earlier this year, in an effort to develop a more pronounced culture of pro bono service within the profession, Public Architecture launched a national campaign called the “1% Solution,” challenging architecture firms to dedicate a minimum of one percent of their billable hours to pro bono service. The 1% Solution focuses on firms in recognition of the fact that their policies and practices are key to the ability and willingness of individual employees to undertake pro bono work.

One percent of the standard 2,080-hour work year equals twenty hours annually, which represents a modest, but not trivial, individual contribution to the public good. If all members of the architecture profession were to contribute twenty hours per year, the aggregate contribution would approach 5,000,000 hours – the equivalent of a 2,500-person firm working full-time for the public good.

Everybody benefits from good design, but all too often nonprofit organizations and communities-in-need cannot afford professional design services, or do not realize they have access to such services on a pro bono basis. Most architecture firms have no formal way to manage requests for pro bono work or to receive recognition for such work comparable to that bestowed on fee-based projects. Architects also face significant liability issues with both paid and unpaid accounts. As a result, pro bono assignments are typically “catch-as-catch-can” work, slipped between paying projects for a lack of formal mechanisms supporting or recognizing such design work.

While many architects are already generous with their time, the profession as a whole has never encouraged pro bono service as a fundamental obligation of professional standing – or as an integral component of a healthy business model. What could be a mutually beneficial arrangement for the public and the profession has been neglected or overlooked unnecessarily.
Managing Risk in Pro Bono

There are a number of unique risks associated with pro bono design. Successfully identifying and managing these risks is important for architects seeking the benefits of such work.

Although certain states may not require that an architect provide services pursuant to a signed written contract (e.g. if the architect is not receiving any payment for his or her services), having a contract is the safest and most advantageous way to work when providing pro bono services. It is the contract that will define your responsibilities during a project, and after its completion.

It is common for a pro bono client to go to an attorney to have a contract prepared. Typically, the attorney will provide his or her services on a pro bono basis. These contracts often prove problematic as the attorney attempts to shift risk away from the pro bono client and towards the design professional. To combat this risk, it is important for the architect to know how to review pro bono contracts.

The first matter to consider is whether your pro bono client’s contract outlines an appropriate standard of care. Receiving no compensation or reduced compensation doesn’t necessarily mean that a design professional’s liability goes away. Sometimes the language of the contract will state that the architect is responsible for all damages arising out of their errors and omissions. Although this might sound reasonable at first, it is not the appropriate standard of care to use; the standard of care should be a negligent standard. There is a dis-

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For all its challenges, pro bono work can be advantageous and attractive from a number of standpoints. In firm settings, it can be used as a tool in the recruitment and retention of staff members, a professional development and mentoring opportunity for junior and senior staff members, and a way to gain exposure to new project types and markets. Along these same lines, pro bono work can be appealing to young architects and firms. Depending on the scale of the project, pro bono work – such as feasibility studies or small space renovations – can yield direct client interaction, valuable portfolio material, and even actual built work.

Supported by a grant from the National Endowment for the Arts (NEA), the 1% Solution program focuses on commitment, support, and recognition. The goal is to significantly increase both the quantity and quality of architectural services in the public interest. By making public interest work a regular part of architectural practice, the 1% Solution will enhance the profession’s engagement, and rectify a widely perceived gap, with the community. By sharing guidelines and documenting model efforts of public interest practice, the 1% Solution will increase the effectiveness of architects’ contributions to society, demonstrate the value of architectural services, and increase popular awareness of design in the built environment.

The following pages offer additional perspectives on two of the most challenging components of the 1% Solution – managing risk and integrating pro bono practice into the culture of individual firms. The authors of these two pieces each bring unique perspectives, based on their dual training in architecture and law.

—John Cary
Payoffs and Pitfalls of Pro Bono Practice

Indemnification clauses, however, may not be the answer to all of your problems. There are several ways that you can protect yourself from professional liability problems associated with clients who are unable to stand behind their indemnification clause. If you are insured, your professional liability insurance should act as a backstop. Another option, with possible limited benefits, is to have yourself named as an additional insured entity on the pro bono client's commercial general liability policy. It is important to note that there are exclusions in all of these policies that may not be terribly helpful to you as a professional. There are also triggers in your commercial general liability policy that could cause problems when you are named on someone else's policy. The point to emphasize is that there are numerous ways to work around the typical insurance problems that arise. All are worth investigating and some may be beneficial.

Another risk associated with pro bono projects is what I call the "cost cutting risk." Pro bono clients often have extremely ambitious programs and budgets that are very tight. Frequently, there is a need to reduce costs during the course of a project. Evaluating cost cutting decisions on a pro bono project can be just as important as evaluating contractor substitutions.

Architects are like physicians; physicians inform their clients of the risks and benefits of certain decisions and treatments. Architects also have the obligation to ensure that the pro bono client makes informed decisions. If the designer communicates well, the client will know the risks involved in any changes.
The potential for architects to impact our society through pro bono services is tremendous. There are countless ways of strategically addressing the liability issues associated with these services and architects should not hesitate to seek pro bono help from attorneys when setting up their own pro bono projects.

---Steve Sharafian

**Operationalizing Pro Bono**

There is a clear expectation that all young associates coming into a law firm make a fundamental commitment to doing pro bono work. It is certainly the case in every major law firm that I’m aware of. The American Bar Association’s recommendation of fifty-five hours per year of pro bono work is highly regarded, but there are no explicit expectations within the architectural community.

I don’t think most architects feel opposed to pro bono work, but there is a fundamental question one has to ask about this profession in a general sense: Why does the architecture profession so readily and easily give away the resources and time of its working professionals to rich people and public agencies? Every time we enter a competition, we willingly submit a major portion of our firm’s resources to a process in which the vast majority of participants will see very little return. Why are we comfortable doing this? Lawyers don’t do it. Doctors don’t do it. Both of them do pro bono work instead.

One way architects might more effectively operationalize pro bono efforts is by restructuring the entire internship process and the ways we enable design school graduates to become knowledgeable, practicing professionals. Within the legal profession, by and large, pro bono work is done by the younger firm associates, and those in need of training in direct, productive client interaction. Pro bono work places the young aspiring professional in situations where he or she is not one or two steps removed from client interaction, but learning to deal directly with clients on a one-to-one basis.

Currently, the work given to intern architects is largely unrewarding and provides no sense of ownership towards the end product. Architecture students come out of school ready to commit themselves to projects that interest them, challenge them, and inspire them – not to mention give back to the community. Unfortunately, young professionals quickly discover that they are not doing anything rewarding or challenging, but rather, find themselves detailing windows on some large hospital project. This has become the reputation of the profession for students considering architecture as a career.

Within the realms of law and medicine, young professionals are given significant responsibility in pro bono projects because those fields understand that young professionals have a sense of direct ownership over the outcome of this type of work. This situation rarely occurs within most design firms. In most instances, interns are treated as anonymous, their opinions generally not valued. On the contrary, when you are doing pro bono work, you are neither anonymous to the firm, nor are you anonymous to the clients. This highlights our first compelling argument for pro bono work – its ability to provide young people and aspiring professionals a sense of ownership for the work they do.
Focus on the Future: Payoffs and Pitfalls of Pro Bono Practice

Led in large part by the ABA Center for Pro Bono, many state bar associations are actively exploring a requirement for attorneys to report on their pro bono service. This approach is distinct from mandating pro bono service, like continuing education, for example. In fact, many of the legal profession’s most vocal advocates for pro bono service have spoken out against such a mandate. At the time of this writing, only a handful of states bar associations have implemented pro bono reporting requirements, although many others are considering it.

The legal profession’s emphasis on pro bono service is supported by a cadre of public interest attorneys, as well as numerous groups that cater to all levels of the profession. The Pro Bono Institute, for example, supports major law firms, in-house corporate legal departments, and public interest organizations, by providing management advice and strategy. It works most closely with partners and dedicated pro bono managers in private firms, the majority of the latter working full-time, exclusively on the coordination of the firm’s pro bono activities. Other groups, such as Power of Attorney and Pro Bono Net, take a bottom-up approach by supporting the efforts of individual attorneys. Common among all, however, is a robust and inter-connected web presence. In her recently-published book, Pro Bono in Principle and in Practice: Public Service and the Professions, Stanford law professor Deborah Rhode is quick to point out the frequent challenges, indifference, and opposition to pro bono practice in the legal profession. Simply put, like any system, it is not perfect or unanimously supported. Rhode offers ample food for thought as we architects embark on establishing a more pronounced culture of pro bono within our own ranks.

—John Cary

The next issue raised is not so much about values as it is about mechanics. It is virtually impossible to do pro bono work unless you fundamentally believe that it fits your business plan. The reality is, however, that most design firms have no formal business plan. There is a distinct difference between giving work away gratuitously and investing in the younger professionals of the firm in ways which enable their pro bono work to contribute to the firm’s bottom line. Once you have developed a business plan within this context, pro bono work does not feel like an imposition on the firm’s finances, but an essential element of its long-term success.

—Ted Landsmark

The Legal Precedent

For decades, the legal profession has distinguished itself through a systematic approach to pro bono work. Lawyers, law firms, and the professional generally dedicate a significant portion of their practice to serving under-represented segments of society and people in need.

While the American Bar Association (ABA) Code of Ethics specifies 50 hours of carefully defined pro bono service per attorney per year (2.5% of the standard 2,080-hour work year), architects have only the vague suggestion of the AIA Code of Ethics: “Members should render public interest professional services and encourage their employees to render such services.” This standard has had no measurable effect on the commitment of AIA members, and for non-members it has no effect at all. The same might be said about non-ABA members were it not for state bar associations, which are roughly equivalent to the state licensing boards that register architects. Architects have only the vague suggestion of the AIA Code of Ethics

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—John Cary
Creating Public Architecture

Ten years into my practice, I found myself in a position that I believe many firm principals do, yearning to provide a more balanced experience for myself and my staff, beyond our largely high-end residential projects and clientele. I wanted to address issues that would have an impact on a larger segment of our community, issues that weren’t client-driven – at least not by our usual client demographic – and that allowed us to take a prototypical look at a project type. My first and most obvious thought was for our office to enter a design competition. As I recalled our previous competition experiences, I began to think critically about the nature of design competitions. More than anything, I couldn’t stop thinking about the hundreds upon hundreds of proposals, representing countless ideas and thousands of hours of work that go into each competition. So much of this work ends up on storage room shelves or in rarely seen portfolios. Is this the most effective use of our collective time and energy? In response to this, our staff decided to identify a design opportunity closer to home, right outside our office walls. We focused our energies on an open space strategy for San Francisco’s South of Market area.

This humble effort sparked dialogue within multiple city agencies, directly influenced the development of the city’s Rincon Hill plan, and became the subject of an unprecedented, day-long workshop with the participation of over 35 key decision-makers and community leaders. It also informed our firm’s fee-generating work and created more opportunities than any other project our firm has taken on to date. In the process, however, it exposed the profound lack of resources and support for pro bono practice within the architecture profession. That revelation inspired the creation of Public Architecture and, thereafter, our 1% Solution program.

—John Peterson

About Public Architecture

Public Architecture puts the resources of architecture in the service of the public interest. We identify and solve practical problems of human interaction in the built environment and act as a catalyst for public discourse through education, advocacy, and the design of public spaces and amenities.

We’re a Model
Public Architecture is a new model for architectural practice. We work for the common good by providing a unique and collaborative venue, outside the economic constraints of conventional architectural practice.

We’re a Method
Rather than waiting for commissions, we take a proactive leadership role by identifying significant problems of broad relevance that require innovative research and design. We address needs and desires that are palpable, if poorly defined, in circumstances where both clients and financing must be imagined, sought, and secured in new ways.

We’re a Motivator
We do not solely pursue our projects; we encourage architects nationwide to formalize their commitment to the public good. Our 1% Solution program, through which architecture professionals or entire firms pledge a portion of their time to
the common good, aims to mainstream public interest and pro bono practice.

Conceived as an opportunity to put architects in the position of “problem identifier,” rather than just “problem solver,” Public Architecture is currently engaged in four design projects of its own.

Those projects include:
- an open space strategy for former light-industrial turned mixed-use urban areas
- design guidelines responding to newly-revised California legislation, encouraging development of accessory dwelling units
- city planning guidelines to better respond to day laborer gathering spots in urban and rural areas
- prototypes to integrate scrap and salvaged material into new construction

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About the authors

John Cary is the executive director of Public Architecture, overseeing the 1% Solution program as well as the organization’s four pro bono design projects. He is also a co-founder of ArchVoices and a member of the Association of Community Design board of directors. John served as a Design Future Council’s 2005 Leadership Summit respondent panelist.

Steve Sharafian, Esq., is a partner with Long & Levit LLP, nationally known for its advocacy on behalf of architects and other design professionals. He is also an advisor to Public Architecture. His text was edited from a transcribed presentation delivered during the 2005 AIA Convention.

Ted Landsmark, PhD, Esq., Assoc. AIA is president & CEO of the Boston Architectural Center. He is currently a member of the Public Architecture board of directors and in 2007 will serve as president of the Association of Collegiate Schools of Architecture. The published text was edited from a transcribed presentation delivered during the 2005 AIA Convention.

John Peterson is principal of Peterson Architects as well as founder & chair of Public Architecture, both of which are based in San Francisco. John is currently a Loeb Fellow at Harvard University, studying urban design as well as organizational development issues related to the work of Public Architecture.

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