

STATUTES AND ADMINISTRATIVE RULES REGARDING THE SELECTION OF ARCHITECTS/ENGINEERS FOR STATE CONSTRUCTION PROJECTS

This article reviews the provisions of the Wisconsin Administrative Code promulgated by the Wisconsin Department of Administration for the selection of architects and engineers for projects where the estimated project cost is under \$5,000,000 (Adm 20.05) and over \$5,000,000 (ss. Adm 20.06, 20.07, and 20.08).

Adm 20.05, which provides for the selection of architects/engineers by nomination requires that the Department of Administration shall post an advertisement for the project on the Department's official website which is <http://www.doa.state.wi.us>. The advertisement must include a project description, proposed budget, schedule and a contact name for questions during the solicitation period. Architects and engineers who are interested in the project may submit a letter of interest through the website which will be reviewed by the selection committee, which I referred to in the last issue of this publication.

Under Adm 20.05(2), an architect/engineering responding to the project solicitation must provide the following information in the letter of interest:

- (a) Completed and updated architect/engineer data record form, if one has not previously been provided.
- (b) List of similar projects the architect/engineer has, at minimum, substantially completed, including approximate project square footage or cost of project.
- (c) Architect's/engineer's proposed staff and subconsultants for the project.
- (d) Schedule indicating when the architect/engineer can begin project work.
- (e) Any other pertinent information indicating the architect's/engineer's qualifications and experience.

Under Adm 20.05(4), the selection committee is to evaluate the architect's response and also give consideration to the provisions of Adm 20.07(3) which states:

- (3) Proposals submitted by those architects/engineers meeting eligibility criteria shall then be reviewed for the following qualification criteria:
 - (a) Past performance on projects for which the architect/engineer has been responsible.
 - (b) Production capabilities.
 - (c) Current workload of state projects under contract by the architect/engineer.
 - (d) Experience or specialization in the type or function of the project being considered.
 - (e) Geographic proximity.

(f) Other information pertinent to the review of architect/engineering qualifications. Under Adm 20.05(5), the selection committee must submit its first and second

recommendations for the selection of an architect/engineer to the secretary of the Department, or its designee, accompanied with justification supporting the recommendations. Under 20.05(7), the secretary must consider the selection committee's recommendations, but is not required to approve them and the Department may call for a repeat of the selection process if the selection committee's recommendations are rejected.

Under Adm 20.05(9), when the selection of an architect/engineer has been finalized, the Department must set a time and date for the architect/engineer to meet with the Department's designated representative to negotiate a contract. If negotiations fail, the second qualified and recommended architect/engineer as determined by the selection committee is interviewed in an effort to negotiate a contract. If negotiations fail with the selection committee's first and second recommendations, the selection committee will consider further candidates.

Under Adm 20.05(10), the Department posts its results of the selection on the Department's official website.

Under Adm 20.05(11), misrepresentation of qualifications constitute grounds for rejecting the letter of interest of a recommended architect/engineer.

For projects where the estimated project cost is \$5,000,000 or more, Adm 20.06 through Adm 20.08 come into play.

Adm 20.06 requires publication of an invitation for architects/engineers to submit proposals, which invitation must be published as a class 2 notice under ch. 985, Stats., in the official state newspaper. A class 2 notice requires two publications, but the frequency may be increased at the discretion of the Department of Administration under ch. 985.07 of the Wisconsin Statutes. In addition to the class 2 notice, the Department may solicit and advertise by

invitations in trade publications, other newspapers, and by direct mail to potential architects/engineers.

Under Adm 20.07, proposals that are received must be opened by the selection committee after the date and time set forth in the advertisement. The first phase of the review process is directed to establishing that the architects/engineers are eligible under Adm 20.02(4) which was reviewed in the last article of this publication. Proposals submitted by the architects/engineers are then reviewed under the qualification criteria set forth in the preceding paragraphs under Adm 20.07. Under Adm 20.07(4), the Department may consider proposals of two or more architect/engineer firms organized for the purpose of furnishing professional services as a single entity for the project. If such a joint venture of architect/engineer is invited to interview, the joint venture firm must submit at the interview an executed draft of an agreement in principle between the parties, and if selected, the joint venture architect/engineer firm must submit a final executed association agreement between members of the joint venture prior to execution of the contract for the project. The association agreement submitted by the joint venture shall indicate how responsibilities will be shared, how tasks will be divided and the firms or individuals that will be assigned the responsibilities and tasks. Upon completion of the review by the selection committee, all architects/engineers who submitted a proposal must be notified of the review results.

Under Adm 20.08, the architects/engineers considered best qualified for the project are notified and a date and time is arranged for them to appear before the selection committee for the purpose of presenting their understanding of the scope of services required and their proposed method of meeting the program, on time and within budget. A copy of the evaluation form and interview questionnaire used by the selection committee must be furnished to the

architect/engineer at least ten days prior to the scheduled appearance. During the appearance, the selection committee members are free to ask pertinent questions of the architect/engineer, and each member of the selection committee independently completes an evaluation form for each architect/engineer appearing before the selection committee. Upon completion of all the appearances, the selection committee independently completes the evaluation forms and the two architect/engineer firms receiving the highest scores by the selection committee are recommended for selection. The committee's first and second recommendations for selection are transmitted to the secretary of the Department of Administration who considers the selection committee's recommendations, and if adopted, commences negotiations for a contract. After the selection of the architect/engineer firm, the Department notifies all interviewed architects/engineers of the selection committee action and the results of the selection on the Department's website. Any architect/engineer who was interviewed may upon request inspect the selection committee's interview evaluation of their firm.

In the next article of this publication I will discuss the Wisconsin administrative rules relating to contract processing by the Department of Administration and performance reporting.