting as expert witness, adjudicator, mediator or arbitrator, the fee shall be as recommended by the Association of Arbitrators

Payment

The architectural professional's invoices are due and payable on presentation

The architectural professional shall be entitled to render interim invoices

Fee and re-imbursement invoices may be invoiced separately

Re-imbursement of expenses: the **client** shall reimburse the architectural professional for all reasonable expenses and disbursements incurred

Claims to be separate and no set-off

Should the **client** allege a claim against the architectural professional, a **contractor** or any other party involved in the **project**, such claim shall be dealt with on its own merits. The **client** is not entitled to withhold payment of fees or disbursements or part thereof due to the architectural professional based on the alleged claim. The **client** shall make payment without any set-off and waives all rights to any such set-off

Re-imbursement of Expenses

In addition to the fees set out in this schedule, the client shall reimburse the firm for all reasonable disbursements properly incurred.

The expenses contemplated may include the following:

printing, photocopying, maps, models, presentation materials, photography and similar
documentation including all reproduction or purchase costs of documents
hotel, subsistence and travelling expenses, including kilometre allowances at current Automobile
Association rates for vehicle usage and other similar disbursements
all payments made by the architectural practitioner, including fees and other charges for
specialised professional and other services incurred on behalf of the client
telephonic, electronic and facsimile communication, special postage and courier deliveries
any other disbursements that may be agreed by the **client**

Regular Invoicing

Regular Invoicing as required by the Financial Management Act and the VAT Act are accepted good practice and are deemed to be the basis of the Agreement between Client and Service Provider

Conditions of Service

The Professional Services Agreement is contemplated as covering the Conditions of Service between the Client and the Architectural Professional, such as: –

The agreed service to be provided, Authority of the Agent, The Agent's ownership of the Intellectual Property or Copyright, Limits to responsibility, Limit to Professional Liability to a term of five (5) years, Payment of invoices, Interest on overdue invoices, Disputed invoices, Suspension or Deferment, Termination of Engagement, Damage to or destruction of the works and Dispute Resolution Provisions

Procedure to Determine Appropriate fees

This recommended fee scale is provided as a guideline for the determining of appropriate fees by the contracting parties where the architectural practitioner is to provide a professional service for a project as contemplated by the Architectural Professions Act, Act No 44 of 2000

The professional service is deemed to be subject to an appropriate formal agreement, in which the Obligations of the Parties to one another and the Conditions of Service are clearly recorded

The expectation is that the agreed fees are based on a Budget for the works for fee purposes to ensure that the fee calculated on anticipated final **project** cost, is applied to a realistic value of the work to be done

Use of the Recommended Fee Scale

The recommended fee scale is published annually providing for adjustment to the values to which the percentages and 'base fees' apply, to allow for inflation

PROJECT COST BASED FEE

Fees are calculated as a 'project cost based fee'. The fees consist of a 'base fee' and a percentage of project cost, these derive from 'bracketed project values' which are listed in a table to provide for the fee calculation

FEES TABLE

A **Recommended Tariff of Fees** is published annually by SACAP in a Board Notice as a Fees Table

The Table of Percentages and related 'Base Fee' values current at the time of the Agreement applies and is used to estimate and calculate 'interim' and Final Fees

The fees calculated shall be applicable to a new appointment and shall remain in force during the currency of the appointment

Fixing of Fees based on the initial Project Budget is not recommended

Where a 'project cost based fee' is applied, the final fee is calculated on the final cost of the **works**.

The expectation is that the agreed fees are based on a Budget for the works for fee purposes to ensure that the Fee calculated on anticipated final **project** cost, is applied to a realistic value of the work to be done

TIME BASED FEE

Where a time-based fee is selected, the rates published annually as 'rate per hour' shall apply

Whenever these rates are revised, the new rates shall apply to work performed after the date of publication of such revision

The categories to which the rates are applicable are:

Proprietor, partner, director or member who bears the risks of practice and takes full responsibility for the Potential liabilities of practice (hereinafter described as a "principal")

Principal with more than 10 years experience

Principal with less than 10 years experience

The hourly rates referred to above shall be deemed to include establishment charges and charges for time expended by clerical staff

Staff who perform work of an architectural nature and who carry direct responsibility for one or more specific activities related to a **project** will have time based 'rate per hour' charges agreed before the work is executed.

Fee Scales

The Recommended Tariff of Fees annual Board Notice are annexures to this Professional Fees Guideline, and Are superseded by subsequent Board Notices

Definitions & Interpretations

Where the words and phrases are highlighted in the text of this agreement they shall bear the meaning assigned to them and where such words and phrases are not highlighted they shall bear the meaning consistent with the context

Definitions

In this document, unless the context otherwise indicates, an expression or word hereunder shall mean:

architectural professional means a person registered in terms of the Architectural Professional ' Act No 44 of 2000 or the architectural professional's practice constituted as a legal persona appointed to provide the architectural professional's service for the project

budget means the anticipated cost of the project and/or works; provided that estimates on which the budget is based, shall be deemed to be valid for a period not exceeding 3 months

building contract means the JBCC 'Principal Building Agreement' (PBA) or such other building agreement entered into between the client and the contractor

client means the party appointing the architectural professional to perform the services or any part thereof referred to in this document and referred to as the 'employer' in the JBCC PBA

contract means an agreement entered into by the client with a contractor for the execution of the works or part thereof

contractor means the entity or entities contracting with the client for the execution of the works or part thereof

consultant means professional persons or entities appointed by the client to provide services with respect to the project

construction documentation means graphic representations, plans, sections, elevations, site plans, specifications, construction details, service co-ordination information, schedules and such other details and descriptions as are within the reasonable competence of an architect which are sufficient to indicate the scope of the works

inspection means such periodic visits to, or in connection with the works by the architectural professional as are necessary to establish conformity of the work to the contract documentation, and to provide on-site clarification and further information during the progress of the work

practical completion means the stage of completion where the works or a section thereof, as certified by the principal agent, is substantially complete and can effectively be used for the purpose intended

principal agent means the person appointed to fulfil the obligations of the JBCC Principal Building Agreement (as currently provided for in clause 5 of the JBCC PBA), or fulfil the similar obligations provided for in other forms of contract.

principal consultant means the person authorised by the client to lead the consultants.

project means the development for which the architectural profession and consultants are appointed and may not be limited to the works

SACAP means the South African Council for the Architectural Profession, the Statutory Council governing the Architectural Profession

works means all work executed or intended to be executed according to the building contract

Interpretations

Any legislation referred to in this recommended fee scale shall be that which was applicable on the date of compilation of this document

In this document, unless inconsistent with the context:

The word "deemed" shall be conclusive that something is fact, regardless of the objective truth

The words "advise", "appoint", "approve", "authorise", "certify", "consent", "decide", "delegate", "designate", "instruct", "issue", "notify", "object", "reply", "request", and "specify" shall indicate an act required to be carried out in writing

The headings of clauses are for reference purposes only and shall not be taken into account in construing the context thereof

All monetary amounts exclude tax, which tax shall be added to any amounts which become due and payable

EXAMPLE OF A 'REPEAT FEES' CALCULATION

Type	1st Unit R	Repeat Units	Vr = T R Units R	Vt = T All Units	
A	925,000	8	7 400 000	8 325 000	57,4 %
B	725,000	4	2 900 000	3 625 000	25,0 %
C	850,000	2	1 700 000	2 550 000	17,6 %
	2,500,000			14 500 000	100,0 %
Total Repeated units			12 000 000	14 500 000	48,8 %
11 Single Units				12 500 000	41,7 %
Infrastructure				3 000 000	10,0 %
Total Project Cost				30,000,000	100,0 %

Fa = Fee after adjustment for repeats

Ft = Fee in terms of Fee Table for Total Project

2 014 370 100,0 %

Vr = Value of repeated units excluding first unit

12 000 000

Vt = Value of Total Project

30 000 000

$$Fa = Ft - Ft \times Vr / Vt / 2$$

$$= 2\,014\,370 - (2\,014\,370 \times 12\,000\,000 / 30\,000\,000 / 2)$$

$$= 2\,014\,370 - 402\,874$$

80%

Fa = 1 611 496

VAT 225 209

Total fee 1 837 105