SECTION 16: ARCHITECTS, ENGINEERS, DESIGNER SELECTION BOARD AND BUILDING CONSTRUCTION CONTRACTS

Building construction, remodeling and maintenance projects, and related services are a unique set of professional/technical services contracts.

Accomplishing these tasks is unique for several reasons. First, Minn. Stat. § 16B.33 establishes a Designer Selection Board and establishes specific processes for selecting a designer for these types of projects with an estimated cost greater than $2,000,000 or a planning project with estimated fees greater than $200,000. All agencies are required to submit their requirements to the Board for selection of a designer(s).

Second, for projects less than the limits established for consideration by the Designer Selection Board from agencies that are supported by Real Estate and Construction Services (RECS), authority to choose the designer rests with the commissioner of Administration.

Third, RECS of the Department of Administration has a series of annual master contracts that all agencies can use to accomplish many smaller projects and specific tasks associated with larger projects.

Contract Forms

Building construction, remodeling, and even maintenance contracts are very different from those contracts used by other business sectors. Liability and responsibility issues are extremely complex and can be very expensive if not defined carefully. DO NOT sign a contract for building construction, remodeling, repair or maintenance that has not FIRST been approved by your assistant attorney general.

Designer Selection Board

The Designer Selection Board is charged with choosing the designers used by state agencies "to construct, erect, or remodel a building by or for the state or an agency." A designer means "an architect or engineer, or a partnership, association, or corporation comprised primarily of architects or engineers or of both architects and engineers."

The Department of Administration provides administrative support to the Designer Selection Board. You should contact its executive secretary at 651-201-2389 with specific questions.
The following outlines the steps involved in taking a project through the Designer Selection Board:

1. Agency requests designer selection by a memo to the commissioner of Administration which includes:
   - Project description, in sufficient detail to identify the entire project including required time frames.
   - Total funds available and their source.
   - Statement relative to the fees for the project, identifying any restrictions or limits placed on fee by funding sources.
   - Special/particular expertise requirements.
   - Expedited awarding schedule requirements.
   - All requests MUST include designation of an agency contact person.

2. The Executive Secretary prepares a Request for Proposal (RFP), working with the agency contact person to ensure that all requirements are properly stated.
   - The RFP will be published in the State Register.
   - Questions relative to the actual project are referred to the agency contact; questions relative to the selection process are handled by the executive secretary of the Designer Selection Board.

3. The process used by the Board to make a determination includes:
   - Proposals are opened, a listing of the responding firms is prepared, and a set of proposals is sent to each board member and the agency contact.
   - The executive secretary, in cooperation with the board members, establishes a meeting date for the review of the proposals.
   - The executive secretary notifies the agency contact and RECS of the meeting date and time.
   - At the meeting the board establishes date and time of individual interviews for the shortlisted firms (those firms who passed the first screening) and sets the length of the interviews. Agency contact and other involved agency staff are encouraged to participate in this meeting and provide their input.
   - Following the interviews, the board votes on the firms, based on the proposals and the interviews.
   - The executive secretary notifies all interviewed firms of the choice.

Once the designer has been selected, completion of the project becomes the responsibility of the agency, and RECS if the agency is supported by RECS.

If at any time during the planning or design process the actual fees or costs go over the limits set in statute--$200,000 for planning and $2,000,000 for the project--agencies MUST submit the project to the Designer Selection Board for consideration. The board has the authority to replace the project designer if it so chooses. Therefore, estimating complete planning and project costs are critical to maintaining continuity and accomplishing all the work involved on time.
Projects that cost less than the limits for the Designer Selection Board

Selection of the consultant designer for projects less than the limits established by law--$200,000 for planning and $2,000,000 for the project--are made by the agency, based on policies established for each agency. A detailed process for those agencies supported by RECS is below.

For those agencies supported by RECS, selection of the consultant designer which are less than the limits of the Designer Selection Board, are selected by the RECS project manager in the following manner:

Consultant contracts with planning costs up to $25,000
The RECS project managers may select, at their discretion, a qualified firm and proceed with the award and preparation of the contract.

Consultant contracts with planning costs between $25,001 and $50,000
The RECS project manager will select a minimum of two qualified firms from the available roster and ask each to submit an informal proposal. The RECS project manager will make a selection using “Best Value” as the criteria for selection based on the predefined criteria set forth in the solicitation document. Best Value is defined in Minn. Stat. § 16C.02, subd. 4. The RECS project manager will also notify the unsuccessful firms of the selection.

Consultant contracts with planning costs between $50,001 and $100,000
The RECS project manager will select a minimum of three qualified firms from the available list, and ask each to submit a proposal. The DSBC project manager will make a selection using “Best Value” as the criteria for selection based on the predefined criteria set forth in the solicitation document. Best Value is defined in Minn. Stat. § 16C.02, subd. 4. The RECS project manager will also notify the unsuccessful firms of the selection.

Consultant contracts with planning costs between $100,001 and $200,000
The RECS project manager will select a minimum of 10 qualified firms (or the maximum amount listed in the category, whichever is greater) from the available list, and ask each to submit a proposal. The RECS project manager will make a selection using “Best Value” as the criteria for selection based on the predefined criteria set forth in the solicitation document. Best Value is defined in Minn. Stat. § 16C.02, subd. 4. The RECS project manager will also notify the unsuccessful firms of the selection.

The Roster
The Master Roster is updated electronically, and is continually current. Every six months a Notice will be placed in the State Register to advertise the roster to new firms. Firms requesting to be placed on the roster may submit their information at any time, and once their submittal is reviewed and approved, it will be added to the roster. Once a year a firm is sent an electronic notice to renew and or update their information. If a firm does not do this within thirty days that firm is automatically removed from the Roster. For more information regarding how to be included in the Master Roster, consultants should review the Master Roster RFQ.
Master professional/technical services contracts negotiated by RECS
RECS announces RFPs, evaluates and publishes a list of firms that provide a wide variety of professional/technical services related to building projects, construction projects, and testing. This list of master contracts, often referred to as “M-contracts,” is available from the RECS contracts officer or at http://www.admin.state.mn.us/recs/

These M-contracts are available to all state agencies on an as-needed basis to provide the services described in the master contract. You should get a copy of the master contract for the services you need and review it carefully before you proceed. The master contract will contain all special terms and conditions or requirements related to the specific vendor. It will also define the forms and format that must be used to secure the services under the master contract. You should pay special attention to liability issues and responsibilities when using the M-contracts. Copies of the M-contracts are available from the RECS contracts officer.