



# Memorandum

Date: February 6, 2023

To: AIA Members from the Following AIA Communities:

*Board Knowledge Committee*

*Academy of Architecture for Justice (AAJ)*

*Committee on Architecture for  
Education*

*Public Architects Knowledge Community*

*Government Advocacy Committee*

*Small Firm Exchange*

*Building Performance KC*

*Housing and Community Development*

*Large Firm Roundtable*

From: Emily Grandstaff-Rice, FAIA, AIA 2023 President  
2022 AIA Federal Relations Team

Subject: AIA's Legislative Efforts to Eliminate the 6% Fee Limitation from Federal Procurement Contracts for Architects: AIA Request for Feedback: How Architectural Work/Services for Basic Design Services has Grown Since 1949

Deadline to Provide Feedback: February 28, 2023

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AIA is seeking information from AIA members showcasing how the scope of the architectural profession has profoundly grown in complexity since the year 1949 (this was the year the 6% limitation was first put in place for federal civilian projects via the Federal Property and Administrative Services Act of 1949). We are seeking information to better equip AIA for its legislative campaign to eliminate the 6% fee limitation applied to architects on federal contracts.

Formerly proposed AIA actions related to *amending* the FAR are suspended indefinitely, as we have been unable to generate tangible evidence that proves that the 6% design limitation has been misapplied to certain contracts. Our larger goal - to rescind the fee limitation (or "cap") altogether - will alleviate any future instances of misapplication, as well as address the larger problem that the cap itself is outdated, misguided, and inequitable.

## **Why is AIA Seeking this Information?**

AIA is seeking feedback from AIA members to prove our case to federal policymakers that arbitrary limitations, or "caps," on federal A/E design fees are inconsistent with the current 21<sup>st</sup>-century demands for architecture firms. As such, the fee limitation has long warranted rescission to ensure equity to the architecture profession, fair payment for services rendered, and consistency with other federal precedent. Indeed, the use of fee schedules *by architects* to determine compensation has been prohibited by virtue of a consent decree with the Department of Justice since 1972.

As you may know, AIA is engaged in a federal initiative to eliminate the 6% design fee limitation currently applied to federal civilian contracts (that utilize the cost-plus-a-fixed-fee contract type), as well as all defense projects (which also utilize these contracts for all Department of Defense (DoD)-related procured construction contracts).

AIA has identified multiple shortcomings of the 6% limitation fee limitation, the most relevant issue being that the 6% fee limitation was originally put in place for federal civilian projects by federal statute in 1949 (over 70 years ago). AIA notes that the demands placed upon architects (by both the public and private sectors) have increased substantially since 1949, and federal law should reflect that.

### **AIA's Request for Feedback: Specifics**

*For firms or individuals submitting information, please send all information you can provide via the [jotform survey link here](#) by February 28, 2023. Questions, inquiries, or requests for additional information can be referred to AIA Federal Relations Manager, Blake Nanney, at [blakenanney@aia.org](mailto:blakenanney@aia.org).*

The following types of information are essential to AIA's effort to educate lawmakers about the need for the elimination of the 6% design fee limitation from the federal statute. For those willing to assist AIA in this initiative, please share feedback on the following areas of interest:

- Clear examples of increased design material requirements and/or examples on how architectural work/services for basic design services has grown, for example:
  - Two-dimensional drawings from earlier design strategies in the 1940s vs. expansions due to CAD/BIM modeling;
  - The number of pages (density of material/digital or otherwise) for designs today compared to similar projects in the 1940s;
  - Any increased security measure requirements;
  - Federal and/or State and/or local compliance requirements;
  - Increased information, communication, and technology scope requirements;
  - Contemporary cybersecurity requirements;
  - High-performance sustainable building requirements (energy efficiency, sustainability, or resilience requirements);
  - Data regarding any increased number of staff members and/or time required to complete design specifications;
  - Any increased costs associated with 21<sup>st</sup>-century architectural expectations;
  - Other firm expenses or challenges in designing in today's materials (shortage) and inflated economy;
  - And, other design and cost variables not captured above

Case studies exemplifying a clear increase in architectural-related duties & costs between older and newer design projects would be most helpful (comparing the 1950s and 1960s to today), but any relevant examples or other information is welcome.

### **Next Steps**

AIA is pivoting its effort to create more equity for architects that work on federal procurement/projects. Our efforts to rescind the 6% design fee limitation in the federal statutes will require Congress to change the law. To do so, we need your help and information to make a strong, substantive, data-driven petition.

If there are other issues that members feel are relevant to this specific issue (not otherwise captured here), please feel free to also send that information to Blake Nanney ([blakenanney@aia.org](mailto:blakenanney@aia.org)). *In advance, we thank you for your willingness to help us dig into the realities and challenges of practicing architecture today.*