

ALABAMA BUILDING COMMISSION
ADMINISTRATIVE CODECHAPTER 170-X-4
EMPLOYMENT OF DESIGN PROFESSIONALS FOR PROJECTS SUPERVISED AND
ADMINISTERED BY THE ALABAMA BUILDING COMMISSION

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170-X-4-.01 Applicability Of Chapter.

The rules of this chapter apply only to public construction and improvement projects assigned to the Alabama Building Commission by state law for its supervision and administration. Project supervision and administration will be carried out by the Technical Staff who will prepare and publish a Manual of Procedures containing procedures, standard forms, and uniform documents to be used by awarding authorities to effect compliance with this chapter.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: Repealed and Repealed: Filed August 29, 1997; effective October 3, 1997.

170-X-4-.02 Required Employment Of Design Professionals.

(1) The awarding authority of a public construction or improvement project shall employ the services of registered architects and engineers in accordance with Title 34, Chapter 2 - Architects and Chapter 11 - Engineers and Land Surveyors, Code of Ala. 1975.

(2) Full Professional Team: The primary design professional shall be required to employ the services of consulting engineers, and

consulting architects in the case of an engineering project, so as to provide a full professional team as dictated by the disciplines of architectural and engineering design involved in the project. These consultants shall be identified in the agreement for design professional services and may not be changed without written approval of the awarding authority.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141 and Title 34, Chapters 2 & 11.

History: Repealed and Repealed: Filed August 29, 1997; effective October 3, 1997.

170-X-4-.03**Form Of Agreement For Design Professional Services.**

(1) The Director is authorized to develop, adopt, and publish in a Manual of Procedures uniform documents and standard forms as the Director deems appropriate for contracting for professional services to design and administer public construction and improvement projects. The terms and conditions of these documents shall effect compliance with state laws and the rules of this administrative code and shall also set forth minimum basic services and standardized terms and conditions applicable to projects typically supervised and administered by the Technical Staff. The Director may revise, repeal, or add to these uniform documents and standard forms as the Director deems necessary to keep them current with acceptable practices of architecture, engineering, construction project delivery, and changes in state law.

(2) The form of agreement for contracting for design professional services shall be the uniform documents and standard forms prescribed by the Director. Copies of these uniform documents and standard forms are contained in the appendix to this administrative code and may be reprinted or altered only as defined in the Manual of Procedures. To meet the needs of a specific project, the minimum basic services and standard terms and conditions may be modified by inserting special provisions in spaces provided in the documents; however, modifications shall be subject to the approval of the Director.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: Repealed and Repealed: Filed August 29, 1997; effective October 3, 1997.

170-X-4-.04 Project Budget.

The agreement shall stipulate an agreed amount that is budgeted for the cost of the planned construction or improvement work. This amount shall not only establish the project budget, but shall also be the basis for establishing the basic fee to be paid the primary design professional. The project budget may be a fixed, lump sum amount or it may be an amount that is tentative pending development of design and cost estimates by the design professional. If the project budget is tentative, the budgeted amount shall be validated by the design professional or mutually adjusted by the contracting parties prior to advertising the project for bids.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed:~~ Filed August 29, 1997; effective October 3, 1997.

170-X-4-.05 Maximum Basic Fees For Design Professional Services.

(1) The "Basic Fee" to be paid for design professional services is defined as that fee which will be paid to the design professional for providing the basic services as defined in the uniform form of agreement for design professional services published by the Director. If the design professional is to provide services which are in addition to the basic services defined in the uniform agreement, fees in addition to the Basic Fee shall be established in the agreement, or an amendment to the agreement, for such additional services. Such additional fees shall be subject to the Director's approval.

(2) The Basic Fee shall be based upon the budgeted cost of the planned work stipulated in the agreement, but shall not be higher than a fee as determined by the "Schedule of Basic Fee Rates" contained in rule 170-X-4-.10. A higher Basic Fee may be paid only if approved by the Director. A Basic Fee determined by the schedule may be adjusted without the Director's approval for Major Renovation as defined in rule 170-X-4-.06. A lower Basic Fee may be negotiated without the Director's approval when appropriate considering project size, cost, scope, repetition, etc.

(3) If the Basic Fee is to be a percentage rate applied to the cost of the work, the percentage rate shall not be higher than the applicable rate of the "Schedule of Basic Fee Rates" with adjustment for major renovation, if applicable. If the Basic Fee to be paid for basic services is to be a fixed, lump sum amount,

that amount shall not be greater than the amount that is the product of multiplying the budgeted cost of the work by the applicable percentage rate of the "Schedule of Basic Fee Rates" with adjustment for major renovation, if applicable.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed~~: Filed August 29, 1997; effective October 3, 1997.

170-X-4-.06 Adjustment For Major Renovation.

An increase of up to 25% in the basic fee rate will be allowed for major renovation projects. This adjustment is intended to provide compensation to the design professional for the added effort required to investigate and develop drawings of existing conditions and other additional work required for renovation. A project is considered major renovations if more than 50% of the construction cost involves renovations and alterations. The application of this adjustment is negotiable and must be stipulated in the agreement to be effective. In general, reroofing projects are not to be considered as major renovations.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed~~: Filed August 29, 1997; effective October 3, 1997.

170-X-4-.07 Application Of Basic Fee Rate.

(1) The Basic Fee percentage rate determined by the project budget shall be applied to the cost of the work. It is not necessary to change the Basic Fee percentage rate because the amount of the subsequent construction contract as awarded or adjusted for minor change orders falls within a bracket of the schedule that is higher or lower than that of the project budget. If major changes in the project and budget occur during the design or construction phases of the project and warrant an increase or decrease in the Basic Fee rate to provide fair and reasonable compensation, the change must be agreed upon in an amendment to the agreement. "Major Changes" include, but are not limited to, changes in project size, complexity, usage, arrangement, schedule, delivery, or phasing of the construction or improvement work and may or may not result in a major, or significant, change in the cost of the work. A Major Change may warrant adjustment of the Basic Fee rate if the change is requested by the awarding authority and the change requires design, administrative, consultant, or other services materially different from those contemplated by the agreement.

(2) The "Schedule of Basic Fee Rates" of rule 170-X-4-.10 contemplates that the work covered by an agreement will be executed either under one lump sum construction contract or under one lump sum construction contract for sitework and a second lump sum construction contract for building construction. Separation of the work into additional construction contracts may warrant negotiation of a higher rate, the basis of which shall be stated in the agreement or in an amendment to the agreement.

(3) The Basic Fee rate shall apply to the combined cost of all buildings or other work covered by an agreement whether the work is executed under one construction contract or one contract for sitework and a second contract for building construction.

(4) If the work covered by an agreement is so divided that more than one building group is involved, the Basic Fee rate of the appropriate building group may be applied to each building. Division of Basic Fee rates must be stipulated in the agreement.

(5) If the scope of an agreement involves substantial duplication of buildings on the same site, the Basic Fee for all services shall be applicable to the cost of the work for the first building. One-half of the Basic Fee for design services shall be applicable to the cost of the work for the second building which is a substantial duplication of the first. The basic fee for design services for other buildings which are substantial duplications of the first and second buildings shall be negotiated and defined in the agreement, but in no case shall exceed the fee for the first duplication. The fees for contract and construction administration services shall be paid in full for duplicated buildings.

(6) If the scope of an agreement involves substantial duplication of buildings on more than one site, the Basic Fee for all services shall be applicable to the cost of the work of site improvements of each site as well as modifications required to adapt the design of the substantially duplicated building to conditions of the second, third, etc., sites. The Basic Fee for all services shall be applicable to the cost of the work for the first building. One-half of the Basic Fee for design services shall be applicable to the cost of the work for the second building which is a substantial duplication of the first. The basic fee for design services for other buildings which are substantial duplications of the first and second buildings shall be negotiated and defined in the agreement, but in no case shall exceed the fee for the first duplication. The fees for contract and construction administration services shall be paid in full for duplicated buildings

Author: Kippy Tate, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed:~~ Filed August 29, 1997; effective October 3, 1997. **Amended:** Filed September 18, 2001; effective October 23, 2001; operative November 1, 2001.

170-X-4-.08 Cost Over-Runs.

If the lowest responsible bid received by the awarding authority is greater than the project budget, the design professional will, upon instructions from the awarding authority, make revisions to the plans and specifications as may be necessary to re-bid the project within project budget, or a higher amount as may be authorized by the awarding authority. The design professional shall be reimbursed for revising the plans and specifications where the bid over-run is up to 10% of the project budget. If the bid over-run is greater than 10% of the project budget and (1) the awarding authority has received bids for the work within 90 days after final approval of the plans and specifications and (2) the reason that the over-run exceeds 10% of the project budget is not attributable to a unique or unexpected market condition which the design professional would not have reasonably contemplated in its estimates, the design professional will revise the plans and specifications to conform to the project budget defined in the agreement at no cost to the awarding authority.

Author: Kippy Tate, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed:~~ Filed August 29, 1997; effective October 3, 1997. **Amended:** Filed September 18, 2001; effective October 23, 2001; operative November 1, 2001.

170-X-4-.09 Subsequent Duplication.

The agreement shall stipulate that under any subsequent owner-architect agreement, the basic fee for any substantial duplication of buildings covered by the original agreement will be paid in accordance with rule 170-X-4-.07-(4). However, the fee schedule in effect at the date of the subsequent agreement will apply.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: ~~Repealed and Repealed:~~ Filed August 29, 1997; effective October 3, 1997.

170-X-4-.10 Schedule Of Basic Fee Rates.

(1) The "Schedule of Basic Fee Rates" is graduated by project cost and categorized by building groups defined in 170-X-4.10-(2).

COST OF THE WORK	FEE IN PERCENTAGE				
	Building Group				
	I	II	III	IV	V

Up to \$100,000	8.0	9.0	10.0	11.0	12.0
100,001 to 200,000	7.0	8.0	9.0	10.0	11.0
200,001 to 300,000	6.0	7.0	8.0	9.0	10.0
300,001 to 400,000	5.9	6.9	7.9	8.9	9.9
400,001 to 500,000	5.8	6.8	7.8	8.8	9.8
500,001 to 600,000	5.7	6.7	7.7	8.7	9.7
600,001 to 700,000	5.6	6.6	7.6	8.6	9.6
700,001 to 800,000	5.5	6.5	7.5	8.5	9.5
800,001 to 900,000	5.4	6.4	7.4	8.4	9.4
900,001 to 1,000,000	5.3	6.3	7.3	8.3	9.3
1,000,001 to 1,250,000	5.2	6.2	7.2	8.2	9.2
1,250,001 to 1,500,000	5.1	6.1	7.1	8.1	9.1
1,500,001 to 1,750,000	5.0	6.0	7.0	8.0	9.0
1,750,001 to 2,000,000	4.9	5.9	6.9	7.9	8.9
2,000,001 to 2,500,000	4.8	5.8	6.8	7.8	8.8
2,500,001 to 3,000,000	4.7	5.7	6.7	7.7	8.7
3,000,001 to 3,500,000	4.6	5.6	6.6	7.6	8.6
3,500,001 to 4,000,000	4.5	5.5	6.5	7.5	8.5
4,000,001 to 5,000,000	4.4	5.4	6.4	7.4	8.4
5,000,001 to 6,000,000	4.3	5.3	6.3	7.3	8.3
6,000,001 to 8,000,000	4.2	5.2	6.2	7.2	8.2
8,000,001 to 10,000,000	4.1	5.1	6.1	7.1	8.1
10,000,001 to 12,000,000	4.0	5.0	6.0	7.0	8.0
12,000,001 to 14,000,000	3.9	4.9	5.9	6.9	7.9
14,000,001 to 16,000,000	3.8	4.8	5.8	6.8	7.8
16,000,001 to 18,000,000	3.7	4.7	5.7	6.7	7.7
18,000,001 to 20,000,000	3.6	4.6	5.6	6.6	7.6
20,000,001 to 22,000,000	3.5	4.5	5.5	6.5	7.5
22,000,001 to 24,000,000	3.4	4.4	5.4	6.4	7.4
24,000,001 to 27,000,000	3.3	4.3	5.3	6.3	7.3

27,000,001 to 30,000,000	3.2	4.2	5.2	6.2	7.2
30,000,001 to 33,000,000	3.1	4.1	5.1	6.1	7.1
33,000,001 to 36,000,000	3.0	4.0	5.0	6.0	7.0
36,000,001 to 39,000,000	2.9	3.9	4.9	5.9	6.9
39,000,001 to 42,000,000	2.8	3.8	4.8	5.8	6.8
42,000,001 to 46,000,000	2.7	3.7	4.7	5.7	6.7
46,000,001 to 50,000,000	2.6	3.6	4.6	5.6	6.6
50,000,001 to and over	2.5	3.5	4.5	5.5	6.5

(2) BUILDING GROUPS:

(a) Group I: Industrial buildings without special facilities, parking structures and repetitive garages, simple loft type structures, warehouses exclusive of automated equipment, and other similar utilitarian type buildings.

(b) Group II: Armories, apartments, cold storage facilities, dormitories, exhibition halls, hangers, manufacturing/ industrial plants, office buildings without tenant improvements, printing plants, public markets, and service garages.

(c) Group III:

1. College classroom facilities, convention facilities, correctional and detention facilities, extended care facilities, gymnasiums (simple, prefabricated- pre-engineered, minimum types shall be classified under Group II), hospitals, institutional dining halls, laboratories, libraries, medical schools, medical office facilities and clinics, mental institutions, office buildings with tenant improvements, parks, playground and recreational facilities, police stations, public health centers, research facilities, schools (elementary and secondary), stadiums, and welfare buildings.

2. Also, central utilities plants, water supply and distribution plants, sewage treatment and underground systems, electrical sub-stations and primary and secondary distribution systems, roads, bridges and major site improvements when performed as independent projects. When any or all of these types of improvements are incidental to an overall plan of architectural development they will be grouped with the basic architectural service of the overall project unless stated otherwise in the agreement.

(d) Group IV: Aquariums, auditoriums, art galleries, college buildings with special facilities, communications buildings, special schools, theaters and similar facilities.

(e) Group V: Residences and specialized decorative buildings unless otherwise stated in the agreement. Custom designed furnishings shall be categorized in Group V except when considered incidental to the basic architectural service for a building.

Author: Stedmann B. McCollough, Director

Statutory Authority: Code of Ala. 1975, §41-9-141.

History: Repealed and Repealed: Filed August 29, 1997; effective October 3, 1997.

ED NOTE: THE RULES OF THE BUILDING COMMISSION WERE TRANSFERRED TO THE DEPARTMENT OF FINANCE, CHAPTER 355-14-1, PURSUANT TO ACT 2015-435.