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Negotiate Services, Compensation, and Agreement to Win by Richard N. Pollack, FAIA, FIIDA

Most of us decided to become designers and architects based on our love of design and our desire to be part of making the planet a better place. But in order to get there, we also have to focus on the practical and legal aspects when undertaking a project.

Let's assume that you received a Request for Proposals (RFP) from a client with a fairly generic, high-level scope of services. Your concern is that each competing firm will develop its own detailed scope and the decision will not be "apples-to-apples." There are two strategies for this situation. The first is to ask the client if you can send them your scope of services, which the client can then forward to all proposing firms. The advantage is that you know your generic scope better than anyone and you can establish fees that place your firm in a more competitive position. The client will also appreciate that you have made the RFP more effective for their future analysis of proposals.

If the first method does not work, the next best approach is to establish a detailed scope of services that can give your firm some advantage over your competitors. This means developing a meticulous description of your services that expands on the scope provided in the RFP. You should not include any additional services, even if you know they will be required. You may think this is dishonest, but it is the best method when the fee is part of the selection criteria. This is the same approach used by general contractors when bidding on a project, particularly those in the public sector, when they include pricing for exactly what is on the drawings and nothing more.

The next step is building the fee around the scope of services. An effective method is to describe the hours and cost for each line-item task—not just the project phases—but do not show this level of detail in your proposal. This breakdown is a great foundation for future fee negotiation with the client, and for your team's in-house project planning. Even if you typically base compensation on the number of drawings required or another method, the fee should be converted to track with the detailed scope.

The last step is to analyze the fee against market conditions. If it appears too high to win the project, reduce it by eliminating scope, implementing staff with a lower billing rate (this applies primarily to larger firms), or lowering the expected profit percentage, which is never a desirable option.

When you win the project, the client will ask you to put together an agreement. Your firm should already have agreement templates or AIA electronic documents, and you can copy and paste the proposal's scope of services into the template. If there are no edits, make it clear in an accompanying document that the language is unchanged from your initial proposal. Your firm's contract template should already include pre- and post-scope sections where you can add detail to the project plan—e.g. additional services that may be required—along with detailed assumptions that were used when finalizing the scope and associated compensation.

Early in a negotiation, make it clear that the fee is directly related to scope, and the only way to reduce the fee is to reduce services. Do not simply reduce the fee. The client needs to understand that you will not give anything away for free. Similarly, when you begin the project, you should identify the very first out-of-scope, additional service and fee. The client will likely balk, but will come to understand your boundaries and respect later additional service requests.

Clients who are good negotiators will also try to get at least one early concession from you. An example might be: "I want you to include two additional design iterations within your basic fee." You could respond: "Once both of us have discussed all the issues, I will review where we are and let you know if that can work within the fee." If most of the items up for review are resolved to your favor, or at least satisfaction, you can yield on some others that occur later in the project.

The goal is for you and the client to both feel like you have won at the beginning of the project and, when the project is complete, to feel even more so like you are both winning.

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