

This rule was filed as GSD 85-510.

**TITLE 1            GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 5        PUBLIC PROPERTY MANAGEMENT**  
**PART 18           ARCHITECT RATE SCHEDULE**

**1.5.18.1           ISSUING AGENCY:** General Services Department, Property Control Division.  
[Recompiled 12/31/01]

**1.5.18.2           SCOPE:** Organizations affected - These regulations affect all state agencies engaged in determining the maximum permissible architect rate for any project.  
[Recompiled 12/31/01]

**1.5.18.3           STATUTORY AUTHORITY:** References - The regulations herein are based on the following authority: Section 13-1-124, NMSA 1978 (1984 Suppl), titled Chapter 13, Public Purchases and Property," requires that the secretary of the general services department adopt by regulation an architect rate schedule which shall set the highest permissible rates for each building-type group, which shall be defined in the regulations. The rate schedule shall be in effect upon approval of the state board of finance in compliance with state rules (14-3-24, 14-3-25, and 14-4-1 through 14-4-9, NMSA 1978) and shall apply to all contracts between a state agency and an architect which are executed after the effective date of the architect rate schedule.  
[Recompiled 12/31/01]

**1.5.18.4           DURATION:** [Permanent]  
[Recompiled 12/31/01]

**1.5.18.5           EFFECTIVE DATE:** February 26, 1985 [filed May 8, 1985]  
[Recompiled 12/31/01]

**1.5.18.6           OBJECTIVE:** Purpose - The purpose of this rule is to establish an architect rate schedule which will define the maximum permissible rates payable by any state agency to an architect for professional services rendered on any state project.  
[Recompiled 12/31/01]

**1.5.18.7           DEFINITIONS:** For purposes of this rule, the following definitions shall apply throughout the rule unless otherwise noted.

A. "State agency": any unit of state government including but not limited to boards, commissions, bureaus, agencies, councils, divisions, and departments as defined in Section 13-1-90, NMSA 1978 (1984 Suppl). Also used as "agency" herein.

B. "Architect": a legal resident registered architect of New Mexico or a firm which employs a legal resident registered architect of New Mexico which has been selected and ranked pursuant to Sections 13-1-118 through 13-1-122, NMSA 1978 (1984 Suppl) or other statutory authority.

C. "MACC": the maximum allowable construction cost, which is the total sum available for construction purposes, including furnishings and equipment, but excluding professional fees, owner's contingency funds, acquisition costs, and other costs which are the responsibility of the owner.

D. "MAR": maximum architect rate, which refers to the highest permissible fee or rate an architect may be paid for services rendered for a proposed state capital project.

E. "PCD": the property control division of the general services department, state of New Mexico.

F. "Owner": the state agency or entity that is empowered to enter into an agreement with the architect.

G. "Cost based": actual documented costs, including all profit and overhead arrived at by estimating the architect's estimated actual costs for the services required.

H. Other definitions. The remaining definitions of words or phrases used in this rule are as defined in Section 13-1-124, NMSA 1978 (1984 Suppl).

[Recompiled 12/31/01]

**1.5.18.8           POLICY:**

A. The policy of these regulation is to ensure one standard architect rate schedule and one process for establishing the maximum architect rate is applied by all state agencies to all contracts between agencies and architects per Section 13-1-124, NMSA 1978 (1984 Suppl).

B. State board of finance approval required: This schedule shall be in effect upon approval of the state board of finance pursuant to the provisions of Section 13-1-124, NMSA 1978 (1984 Suppl).

C. Architect selection process: Firms or individuals considered for all architectural, engineering, land surveying, and landscape design services which cost \$15,000 or more shall be selected in conformance with the provisions of the architect, engineer, land surveyor and landscape architect selection process as defined in Sections 13-1-118 through 13-1-124, NMSA 1978 (1984 Suppl).

[Recompiled 12/31/01]

#### **1.5.18.9 PROCEDURES:**

A. The schedule is applicable to all owner-architect agreements between a state agency and an architect and is based upon a percentage of the estimated construction cost for work which will be let on a stipulated-sum construction contract. The schedule establishes the highest permissible architect rate and is not to be mistaken as establishing the lower limit, average, or actual fee.

B. Included as basic services are programming, schematic design, design development, construction documents, assistance in bidding and negotiation, construction administration and post-construction services, all of which are further outlined in Sections 6.2.1 through 6.2.7 [now Paragraphs (1) through (7) of this subsection]. This list does not necessarily correlate with the descriptions or numbering of the architect's basic services as described in an agency's owner-architect agreement but do provide the general description of basic services. If the maximum architectural fee is allowed, pursuant to the rate schedule appendix "A" herein, all of the basic services listed in Section 6.2.1 through 6.2.7 [now Paragraphs (1) through (7) of this subsection] of these rules shall be provided. If any of the basic services listed in 6.2.1 through 6.2.7 [now Paragraphs (1) through (7) of this subsection] are not included in the architectural services, other factors, as specified in these rules, shall be present before the owner may award the maximum allowable architectural rate.

- (1) Programming phase - programming phase services
  - (a) project administration
  - (b) owner-supplied data coordination
  - (c) establishment of program goals and needs
  - (e) determination of space area requirements
  - (f) establishment of space relationships
  - (g) site analysis for building location
  - (h) site utility studies and reports
  - (i) obtaining licensing agencies' or other regulatory entities' consultation/review
  - (j) project budgeting
  - (k) presentation(s) to owner
  - (l) obtaining approval of programming documents from owner
- (2) Schematic design phase - schematic design phase services
  - (a) project administration
  - (b) concept design for all applicable disciplines, including but not limited to:
    - (i) architectural
    - (ii) civil
    - (iii) landscaping
    - (iv) structural
    - (v) mechanical
    - (vi) electrical
    - (vii) other (list)
  - (c) interim design presentation(s) to owner
  - (d) preliminary alternative materials and systems recommendations, including:
    - (i) life cycle maintenance briefing
    - (ii) feasibility of utilizing alternative energy sources
  - (e) statement of probable construction cost
  - (f) submittal and presentation of schematic design documents to owner
  - (g) obtaining approval of schematic design documents from owner
  - (h) other (list)

- (3) Design development phase - design development phase services
  - (a) project administration
  - (b) finalization of design and selection of materials and systems for all applicable disciplines, including but not limited to:
    - (i) architectural
    - (ii) civil
    - (iii) landscaping
    - (iv) structural
    - (v) mechanical
    - (vi) electrical
    - (vii) other (list)
  - (c) project scheduling
  - (d) statement of probable construction cost
  - (e) outline of specifications, including equipment and furnishings
  - (f) obtaining licensing agencies' or other regulatory entity's review and approvals, as required
  - (g) submittal and presentation(s) of design development documents to owner
  - (h) obtaining approval of design development documents from owner
  - (i) other (list)
- (4) Construction document phase - construction documents phase services
  - (a) project administration
  - (b) preparation of final bidding and construction documents for all applicable disciplines, including but not limited to:
    - (i) architectural
    - (ii) civil
    - (iii) landscaping
    - (iv) mechanical
    - (v) electrical
    - (vi) other (list)
  - (c) detailed cost estimates
  - (d) obtaining licensing agencies' and other regulatory entities' reviews and approvals
  - (e) presentation(s) of bidding and construction documents to owner
  - (f) obtaining approval of bidding and construction documents from owner
- (5) Bidding phase - bidding phase services
  - (a) project administration
  - (b) bidding documents distribution
  - (c) bidding inquiries review and disposition
  - (d) proposed substitution, pre-approval, or prequalification review and disposition
  - (e) issuance of addenda
  - (f) representation and assistance to owner at bid opening
  - (g) analysis of bids and recommendation on award of contract
  - (h) assistance to owner in preparation and execution of construction agreement
- (6) Construction administration phase - construction administration phase services
  - (a) project administration
  - (b) administration of preconstruction conference
  - (c) periodic construction field observations
  - (d) administration of progress meetings
  - (e) review and disposition of
    - (i) submittals
    - (ii) change orders
    - (iii) contractor pay requests
    - (iv) other (list)
  - (f) interpretation of documents
  - (g) monitoring of construction schedule
  - (h) coordination of applicable regulatory agency review and approvals
  - (i) determination of substantial and final completion
  - (j) project closeout, including:

- (i) maintenance, operation, and start-up assistance
  - (ii) recording of construction and warranty documents
- (7) Post-construction - post-construction services
- (a) maintenance and operational troubleshooting
  - (b) eleven-month warranty review

C. The services listed in Article 6.2 [now 1.5.18.9 NMAC] should be viewed as a guide to basic services required of the architect on each project. Wherever appropriate, the list of services actually required must be reviewed to ascertain the services to be deleted or modified. Such modifications could include deletion or requirement of furnishings; soils and foundation investigation; boundary, topography, utilities, and existing facility surveys; and cost engineering, construction management, and other owner-required special services beyond those that would ordinarily be included for the type of project involved. Such modifications should be considered in the negotiation of the fee.

D. Based on the scope of services, the architect is required to make a fee proposal, supporting the proposal with cost-based estimating documentation. The agency and the architect shall negotiate the rate and document the methodology and basis for arriving at the architect's fee. A copy of this documentation shall be kept with the project file. Documentation required shall be submitted on approved phase compensation worksheets, phase/service matrix worksheets, and project time and payment schedules, all of which are attached hereto as appendix "C."

E. Reimbursable expenses: Where provided by the owner-architect agreement, reimbursable expenses are not included in basic services compensation and are actual expenditures made by the architect or his employees in the interest of the project. Examples of reimbursable expenses are as follow:

- (1) expenses of mileage and per diem when traveling in connection with the project;
- (2) expense of fees paid for securing approvals of authorities having jurisdiction over the project;
- (3) expense of reproduction of drawings, specifications, and other documents as required by the owner to solicit bids and execute contracts;
- (4) expense of applicable gross receipts taxes on basic services, reimbursable expenses, or additional services.

F. Additional services of the architect: Additional services are beyond basic services and, when authorized by the owner, shall be negotiated separately and paid for as agreed to by the parties and stated in the owner-architect agreement. Examples of potential additional services are as follows:

- (1) providing financial feasibility or other special studies;
- (2) providing programming, planning surveys, site evaluations, environmental impact studies, or comparative studies of prospective sites other than those services required under basic services to provide a complete and operable facility;
- (3) providing services related to future facilities, systems, and equipment which are not intended to be constructed during the construction phase;
- (4) making revisions in drawings, specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the architect; this does not apply to revisions necessary for final approval of programming, schematic design studies and statement of project scope and design development documents, or to revisions necessary to bring the project within the designated MACC; the architect shall receive written authorization from the owner before commencing work on any change or alteration to the contract documents;
- (5) preparing drawings, specifications, and supporting data and providing other services in connection with change orders to the extent that the adjustment in the basic compensation resulting from the adjusted construction cost is not for work which should have been provided pursuant to basic services and that such change orders are required because of causes not related to the actions or responsibilities of the architect;
- (6) making investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by the owner-architect agreement;
- (7) providing consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such work;
- (8) full-time or part-time project representation beyond that required as part of basic services.

G. Application of architect rate schedule

(1) The maximum architect rate (MAR) shall be limited by the architect rate schedule chart, attached hereto as appendix A and incorporated herein as though set forth in full, as modified by the building type group schedule, attached hereto as appendix B and incorporated herein as though set forth in full.

(2) The maximum allowable rate is arrived at by the fee curve for the appropriate building type and associated guide notes found in the building type group schedule and the fixed MACC found in the architect rate schedule chart.

[(Appendix "A") architect rate schedule chart]

[Recompiled 12/31/01]

### **1.5.18.9 BUILDING TYPE GROUP SCHEDULE (APPENDIX "B")**

A. [Building type group schedule]

Building group	Building types
A	Specialized projects broadcast and telecast facility, concert hall, data processing center, detention facility, emergency operating center, fish hatchery and rearing facility, hospital, laboratory, museum, research facility.
B	Complex projects animal control facility, auditorium, church, clinic, convention center, court house, educational building (with special facilities such as trade, vocation, etc.), fitness center, laundry, library, medical center, mortuary, parking structure (enclosed), repair garage, residence (custom), restaurant, swimming pool (enclosed) synagogue, theater, transportation terminal, zoo facility.
C	Average projects apartment building, armory, bakery, bank, cafeteria, chapel, community center, dormitory, educational building (without special facilities), fire station, gymnasium, hotel, industrial building, motel, office building, parking structure (open air), police administration building, recreational building, retail store.
D	Simple projects airplane hangar, barn, comfort station, garage (without repair work), residence, stadium (open air), swimming pool (open air), warehouse.

B. General notes:

(1) Rates for building types not listed in the building type group schedule should be negotiated from the rates indicated for buildings of similar design complexity. In instances where the owner of user has no similar facility and is not able to offer any guidance or expertise to the building to be constructed, the architect rate shall be negotiated with the architect rate schedule chart, appendix A, only as a reference, whenever applicable.

(2) When a building or project includes several types of uses, the schedule rates apply to such types individually and negotiation is appropriate.

(3) Alterations to buildings may involve many unforeseeable conditions that may not easily be included in normal basic services. An alteration is defined as any change, architectural, structural, mechanical, or electrical, made to an existing building, and includes portions of buildings altered as a result of a new wing extension of such building, excluding historical restorations. Negotiation of the architect's rate for alterations in all categories is appropriate. Consideration of whether there are "trade-offs" in the scope of services should be taken.

(4) Historical renovation projects as a general rule require services substantially in excess of those cited as basic services. These services can include investigative analysis of existing systems, demolition planning and coordination, historical data collection and other coordination. Other instances may not address serious modification of structural systems, finishes, etc. Negotiation of the architect rates is appropriate for all categories of building types whenever the primary architectural services are for historic building renovation.

(5) Where multi-contract or fast-track construction contracts are deemed to be in the best interest of the state and are required in writing by the state, negotiation of the fee is appropriate. Multi-contract or fast-track projects as a general rule require higher levels of coordination, additional personnel, increased levels of construction observation, and accelerated time schedules, all of which may increase the costs of architectural activities.

(6) On projects not requiring full basic services (such as fixtures, equipment, furnishings, interior displays, memorials, reroofing, etc.), when not a part of an overall building, the architect rate shall be negotiated on a cost-based compensation basis by individual project.

(7) For projects whose major design elements are repetitive, the architect rates in all categories may be reduced to reflect the repetitive nature of the project.

(8) Residence," as used in building type group D, is defined as a development-type residence, namely, a single- or two-family house.

(9) Fees for projects under \$150,000 and over \$10,000,000 shall be negotiated individually on a cost-based compensation basis; this rate schedule shall not apply.  
[Recompiled 12/31/01]

**1.5.18.10 [APPENDIX C]**  
[Appendix C]

**HISTORY OF 1.5.18 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: GSD Rule No. 85-510, Architect Rate Schedule, filed 5/8/1985.

History of Repealed Material: [RESERVED]