

Notice of the State Development Planning Commission and the Ministry of Construction on the Promulgation of the Provisions on the Administration of Charges for Engineering Survey and Design Services

Document No.: Ji Jia Ge [2002] No.10

Issued by: State Development Planning Commission, Ministry of Construction

Date: January 7, 2002

To all relevant departments of the State Council; development planning commissions, price bureaus, and construction departments of all provinces, autonomous regions, and municipalities directly under the Central Government:

To implement the Opinions on Deepening Institutional Reform of Engineering Survey and Design Institutes forwarded by the General Office of the State Council (Guo Ban Fa [1999] No.101), reform the charging standards for engineering survey and design services, and standardize fee-charging practices for such professional services, the State Development Planning Commission and the Ministry of Construction have formulated the Provisions on Administration of Engineering Survey and Design Charges (hereinafter referred to as these Provisions). We hereby promulgate these Provisions, which shall come into force on March 1, 2002. The former Circular on promulgating the Charging Standards for Engineering Survey and Design Services (Jia Fei Zi [1992] No.375) issued by the former State Administration of Commodity Prices and the Ministry of Construction, together with all its annexes, shall be abolished simultaneously.

For projects where over 50% of contracted engineering survey or design scope of work had been completed prior to the effective date of these Provisions, service fees shall remain governed by the original contract terms. For projects where less than 50% of contracted work has been finished, the fees for the uncompleted portion shall be negotiated between the Employer and the Surveyor/Designer with reference to these Provisions.

Appendix:

Provisions on the Administration of Charges for Engineering Survey and Design Services

Article 1: These Provisions, together with the attached Charging Standards for Engineering Survey Services and Charging Standards for Engineering Design Services, are formulated in accordance with the Price Law of the People's Republic of China and other applicable laws and regulations. Their purpose is to standardize fee-charging practices for engineering survey and design, and protect the legitimate rights and interests of Employers, Surveyors and Designers.

Article 2: These Provisions and the attached charging standards shall apply to all engineering survey and design fee arrangements for construction projects located within the territory of the People's Republic of China.

Article 3: The tendering and contracting of engineering survey and design services shall abide by the principles of openness, fairness, impartiality, voluntariness and good faith. Pursuant to the Bidding Law of the People's Republic of China and the Regulations on Administration of Construction Engineering Survey and Design, Employers have the right to independently select Surveyors and Designers, while Surveyors and Designers shall be entitled to accept or decline any commission.

Article 4: Employers, Surveyors and Designers shall comply with national price-related laws and regulations, maintain an orderly pricing environment, and accept supervision and administration by competent government price authorities.

Article 5: Fees for engineering survey and design shall adopt either government-guided pricing or market-adjusted pricing based on the estimated total investment of the construction project:

- Government-guided pricing applies to survey and design services for projects with a estimated total investment of RMB 5 million or above;
- Market-adjusted pricing applies to survey and design services for projects with a estimated total investment below RMB 5 million.

Article 6: For services subject to government-guided pricing:

The base fee shall be calculated in accordance with either the Charging Standards for Engineering Survey Services or the Charging Standards for Engineering Design Services. Unless otherwise stipulated in Article 7 hereof, fees may be adjusted within a stipulated upward and downward permitted adjustment range. Employers shall negotiate the final service fee with Surveyors and Designers within the permitted floating band based on the actual conditions of the project.

For services subject to market-adjusted pricing, the full service fee shall be agreed upon through negotiation between the Employer and the Surveyor/Designer.

Article 7: Fees for engineering survey and design shall reflect the principle of fees shall reflect the value of high-quality professional services.

Where government-guided pricing applies, if a Surveyor or Designer adopts new technologies, construction methodologies, equipment or materials that deliver improved economic, environmental and social benefits for the project, the parties may negotiate a fee premium of up to 25% above the base rate.

Article 8: Surveyors and Designers shall, in compliance with the Regulations on Clear Marking of Prices for Commodities and Services, fully disclose to the Employer all service scopes, deliverable requirements, quality benchmarks, pricing basis and applicable charging standards.

Article 9: The total amount of survey and design fees and all payment terms shall be explicitly agreed between the Employer and the Surveyor/Designer within the formal Engineering Survey Contract or Engineering Design Contract.

Article 10: All survey reports and design drawings issued by Surveyors or Designers shall comply with all applicable mandatory national technical standards and fully satisfy the scope, quality and performance requirements stipulated in the contract.

Article 11: If additional survey/design workload, site suspension or work stoppage arises due to the Employer's faults, the Employer shall compensate the Surveyor or Designer for corresponding additional service fees incurred.

Article 12: If survey or design deliverables fail to meet the quality requirements set out in Article 10, the Surveyor or Designer shall carry out remedial revisions at their own cost. No additional fees shall be payable by the Employer for extra work arising from such rework. If financial losses are incurred by the Employer as a result of professional negligence by the Surveyor or Designer, the responsible party shall bear compensation liabilities in accordance with contract terms.

Article 13: Surveyors and Designers shall not defraud Employers, nor collude with Employers to inflate survey workloads or unnecessarily upgrade design specifications for the purpose of overcharging survey and design fees.

Article 14: Any party violating these Provisions or national price laws and regulations shall be subject to administrative penalties imposed by competent government price authorities under the Price Law of the People's Republic of China and the Regulations on Administrative Penalties for Price-Related Violations.

Article 15: The State Development Planning Commission shall hold the authority to interpret these Provisions and the attached Charging Standards for Engineering Survey Services and Charging Standards for Engineering Design Services.

Article 16: These Provisions shall take effect on March 1, 2002.

This English translation has been prepared solely for reference purposes based on the original Chinese text. In the event of any discrepancy or inconsistency between this translation and the original Chinese version, the original Chinese text shall prevail. This translation does not constitute an official translation and shall not be relied upon as a legally binding document.