

Understanding a Photographic Assignment Estimate

Contributed by the Architectural Photography Specialty Group of the American Society of Media Photographers

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SUMMARY

The photographer's estimate is more than a financial document; it can serve your creative and promotional planning needs as well. It is important to understand the assignment description or, in architecture terms, the scope of work, the licensing and rights of the work, and the pricing and payment processes.

SPECIFICATIONS FOR THE ESTIMATE

As a creative professional, you undoubtedly understand the importance of accurately defining the scope of work in order to determine your firm's design fees. Similarly, to prepare an estimate, a photographer must have a detailed description of the assignment.

As described in Best Practice 06.03.05, "Selecting a Professional Photographer," before you request an estimate, list the aspects of your project that you think might best represent your designs. The list should identify:

- Assignment description with any specific concepts, architectural elements, or design features you'd like to highlight.
- How the images might be used: documentation, portfolio, editorial features, advertising, design competition submissions, Web sites and so on.
- Other parties, such as contractors or consultants on the project, who may want to use the photos.
- Deliverables needed, such as digital files, prints or transparencies.

These are the major factors that a photographer needs to know in order to frame an accurate, detailed estimate. Based on all these factors, the photographer submits a formal estimate for the assignment. A photography estimate includes the assignment description plus three other components:

- Licensing and rights granted
- Creative/production fees
- Expenses

Let us look at each of these in turn.



Kuhlhaus living room, Los Angeles. Architect: James Meyer/LeanArch. Photography by John MacLean, www.johnmaclean.com.

THE ASSIGNMENT DESCRIPTION

A description of the project will include its name and location, the number of views, a list of deliverables and a timeframe for completing the assignment, plus any extraordinary circumstances, such as dawn shots, all-night sessions, views from cherry pickers, or aerial photos.

In some cases, the photographer may propose alternatives to your initial specifications. As a creative professional, he or she may be able to visualize some ideas you hadn't considered or to find ways to get the desired results at lower cost.

COPYRIGHT LAW

Under the Copyright Act of 1976 and the Berne Convention for the Protection of Literary and Artistic Works, photographs (like designs and drawings) automatically receive copyright protection immediately upon their creation. Copyright gives the

creator of an image the exclusive legal right to control how the image is used.

This control is exercised by granting licenses to specific persons for specific uses. The right to use an image cannot be transferred by anyone without the written consent of the copyright holder.

Absence of a copyright notice does not mean that an image is free of copyright, and it does not relieve a prospective user from the responsibility of obtaining permission from the copyright holder. Altering or removing a copyright notice can result in liability under the Copyright Act and several other state and federal statutes. Simply having physical possession of photographs, slides, prints, transparencies, or digital files does not grant the right to use them.

Practical implications

It's important that you and your photographer agree on the scope of the license before the contract is signed and photography has begun. Outline your tentative plans for using the images, even if they are vague at the moment, and negotiate for optional future rights at the outset. Should your marketing plans change mid-course, be sure to discuss them with your photographer.

If you are interested in sharing photographs with third parties who have not been involved in the commissioned assignment (e.g., members of the design team, contractors, consultants, product manufacturers, clients, tenants, or magazine editors), they must understand that any use of the photos requires a written license agreement from the photographer and payment for usage. If you've received photographs without written permission for their use, do not use them until you have secured licensing rights directly from the photographer.

LICENSING AND RIGHTS GRANTED

A photograph, like an architectural design, is considered intellectual property. The photographer owns the copyright to the images he or she creates and has the exclusive right to license their use. Licensing agreements are specific with regard to use and should answer three basic questions:

- Who will use the images?
- How and where will the images appear?
- How long will the images be used?

This information may be detailed in the licensing section of the estimate, or it may be supplied in a

separate licensing agreement that grants specific rights to commissioning clients. If several parties agree to share in the cost of an assignment, the photographer will develop a separate licensing agreement for each individual client to cover the permissions and rights.

PRICING

A photographer's fee typically has three components:

- Creative or production fee
- License fee
- Expenses

Unless there is reason to separate them, some photographers will quote an umbrella "creative fee" that includes both the production fee and the license fee. However, when several parties have agreed to share costs, they usually need to license different rights, and the production and license fees will generally be stated separately.

Creative or production fee. This component reflects the time and skill it takes to complete the assignment. Variables include the total number of views, scheduling and deadlines, site logistics and artistic considerations such as unique vantage points or special times of day. Intangible variables include the experience, creativity and vision that the photographer brings to the assignment.

In addition to the time spent behind the camera, a photographer's preproduction and postproduction time is included in the production fee. Preproduction tasks may include client meetings, advance site visits, meetings with the facility's management to organize access, conversations with building engineers to arrange technical coordination with lighting, landscape maintenance and other site-specific preparation.

To help you anticipate issues during preproduction planning, consult Best Practice 06.03.07, "Preparing for Professional Photography: A Checklist."

Postproduction tasks commonly include image editing and selection (which may involve more client meetings), digital processing (color correction, minor retouching, compositing), and preparing master files for final delivery. It is not unusual for the postproduction work to consume as much time as the photography.

License fee. This component (sometimes referred to as the usage fee) reflects the value of the

authorized uses for the images. The value is determined by a number of considerations, including how widely and for how long the images will be viewed, reproduced and distributed. Typically, the more extensive the use, the higher the fee will be.

Licenses use specific language to describe the rights being conferred. A glossary of licensing terms used in the photography and publishing industries has been compiled by PLUS (Picture Licensing Universal System); visit www.useplus.com to browse the definitions.

To obtain the best value, negotiate a license for the entire group of images based on your current and planned needs. There's no point in paying for a right that you will never use. However, it is smart business to negotiate a commitment regarding the cost of additional rights that you might need in the future.

Expenses. If the job will require travel, specialized equipment, prop rentals, specific insurances, or fees for location access, these will all be indicated on the estimate. Likewise, the anticipated cost of hiring photo assistants, stylists and models will be part of the total. There may be some contingent costs, such as for weather delays.

Expenses for digital photography may include charges for image capture, digital processing, master file prep and postproduction tasks such as color manipulation and digital retouching, archiving and file delivery. For film photography, expenses typically include material charges for film, processing and supplies.

DIGITAL PROCESSING COSTS

People outside the graphic arts are often surprised to learn that equipment and processing costs for digital photography are actually greater than for traditional film photography.

Digital technology saves time and money "downstream" when the images are used in various printing and publishing applications, but it requires the photographer to spend considerable postproduction time to get the best results. In effect, the photographer has taken over the work of the film lab, print lab and prepress house. The specialized tools for capturing and processing high-end image files are expensive and (as with most computer systems) are quickly obsolete.

Both digital and film techniques can yield fine images. In specific circumstances, the photographer may prefer one or the other for technical reasons.

Delivery considerations

If the image is to be delivered digitally, it may have to be processed in several different ways. Each destination has its own particular requirements. UPDIG, a coalition of imaging organizations, describes current best practices for a wide range of applications on its Web site, www.updig.org.

It may seem as though there are endless variations for delivering high-quality images, but your photographer will be able to simplify the options as you decide on your needs.

A WORKING DOCUMENT

Just as a breakout of fees and responsibilities between architect and client allows the client to make adjustments to the project, so breaking out the components of the fee structure allows architects to work with the photographer in changing the proposed scope of work with a minimum of disruptions.

For example, suppose you initially asked for an estimate based on creating images to be used for brochures, office displays, exhibitions and a Web site. After you see the images, you decide to also submit them to a magazine in conjunction with an article on your project. This constitutes an extra use, for which there will be an additional license fee (and perhaps additional expenses to deliver optimized images), but the production fee would not be materially changed.

Likewise, you may find that the estimate for the work as originally proposed is higher than you had budgeted. Find out where there is room to reduce costs without sacrificing the objective of visually "telling the story" of the project through the essential views. In addition, the photographer may have suggestions for capturing more successful views without significantly increasing the costs.

THE FINE PRINT

The estimate will have a space for your signature. By signing and returning a copy to the photographer, you indicate your acceptance of the assignment description, license and total price. At that point, the estimate becomes a contract.

Attached or on the back of the estimate will be a set of Terms and Conditions. As with any contract, one purpose is to agree on each party's responsibilities if problems arise and how any disputes will be resolved. Another purpose is to state the industry norms. For photography, these include copyright, photo-credit requirements and what alterations (such as compositing) you can make to the images.

CONCLUSION

The photographer's estimate is more than a financial document; it can serve your creative and promotional planning needs as well. It is a tool that can help you meet your business objectives, your documentation needs *and* your marketing goals.

RESOURCES

More Best Practices

The following AIA Best Practices provide additional information related to this topic:

- 06.03.06 Understanding the Estimate for a Photographic Assignment

- 06.03.05 Selecting a Professional Photographer

- 06.03.08 Controlling the Cost of a Photographic Assignment

Feedback

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