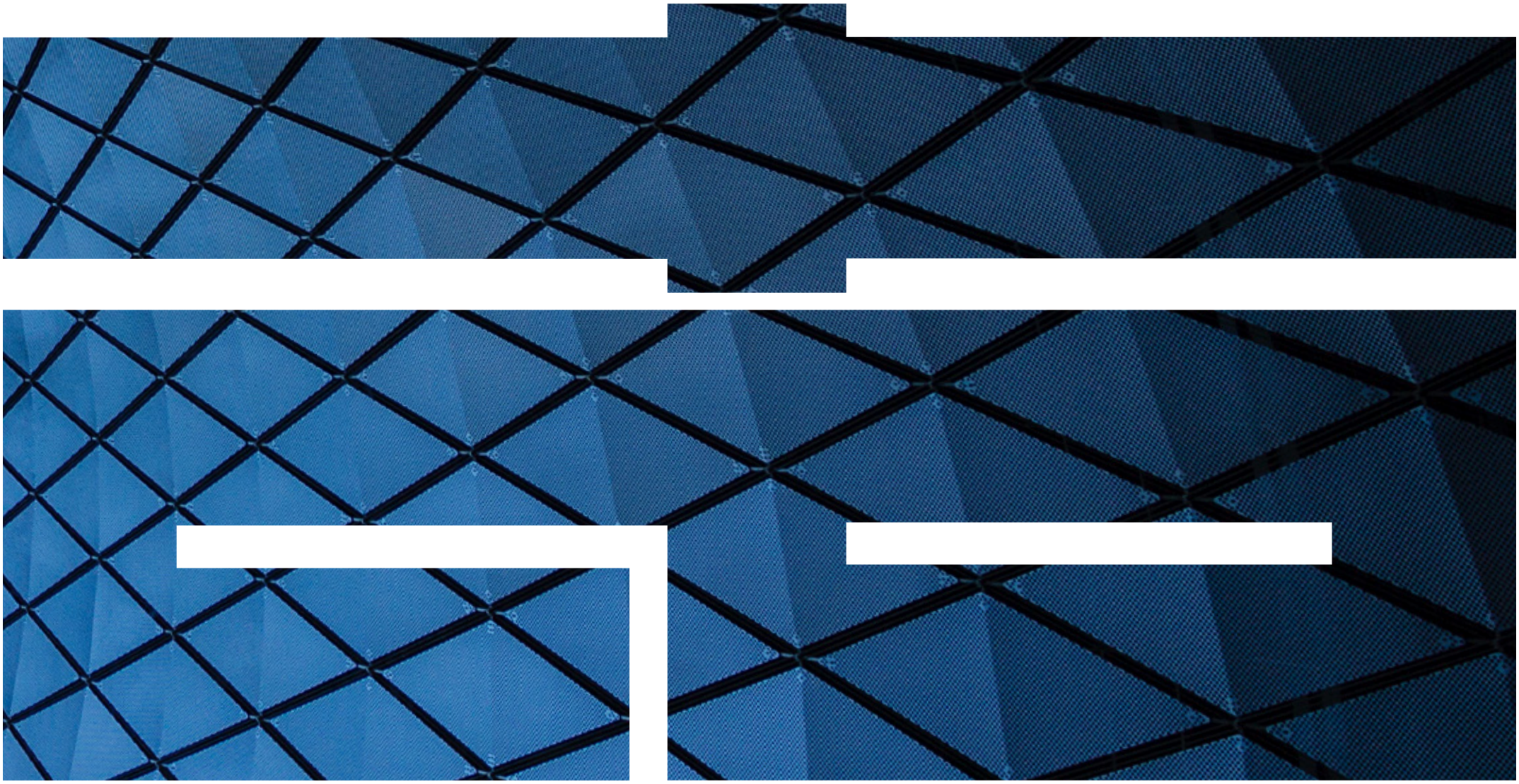
Architectural Technology

Open and Fair Competition in Procurement

CIAT



Architectural Technology

A global discipline

Architectural Technology professionals are innovators creating and adapting environments for future generations to live, work and play.

Heydar Aliyev Cultural Centre, Zaha Hadid Architects

The discipline

Architectural Technology is the technology of architecture; a creative, innovative design discipline rooted in science and engineering.

As a design function, it relates to the anatomy and physiology of buildings and their production, performance and processes. This is based upon the knowledge and application of science, engineering and technology, which are compliant with regulatory, statutory and legal requirements.

Architectural Technology achieves efficient and effective construction and robust sustainable design solutions that perform and endure over time.`

Chartered Architectural Technologists, MCIAT

Chartered Architectural Technologists, MCIAT are qualified to offer design services and manage projects from inception to completion. They lead the technological design of a project; forming the link between concept, innovation and realisation. They:

- specialise in design, underpinned by building science, engineering and technology applied to architecture within projects, playing a pivotal role in project and design management;
- hold a valued, respected and regulated professional qualification and protected designation, which is transferable and recognised across borders and can only be awarded by the Chartered Institute of Architectural Technologists, whilst abiding by a set of professional ethics in the Institute's *Code of Conduct;*
- apply their skills within innovation, research, academia, manufacturing and processing industries, housing, health and government agencies;
- work collaboratively with other professionals such as architects and engineers and are recognised on a par with all Chartered professionals in the built environment sector; and
- design and manage all project types large and small from residential to commercial, industrial and public projects; they range from being sole practitioners to working in and running multinational and multidisciplinary practices.

Fair competition

To ensure open and fair competition, eliminate the risk of restrictive practice, restraint of trade and, as a consequence, challenge, it is necessary to ensure that bids can be received from the pool of all competent professionals without undue restriction. As such, it is essential that generic descriptors are used when inviting tenders or job applications. This will require clear terminology, which is not restricted by statute, and is understood by users.

The promotion of fair competition by using impartial methods of selection of service providers is underwritten by EU DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on public procurement and repeals Directive 2004/18/EC. This Directive specifically identifies the need for *drawing up technical specifications using function and performance and not artificially narrowing competition through requirements that favour a specific economic operator.*

This Directive covers, inter alia, suggested methods of selection avoiding restrictive practice both in terms of competent professionals and also size of practice to avoid excluding SMEs. This paper serves to highlight the issues with unintended consequences of specific terminology.

This point is further supported by the Public Contracts Regulations 2018, Section 2, Principals of Procurement as follows:
18.—(1) Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner. (2) The design of the procurement shall not be made with the intention of excluding it from the scope of this Part or of artificially narrowing competition. (3) For that purpose, competition shall be considered to be artificially narrowed where the design of the procurement is made with the intention of unduly favouring or disadvantaging certain economic operators.

In addition to the methods suggested within these documents, an example of definitions on methods determining competence in procurement is the established PAS91, written for industry and clients by British Standards Institution (https://shop.bsigroup.com/PAS91).

It has become evident that drafters of pre-qualification questionnaires are unaware of certain restrictions placed on using titles generically. It is therefore apparent that the most effective way to address this issue would be to use functions as the descriptor, as the data sets used in this method would be in common with the requirement of the selection process in terms of resources and skills.

Use of generic descriptors: for selection of competent professionals

Open and fair procurement methods must be used and competence relating to function must be the basis for awarding projects. Decisions should not be based on titles, which, by its very nature restricts practice and encourages unfair competition.

Incorrect use of titles

In many procurement documents, reference is made to the appointment of professional consultants and often for the design element, the descriptor 'architect' is the only one which is listed. This leads to restrictive practices in favour of the architect only and prevents fair competition between competent professionals. However, the list of competent professionals who can provide and lead on the design element of a project is not restricted to architects. Chartered Architectural Technologists are such professionals who are competent to lead on design as well as the whole project from conception through to completion.

It is therefore important for teams putting procurement documents together and assessing the bids to understand that although the title 'architect' is protected, the function that architects are commonly understood to perform is not, and that there are other qualified and competent professionals who can bid for such projects, either as the team lead or as part of the collective team.

As such, to mitigate restrictive practice, public procurement documents must list **'competent professional'**, use generic terms such as **'designer'** or provide a correct listing of all competent professionals, which would include Chartered Architectural Technologists. The disadvantage of using the latter method is that exhaustive lists are difficult to maintain in terms of accuracy and could lead to challenge.

Architects' Act 1997

A common misconception is that the term 'architect' can be used generically to describe the function of a building designer. The Architects' Act 1997 restricts the use of this title to only one profession.

'Architect' is defined under the Architects' Act 1997 as only those who are registered with the Architects' Registration Board (ARB). The ARB does not register other design professionals, such as Chartered Architectural Technologists, Chartered Building Surveyors etc. The Act is clear in that it controls the use of the title 'architect' only. There is no protection of function or level of operation to those on the Register.

Examples of unintended consequences of generic misuse of titles

Quite often generic titles are used. If the titles are used in a generic way by the authors, the consequences can be:

Architect	this creates a restrictive practice in that only an architect can bid for projects, when there are other competent professionals who are being prevented from doing so.
Surveyor	this is not a protected title and so anyone can call themselves a surveyor, which provides no protection – however:
Chartered Surveyor	this demonstrates that the individual is qualified by the RICS, the body which awards 'Chartered Surveyor' is a broad church ranging from building surveyors to auctioneers.
Engineer	this is not a protected title and so anyone can call themselves an engineer, which provides no protection – however:
Chartered Engineer	this demonstrates that the individual is qualified, however this qualification is issued under licence from The Engineering Council; there are +30 member bodies of The Engineering Council representing a broad church ranging from electrical engineers to civil engineers.

Recommendations

1. A clear guide should be developed for those putting together procurement criteria, outlining the differences and encouraging the use of ‘competence’ to execute the required ‘function’ as a primary factor in selection processes. There are already established standards of practice for the effective execution of this as outlined above within EU2014/24 and PAS91.

2. a) Use ‘Competent professional’ or other generic term for bids to make them open and fair to all those eligible. The required skills and competence for the project may be detailed and the methods of evidence stated if this is appropriate.

   or

   b) list all competent professionals. However, for this option, there is a risk of excluding some competent professionals.

   The main priority for the criteria should be to attract the most qualified professional for that particular project without creating unnecessary barriers and narrowing the scope. It would therefore be effective if the **function** was given precedent over roles. Best practice would dictate that the data sets are established in this way rather than using titles.

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