

It might be tempting, but bending the rules for special clients can backfire badly.

The trouble with playing favourites



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Anyone who has ever let a much-loved niece or nephew sneak an extra slice of birthday cake knows what it's like to play favourites. But when architects and engineers set aside principles of good management or relax their normally stringent contract requirements for the sake of a favourite client, such actions can backfire.

Examples include a company retaining a long-time client by rendering an opinion on structural issues before buying a large commercial office building. After drafting a report that pointed out certain structural issues, the design firm was urged by its client to downplay these potential problems in the final version.

It may have been to the client's liking but the firm came to regret making such a misstep. The client later maintained it would not have purchased the building had it known about its true condition, resulting in an expensive claims settlement.

The same treatment for all

It's easy to understand why firms would go to almost any lengths to satisfy long-time customers or reel in big new ones. But

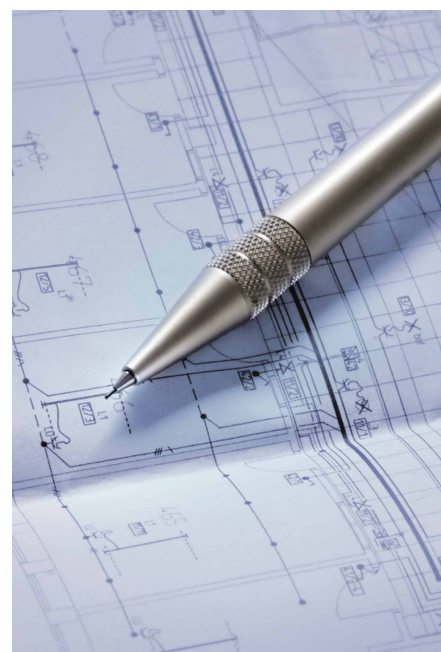
dependence on a 'cash cow' can come back to haunt you. The rush to please a single client can cloud a firm's judgment, particularly when negotiating a contract. Indemnity, payment terms, claims defence and resolution strategies are all areas in which the firm should treat a favourite client like everyone else.

Reliance on a dominant client can also put the firm's insurance carrier at a disadvantage during a claim defence. Claims files tell us that if a firm believes the result could drive the client away, the firm may be reluctant to cooperate fully. While we want to help our insureds preserve their business relationships, insurance policies are meant to cover errors in design.

Due diligence

As is so often the case, a rigorous client selection process is one of the best ways to prevent claims. Doing the necessary due diligence is always important – but more so if you rely heavily on just a few customers.

An even better approach is making an effort to diversify. While most architects and engineers would rather concentrate on



design than marketing, depending on one or two big accounts to carry your business is a poor strategy. Who knows what can happen to a client? They may bring design in house, new management may decide to go with a different design firm, or the company could go out of business.

One way to maintain a strong relationship without surrendering control is to have a strong contract in place. We recommend to include language that obliges the client to acknowledge that the design firm's professional liability policy requires it to cooperate fully with its insurer, and that it gives the firm and its carrier the right to control the defence and dispute resolution process. It could also be pointed out that the firm's policy requires it to consent to a reasonable settlement, not to mention the unfavourable consequences for unreasonably withholding such consent. **XL**

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