

## **01 NCAC 30D .0306 CONTRACT NEGOTIATION**

After the three have been notified of the selection action by The University of North Carolina or the SBC, a representative from the State Construction Office, the Capital Projects Coordinator, and a representative from the using agency will discuss with the selected designer or consultant appropriate information about the project, the scope of services to be provided and the state design/review/construction process.

The State Construction Office will request in writing a detailed fee proposal from the selected designer or consultant. The State Construction Office in coordination with the Capital Projects Coordinator and the using agency will attempt to negotiate a fair and equitable fee consistent with the project program and the professional services required for the specific project. In the event a fee cannot be agreed upon, the State Construction Office shall terminate the negotiations and shall repeat the notification and negotiation process with the next ranked firm on the selection list. In the event a fee cannot be agreed upon with the second-ranked designer or consultant, the process will be repeated with the third-ranked designer or consultant. If a fee still cannot be agreed to, the SBC shall review the history of negotiations and make appropriate determinations including program adjustments so as to lead to a negotiated contract with one of the original three firms selected. Such renegotiation with the firms shall be carried out in the original selection order, or call for the Capital Projects Coordinator to submit another list of three firms in priority order to the SBC or to the UNC system. The negotiation process will continue until a fee has been determined that is agreed to by the State Construction Office, the using agency, and the designer or consultant. Annual contracts are subject to special management procedures described herein. Normally, the initial fee negotiation for this type of work will involve mutual agreement in unit costs for time, materials, and overhead; a final lump sum price for each discrete project will be negotiated in advance as each project is ordered.

Following execution of the contract, the State Construction Office will publish in the North Carolina Purchase Directory the list of three firms selected in priority order, the firm to be contracted with, and the fee negotiated.

*History Note: Authority G.S. 143-135.25; 143-135.26;  
Eff. January 1, 1988;  
Amended Eff. May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*