

## **GUIDANCE FOR PROFESSIONAL CONSULTANTS**

### **MANDATORY DOCUMENTATION**

- RICS Standard Form of Consultant's Appointment
- RICS Standard Form of Consultant's Appointment (explanatory notes)
- OR RICS Short Form of Consultant's Appointment

Relating to specific disciplines, the following documents are to be read in conjunction with the RICS Standard Form of Consultant's Appointment:

- Building Surveyor Services
- Quantity Surveyor Services
- Principle Designer

With reference to the appointment of Architects / Lead Architect, the following document must be used:

- RIBA Concise Agreement for Appointment of an Architect.

### **1.0 INTRODUCTION**

- 1.1 This Guidance Document is for use by Professional Consultants employed on Diocese School Capital Projects.
- 1.2 This Guidance sets out the requirements for the services provided by Professional Consultants, and the minimum standards expected of those providing professional advice.
- 1.3 Professional Consultants are expected at all times to act professionally and in full compliance with the standards of their Professional Bodies.
- 1.4 Consultants, particularly any Lead Consultant and Principle Designer, must understand their responsibilities to the Diocese and to the schools. Where required the consultants must guide the schools in observing their responsibilities or report issues to the Diocese as soon as possible.
- 1.5 Consultants must comply with the requirements of the Diocese concerning fees and fee payments.
- 1.6 The Diocese expects the Professional Consultants that it approves to promote industry best practice and strive to achieve the highest standards.
- 1.7 Professional Consultants are only approved for appointment following interview to ascertain if they meet the Diocese criteria for selection. The assessment of Consultants is ongoing and the Diocese reserves the right to deselect Consultants should their performance fall below that expected.
- 1.8 The School will not directly appoint Sub-Consultants such as Mechanical, Electrical, Structural Engineering, Quantity Surveyor, Health and Safety Advisor, Project Manager or any other specialists Consultants.

- 1.9 All Consultants and Contractors must be in compliance with the Living Wage and the London Living Wage Foundation scheme. Within all appointment documents and tender documents/prelims and Contracts there must be a clear statement that all parties abide by the scheme and a Certificate/letter of Compliance is required to be issued to WRCDT from both the Consultants and the Contractors, this will be issued at appointment/Contract stage.
- 1.10 All Consultants and Contractors must be in compliance with the Diocese of Westminster statement of 'modern slavery'. The statement must be incorporated in all appointment documents, tenders/quotation documents and prelims and Contracts, there must be a clear statement that all parties abide by the scheme and issue a letter/certificate of compliance will be required to be issued to WRCDT from both Consultants and the Contractors, this is to be issued at appointment/Contract stage. Please see Appendix A to refer to the statement.

## **2.0 ROLES AND RESPONSIBILITIES**

- 2.1 The Trustees to the Diocese normally own the buildings and the land on which they constructed.
- 2.2 School Governing Bodies legally occupy the School premises for the purpose of conducting a Catholic School in accordance with the Trust Deed of the Diocese.
- 2.3 Head teachers have the day-to-day responsibility for running the School and the level of delegated responsibility will depend upon the Governors.
- 2.4 For the purposes of Capital Projects the Diocese is considered the Client. Responsibility for developing and managing Capital Projects is devolved by the Diocese to the Governing Body (Item 2.4 – School's Document).
- 2.5 Under the Construction (Design and Management) Regulations 2007 and subsequent changes/Amendments to the Regulations including the 2015 changes, certain legal responsibilities concerning Health and Safety are imposed upon the appointment of a Principle Designer 'Client'. The Governing Body is deemed to be the 'Client' for the purpose of fulfilling the obligations under this legislation.
- 2.6 Schools must obtain the written consent of the Diocese prior to undertaking any structural works or significant alterations to its Schools. Such consent is only granted subject to the agreement that schools observe the Diocese's protocols relating to:
- Responsibility for the CDM Regulations and appointment of a Principle Designer
  - Project organisation
  - The development of the brief
  - Formal design approval
  - Appointment of Consultants
  - Appointment of Contractors
  - Change control
  - Cost reporting

The Diocese reserves the right to step-in at any stage, should it consider that any Project Team is failing to properly organise, manage or execute any Capital Project. The Diocese underwrites the financial risk of its Schools Capital Projects and therefore will take action as necessary to safeguard its position and provide successful outcomes to capital projects.

### **3.0 PROJECT ORGANISATION**

- 3.1 Schools, with the assistance of the Consultant Team, must ensure that they have a suitable project organisation in place.
- 3.2 The Diocese may ask for details concerning the project organisation that has been created and will expect Consultants to evidence this requirement appropriately, depending upon the size and nature of the project.

### **4.0 LAY CLIENT**

- 4.1 Very few Schools regularly undertake Capital Building Projects on a regular basis and therefore have limited knowledge and experience of what is required. Consultants should consider them as Lay Clients and provide guidance to them appropriately.
- 4.2 The Diocese expects Consultants to understand the Schools requirements and assist in the development of the brief and the design to a point where the School understands fully what is being proposed, considers that it fulfills all their requirements and that no further significant changes are required following start on site. Consultants should consider the formal approval of the completed design as one of the most significant stages and the Diocese expects the Consultants to ensure the School fully understands what it is approving.

### **5.0 PROJECT MANAGEMENT**

- 5.1 The most significant period of any project is the front end, or pre-project planning. The Diocese requires that the Project Team should properly consider the project requirements from the outset through sufficient discussion and formal agreement upon the project criteria and understand that this is the most important stage of any scheme.
- 5.2 The aim of the pre-project planning process is to develop a scheme that can be formally approved prior to tendering and the commencement of any works.
- 5.3 The Diocese requires that all Consultants observe best practice in project management and will look to witness this on randomly selected schemes as it chooses.

### **6.0 RISK MANAGEMENT**

- 6.1 Consultants are expected to initiate and maintain effective risk management controls.
- 6.2 Project risks should be identified, assessed and managed as required to minimize their potential impact upon any scheme.
- 6.3 The Project Risk Register should be reviewed regularly and the Diocese must be informed immediately of any risks that could lead to budget or program overruns. The Diocese underwrites any budget overspends and it therefore requires that such risks are identified as early as possible and that it is involved as soon as reasonably practicable in order that it can reduce its financial exposure.

## **7.0 FORMAL DESIGN APPROVAL**

- 7.1 Schools should understand that following the formal design sign-off no changes should be made unless they are absolutely essential, and that the cost and program risks have been assessed and accepted using the Project Change Control Procedures that are in place.
- 7.2 Good project management restricts changes during construction as such changes can be disproportionately expensive and affect the project program. If a scheme has been formally approved by the School any unnecessary changes when the work has already started will reflect poorly on the Consultant team.
- 7.3 The School should use the time prior to formal scheme design approval to consider its requirements and not take the view that it can make changes as and when it wishes. The Consultants are expected to understand the significance of late changes and are required to initiate Change Control Procedures that any requested variations must satisfy prior to approval.

## **8.0 APPOINTMENT OF CONSULTANTS**

- 8.1 The Diocese expects that its approved Consultants adopt best practice and illustrate this to the Diocese through successful project outcomes. The relevant success criteria are project specific but cost, time and quality will be used as the base criteria.
- 8.2 Part of this process is the development of a properly considered brief, design and specification. These are developed in association with the school and the Diocese expects that this process is managed effectively by the Lead Consultant, taking the position that the school is a 'Lay Client'.
- 8.3 Lead Consultants are permitted to engage a team of their choosing. All projects with a value greater than £100,000 are required to submit monthly cost reports to the Diocese. All projects with a value greater than £500,000 must have an independent Quantity Surveyor and this appointment must be by the Diocese.
- 8.4 Some design practices offer a 'one stop shop' approach where they provide all the necessary professional services through one practice. This sometimes has the drawback that the client loses an element of control as they do not necessarily have direct access to all the team members. This is compensated for by knowing that responsibility for the scheme rests with one firm.
- 8.5 The School will not directly appoint –sub Consultants such as Mechanical, Electrical, Structural Engineering, Quantity Surveyor, Health and Safety Advisor, Project Manager or any other specialists Consultants.
- 8.6 Please refer to clause 1.9 regarding Living Wage and London Living Wage.

## **9.0 APPOINTMENT OF CONTRACTORS**

- 9.1 The Diocese requires that all capital schemes are formally tendered. On schemes with a contract sum in excess of £500,000 for primary schools and £1M for secondary schools respectively, there are formal opening procedures.
- 9.2 For all projects with a contract sum in excess of £750K the contractor is to provide a Bond to the value of 10% of the contract sum, in a traditional ABI or similar form of contract.

- 9.3 The appointment of suitable Contractors is very important in obtaining successful project outcomes. Many projects have failed because the Contractor selection was poor and it is therefore extremely important to think about the selection and appointment of Contractors for any project.
- 9.4 The Diocese does not maintain a list of Contractors that it approves for work on its Schools. The appointed Projects Consultants are expected to advise on Contractors that are considered suitable and meet the minimum industry approved standards to permit their inclusion. The Diocese expects that any project can illustrate proper consideration of Contractors prior to tender, in order to avoid issues once a scheme has started on site, and the Diocese may ask for that contractor selection be justified.
- 9.5 The Diocese reserves the right to appoint and de-select Contractors from tender lists as it considers appropriate.
- 9.6 Please refer to clause 1.6 regarding Living Wage and London Living Wage.

## **10.0 CHANGE CONTROL**

- 10.1 All Consultant Project Teams are expected to introduce and manage appropriate Change Control Procedures. The objective is to control project changes, and thereby manage cost and program overruns.
- 10.2 Schools will not be permitted to instruct changes unless the changes can be shown to have no or little significant cost and do not adversely affect the program and the Consultants are expected to enforce this approach to the satisfaction of the diocese.
- 10.3 Requests for variations must be published in the monthly Project Cost Reports. Consultants are required by the Diocese to illustrate that they are effectively managing requests for change and the Diocese inspects projects to confirm this. Consultants who fail to do so will be removed from the list of approved Consultants and undertake no further work for the Diocese.

## **11.0 COST CONTROL**

- 11.1 It is the responsibility of the Lead Consultant to ensure that project costs do not exceed the budget, by using best practice project management techniques. The Diocese will expect any project to have proper cost reporting measures in place that identify and manage cost issues throughout the project. The Diocese will expect to be advised of any cost issues at a sufficiently early point that corrective action can mitigate the risk.
- 11.1.1 The Diocese expects that a contingency on the build costs is included in any contract. The percentage for contingency will depend on the size of the project and should follow the Diocese guidance.
- 11.2 The Diocese reserves the right to step in at any time on any capital project that is not, in the opinion of the Diocese, properly controlling costs.

## 12.0 PROGRAM

- 12.1 Consultants are expected to prepare Project Programs that reliably inform the School and Diocese on project timescales. Much of the work required at Schools must be undertaken during school holiday periods and the risks associated with programs overrunning can be serious.
- 12.2 Consultants are expected to understand the significance of delays on School Projects and manage this by regularly reviewing progress against program. The school and the Diocese must be informed at the earliest possible opportunity of any significant potential delay to any Project.
- 12.3 Project programs must be updated and reviewed regularly.

## 13.0 FEES

- 13.1 The upper limit for Consultants' fees on School projects is set by Central Government. Consultants are aware of this but if necessary can seek clarification from the Diocese. The Diocese chooses to set its limits regarding fees for projects.
- 13.2 Consultants should submit their fees on a project specific basis, based upon complexity and resource requirements. Consultants should not consider that the same fee levels can be achieved for each project.
- 13.3 The Lead Consultant is responsible for selecting, in conjunction with the school and Diocese, their Project Team. The Lead Consultant must also manage the appointments, fee quotations and the agreement of the Sub Consultant's payments. The Consultants, their fees and payments due must be scheduled out by the Lead Consultant and this schedule is to be lodged and agreed with the Diocese Finance Department before any work is undertaken.
- 13.4 Any Project Team will comprise a mix of Main and Sub-Consultants. Main Consultants will generally be involved in any scheme from near the commencement to its completion. Main consultants (PM, architect, QS, M&E etc.) will be paid at stages throughout the Project up to 95% at Practical Completion. 5% of fees due will be held as retention until Final Certificate.
- 13.5 Sub-consultant involvement can vary depending upon the role. Such Consultants (acoustics, tree surveys, BREEAM, surveys etc.) will normally be engaged on a fixed and their work may be completed at early stages of the project. It is acceptable, where this is the case, for such Consultants to be paid when their element of work has been satisfactorily completed in the opinion of the Lead Consultant.
- 13.6 The Diocese Finance Department will expect to receive a Fee's Breakdown Form from the Lead Consultant that includes the fees agreed with the other Consultants in accordance with the Project Schedule. Any requests for payment not submitted in accordance with the Schedule will be returned unpaid unless discussed with the Finance Department in advance.
- 13.7 The Schedule for fee payment on Projects should be in accordance with the Diocese's fee plan, which follows the RIBA Work Plan. There is no mandated requirement for fee stage payment percentages so the Diocese has introduced what it considers to be fair stage payment percentages that reflect the work that consultants will undertake up to each stage.

The Consultants' fees will be paid only when grant funds are available (in some cases this means tender stage). The main Consultants have to confirm that they agree with this agreement and not try to recover the initial fees directly from the school before funding is available.

The Diocese agrees to pay the statutory fees and any mandatory fees (e.g. site investigation, surveys) required prior to the tender stage where there is written funding commitment from LA or Government. If the project is not approved, then the Governing Body is liable to fund the expenses already incurred for the project.

<b>RIBA</b>	<b>RIBA's definition</b>	<b>DOW's definition</b>	<b>Architect/ PM/QS</b>
0	Strategic Definition		
1	Preparation and Brief	DOW Stage 1 – Feasibility (2% of Total Fee)	2%
2	Concept Design	DOW Stage 2 – Detailed Outline Proposals – Including Income Assessments (13% of Total Fee)	15%
3	Developed Design	DOW Stage 3 – Securing Planning Consent (10% of Total Fee)	25%
4	Technical Design	DOW Stage 4 – Detailed Design (15% of Total Fee)	40%
		DOW Stage 4a – Securing Tender within Budget for Construction (20% of Fee Budget)	60%
5	Construction	DOW Stage 5 – Management and Control of Building Contract (25% of Fee Budget)	85%
6	Handover and Close out	DOW Stage 6 – Secure Practical Completion for Total Project – Contractors Offsite and School Fully Operational (10% of Total Fee)	95%
7	In Use	DOW Stage 7 – Final fees payable upon issuing of Final Certificate (5% of Total Fee)	100%

(\*)60% - 85% of fees to be issued in equal stages during construction period - Table 1.0  
Fee percentage payments stages

- 13.8 The Lead Consultant is responsible for the management of the budget for additional Consultants and all statutory charges. In the event that these exhaust the budget funding payments to fixed price and statutory costs will be offset against the remaining Main Consultant Budget as a first priority for payment.
- 13.9 The Diocese does not hold significant fees at the end of any project in order to ensure Consultants finish the project successfully. Instead it expects the approved Consultants to assess their fees correctly at the commencement of any project and to work professionally to complete a scheme successfully. Should any Consultant not do so the Diocese will not rely upon punitive retention of fees but will cease to employ any such Consultant on future schemes and will, as necessary, seek legal redress should the standards of provision be sufficiently poor.
- 13.10 The Diocese expects that Consultants understand that although a scheme may be close to conclusion in fact for the client it is the start of their occupation and the moment when they are most interested and when client expectations are highest. Consultants are expected to illustrate to the Diocese how they manage this stage of any scheme.
- 13.11 The Diocese will use the RIBA Outline Plan of Work to instruct elements of work and consultants will be expected to submit their fee quotations on this basis e.g. Stage 1 Preparation of a feasibility study.
- 13.12 It is the responsibility of the Lead Consultant to make sure that the Building Insurance is in place at least 14 days prior to the commencement of work. Insurance to be arranged through CCIA and the premium accounted for in the project's budget.
- 13.13 The Lead Consultant is responsible to seek formal VAT advice from a consultant approved by the Diocese, at the early stages of the project.

## 14.0 APPOINTMENTS

- 14.1 All Consultants must confirm their appointments in writing, in accordance with the requirements of their professional bodies. Where a Project Team has been formed it is the responsibility of the Lead Consultant to ensure that the Sub Consultants comply with this requirement.
- 14.2 For Consultant / Lead Consultant appointments for individual disciplines, such as Principle Designer, Building Surveying, Quantity Surveying, Project Management, Employers Agent, or for Multi-disciplinary appointments, Lead Consultancy, the following RICS Standard forms are to be used:
- a) RICS Standard Form of Consultants Appointment (Multi-disciplinary consultants must complete this 'Standard form' especially when employing sub-Consultants) and in addition read and complete if applicable, item (b) below.
  - b) RICS Standard Form of Appointment, for use with a discipline such as Building Surveyor, Quantity Surveyor, Principle Designer, etc.
  - c) RICS Short Form of Consultant's Appointment.
  - d) The above forms must be purchased, completed and signed and issued to all parties. These documents will then form part of the appointment documents.

For appointments as Architect or Lead / Architect the following RIBA Standard Forms must be completed.

- a) RIBA Concise Conditions of Appointment
  - b) The above forms must be purchased, completed and signed by all parties. These documents will then form part of the appointment documents.
- 14.3 If the appointments are not in place the Diocese will not make any fee payments until they are.
- 14.4 Frequently Projects may require the Diocese or School Governing Body to employ a Consultant directly either as a Lead Consultant or Consultant, in either situation the RICS Standard form of Consultants appointments or RIBA Concise Conditions of appointment documents all as described in clause 13.2 will be purchased, completed, signed and issued to all parties as part of the instructions.
- 14.5 The total project fees for Consultants appointments (Principle Designer, Project Manager, Architect, Building Surveyor, Quantity Surveyor, M&E Services Engineers) will not exceed 12% and will exclude the Diocese (via Aedificabo) charges, 1% for fixed costs and 1% for statutory costs.
- 14.5.1 The Diocesan administrative and project overview charges will apply according to the following schedule:

### **Total project's costs**

All projects

### **DOW/Aedificabo charges**

1% (of the build cost)



## 15.0 PROCUREMENT

- 15.1 The Diocese expects the Consultants that it approves to have extensive knowledge and understanding of construction procurement options available.
- 15.2 The Diocese generally advocates the traditional procurement route approach, but is conscious of industry moves to reduce adversarial relationships and disputes. It is required that Consultants understand and apply good practice in procuring School Projects and at all times look to create positive relationships within teams and with contractors, and avoid disputes. The Diocese will accept the use of JCT and NEC Contract Forms but expect justification for their use should it be necessary.
- 15.3 The Diocese expects that signed Contracts with Contractors are completed as soon as reasonably possible following their appointment. It is the responsibility of the Lead Consultant to ensure that Contracts are completed and placed on file.
- 15.3.1 Contracts over £1M for Secondary Schools and £500K for Primary should be signed by the Diocesan Financial Secretary. Copy of the Contract to be kept on file under the responsibility of the Education Department.
- 15.3.2 For contracts over £1M for Secondary Schools and £500K for Primary a letter of intent should be issued and signed by the Financial Secretary.
- 15.4 The Diocese expects that project Final Accounts are prepared in good time by the QS and it is the Lead Consultant's responsibility to ensure that this is done.

## 16.0 PRACTICAL COMPLETION

- 16.1 At Practical Completion the Diocese expects the Lead Consultant and Principle Designer to present the fully completed Health and Safety File to the School. This is a legal requirement under the Construction (Design and Management) Regulations 2007 (amended 2015).
- 16.2 A partially completed Health and Safety File will not be accepted.
- 16.3 Practical Completion will not be achieved without the submission of the Health and Safety File. Without a Health and Safety File any Building cannot strictly be occupied and is therefore incomplete to the Diocese.
- 16.4 The Diocese will not pay any fees owing to any Consultants at this stage (85-95%) until the Health and Safety, Operations and Maintenance Files have been fully completed and received.



# Diocese of Westminster

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## APPENDIX A

### MODERN SLAVERY STATEMENT

#### **INTRODUCTION**

Human trafficking and modern slavery are, in the words of Pope Francis, “grievous wounds in the flesh of humanity....In the flesh of Christ himself”.

This statement sets out the Diocese of Westminster’s actions to understand all potential modern slavery risks related to our work. We are absolutely committed to putting in place steps to prevent slavery or human trafficking occurring in our diocese or our supply chains. As founder members of the Santa Marta Group, the Diocese recognises our responsibility to tackle this most ancient yet modern of criminal activities. We undertake a significant amount of work in this area and further details and examples of the initiatives we undertake such as Caritas Bakhita House and our Caritas Social Enterprise Ideas Development hub can be found in our annual report and on our website.

#### **OUR POLICY**

The Diocese has a responsibility to comply with all the principals of the Modern Slavery Act 2015 and will undertake due diligence and actions to ensure it is satisfied that there is no evidence of any act of modern day slavery or human trafficking within the organisation, its suppliers, sub-contractors and other partners.

The senior management team has been provided with training to better understand slavery and human trafficking and is required to ensure that the supply chains under its control comply with the law. Procedures are in place to evaluate and verify the practices of any new or existing supplier, sub-contractor or partner. Presentations have been provided to wider staff groups, clergy and parishes on our commitment to combating Modern Slavery and Human Trafficking and the role that each of us can play in this work.

The Board of Trustees of The Diocese and senior management take responsibility for implementing this policy and its objectives and will provide the necessary resources to ensure that its practices are effective in ensuring that modern day slavery is not taking place.

This policy will be reviewed annually by the Finance Committee and the Board of Trustees as part of the annual accounts procedures.