

01 NCAC 30D .0302 PRE-SELECTION

(a) A pre-selection committee shall be established for all projects requiring professional service. On minor projects the pre-selection committee shall consist of at least the Capital Projects Coordinator, a representative of the using agency and one representative from the State Construction Office. On major projects the pre-selection committee shall consist of at least the Capital Projects Coordinator, a representative of the using agency and two representatives from the State Construction Office. At least one member of all pre-selection committees shall be a licensed design professional.

(b) General Procedure for All Projects: The Capital Projects Coordinator shall review with the using agency the requirements of the project. This step shall take place prior to public advertisement in the Purchase Directory, because designers and consultants have a significant need to know in advance the program intent of a project in order to demonstrate their qualifications for the project in their letter of interest. The Capital Projects Coordinator shall receive all letters of interest and other qualification information either directly or from the designated contact person. After a pre-selection priority list is prepared, the list shall remain confidential except to the Secretary of the SBC. If fewer than three letters of interest are received on major projects, the project shall be re-advertised in the Purchase Directory. If fewer than three letters of interest are received following the re-advertisement, the Capital Projects Coordinator may proceed with the selection process using the data received or may advertise again.

(c) Special Procedures for Minor Projects: The Capital Projects Coordinator shall review with the using agency the requirements of the project and the qualifications of all firms expressing interest in a specific project. The Capital Projects Coordinator and a representative of the using agency shall meet with the representative from the State Construction Office for the evaluation of each firm and development of a list of three firms in priority order to be presented to the SBC. The Capital Projects Coordinator may institute the interview procedures in Paragraph (d) of this Rule if he deems it beneficial in evaluating the firms. The Capital Projects Coordinator shall submit to the Secretary of the SBC the list of three firms in priority order, including pre-selection information and written recommendations, to be presented to the SBC. The Capital Projects Coordinator shall state in the submission to the SBC that the rules for public announcement and pre-selection have been followed.

(d) Special Procedures for Major Projects: The pre-selection committee shall review the requirements of a specific project and the qualification of all firms expressing interest in that project and shall select from that list not more than six nor less than three firms to be interviewed and evaluated. The pre-selection committee shall interview each of the selected firms, evaluate each firm interviewed, and rank in order three firms. The Capital Projects Coordinator shall state in his submission that the rules for public announcement and pre-selection have been followed.

(e) Special Procedures for Emergency Projects: On occasion, emergency design or consultation services may be required for restoration or correction of a facility condition which by its nature poses a hazard to persons or property, or when an emergency exists. Should this situation occur, in all likelihood there will not be sufficient time to follow the normal procedures described in this Rule. The Capital Projects Coordinator on these occasions may declare an emergency, notify the State Construction Office and then obtain the services of a designer or consultant for consultation or design of the corrective action. In all cases, such uses of these emergency powers shall involve a written description of the condition and rationale for employing this special authority signed by the head of the agency and presented to the SBC at its next normal meeting. Timeliness for obligation of funds or other non-hazardous or non-emergency situations do not constitute sufficient grounds for invoking this special authority.

(f) Fixed Term Contract: A Funded Agency or a Using Agency may require the services of designer(s) or consultant(s) for projects under three hundred thousand dollars (\$300,000) on a fixed term basis for one year. In such cases, designer(s) or consultant(s) for fixed term contracts shall be selected in accordance with the procedures for minor projects in Paragraph (c). In addition, no fixed term contract fee under the jurisdiction of the State Building Commission shall exceed one hundred fifty thousand dollars (\$150,000) in total volume per year regardless of the number of projects. No fee shall exceed thirty-six thousand dollars (\$36,000) per project. Fixed term contracts may be extended for a term of one additional year. Total fees shall not exceed one hundred fifty thousand dollars (\$150,000) for the first year or three hundred thousand dollars (\$300,000) for the two-year period regardless of the number of projects.

(g) Special Procedures for Department of Environment and Natural Resources: For Division of Water Quality projects under the Wetlands Restoration Program, the Funded Agency may require the services of multiple designer(s) or consultant(s) for design and construction management of wetland, stream and riparian buffer restoration projects on a routine basis. In such cases, designer(s) or consultant(s) for such open-ended contracts shall be selected in accordance with the procedures described for minor projects. This does not preclude the Funded Agency's use of the designer selection procedures specified for major or minor projects if it elects to do so. The total volume of business in terms of negotiated design fee shall not exceed seven hundred thousand dollars (\$700,000) for the biannual contract term and no single project fee shall exceed three hundred fifty thousand dollars (\$350,000). In

no case shall individual projects exceeding one million five hundred thousand dollars (\$1,500,000) in total costs be assigned for design under an open-end agreement. Open-end agreements under this procedure shall not be extended beyond a two-year term. The funded agency must readvertise on a biannual basis.

(h) Special Procedures for Special Inspections: Special Inspections professional services may be selected utilizing any one of the following methods:

- (1) The special inspections services may be performed as part of the project design services rendered by the project designer selected in accordance with Paragraphs (a) through (d) of this Rule.
- (2) The special inspections services may be performed, independent of the project design services contract, by:
 - (A) a firm selected in accordance with Paragraphs (a) through (d) of this Rule.
 - (B) a firm selected via in accordance with Paragraph (f) of this Rule. Firms for such open-ended contracts shall be selected in accordance with the procedures described for minor projects. This does not preclude the Funded Agency's use of the designer selection procedures specified for major or minor projects if it elects to do so. In addition, no annual contract fee shall exceed three hundred thousand dollars (\$300,000.00) in total volume and no single fee shall exceed one hundred thousand dollars (\$100,000.00). Annual contracts may be extended for one additional year. However, if extended for an additional one-year period, the designer may not be selected for the next annual contract. Total annual fees shall not exceed three hundred thousand dollars (\$300,000.00) for first year or six hundred thousand dollars (\$600,000.00) for two-year period. If and when these fees are used to limit, the agency must readvertise.
 - (C) a firm selected from the consultants formally identified in Article 13 of the Standard Form of Agreement Between Owner and Designer.
 - (D) a firm initially selected using a qualifications based selection process, currently under contract for that project, and qualified to perform special inspections services.

History Note: Authority G.S. 143-135.25; 143-135.26; S.L. 2001-442, Sec. 6(c);
Eff. January 1, 1988;
Amended Eff. July 1, 1993; May 1, 1990;
Temporary Amendment Eff. May 15, 2002;
Amended Eff. June 1, 2005, November 1, 2004; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.