

The Connecticut Department of Transportation uses the following Statute when hiring Consultants. This Statute complies with Federal Regulations (The Brooks Act).

. 13b-20a. Regulations re hiring of consultants. Section 13b-20a is repealed.
(P.A. 79-53; P.A. 83-521, S. 12, 13.)

Sec. 13b-20b. Definitions. As used in sections 13b-20b to 13b-20k, inclusive:

- (a) "Commissioner" means the Commissioner of Transportation;
- (b) "Consultant" means any architect, professional engineer, landscape architect, land surveyor or accountant who is registered or licensed to practice his profession in accordance with the applicable provisions of the general statutes, any planner or any environmental, management or financial specialist;
- (c) "Consultant services" includes those professional services rendered by architects, professional engineers, landscape architects, land surveyors, accountants, planners or environmental, management or financial specialists, as well as incidental services that members of such professions and those in their employ are authorized to perform;
- (d) "Firm" means any individual, partnership, corporation, joint venture, association or other legal entity authorized by law to practice the profession of architecture, landscape architecture, engineering, land surveying, accounting, planning or environmental, management or financial specialization;
- (e) "Selection panel" means the evaluation and selection panel established under section 13b-20c; and
- (f) "Negotiation committee" means the committee established under section 13b- 20d.

(P.A. 83-521, S. 1, 13; P.A. 84-546, S. 36, 173.)

History: P.A. 84-546 made technical changes in definition of "consultant"; (Revisor's note: In 1999 a reference to Sec. 13b-20l was changed editorially by the Revisors to Sec. 13b-20k, since section 13b-20l was repealed by P.A. 98-182).

Sec. 13b-20c. Consultant services evaluation and selection panels. There is established within the Department of Transportation one or more consultant services evaluation and selection panels which shall consist of the following persons from within the department: (1) Three individuals appointed by the commissioner; (2) one individual appointed by the bureau head of the bureau for which the specific project is being performed, subject to the approval of the commissioner; and (3) one individual appointed by the bureau head of any other bureau if such other bureau is requesting the specific consultant services and if such bureau will be responsible for the administration of the consultant contract, subject to the approval of the commissioner.

(P.A. 83-521, S. 2, 13; P.A. 85-613, S. 149, 154; P.A. 91-124, S. 4.)

History: P.A. 85-613 made technical changes, authorizing multiple panels where previously a single panel was mentioned and deleting references to "modal" bureaus; P.A. 91-124 deleted the provision requiring that appointees of the commissioner on the selection panels serve for a one-year term.

Sec. 13b-20d. Negotiation committees. There shall be within the Department of Transportation one or more negotiation committees each of which shall consist of three individuals, appointed by the commissioner from within the department, none of whom shall be members of a selection panel.

(P.A. 83-521, S. 3, 13; July Sp. Sess. P.A. 85-1, S. 12, 15.)

History: July Sp. Sess. P.A. 85-1 authorized multiple committees where previously a single committee was mentioned.

Sec. 13b-20e. Prequalification of consultants. Letters of interest for provision of consultant services. (a) Any consultant who desires to provide consulting services to the department in any calendar year shall be required to submit, not later than the fifteenth day of November immediately preceding such calendar year, information

concerning their qualifications as may be required by the department. Such consultants shall provide the department with additional or updated information upon request by the department. The commissioner shall by January first, annually, analyze the information submitted and determine those consultants qualified to perform services in areas of expertise established by the department. The commissioner shall publish annually, in accordance with the provisions of section 13b-20g, at any time between September first to October first, a notice that any person, firm or corporation which desires to be listed with the department as a consultant shall submit such information as required pursuant to this subsection to the department. Such notice shall also list the areas of expertise likely to be needed by the department during the next calendar year.

(b) Except as provided in subsection (c) of this section, any consultant, who has not submitted his qualifications to the department, pursuant to subsection (a) of this section, shall not be eligible to perform consultant services for the department. Any prequalified consultant, who has submitted his qualifications to the department, pursuant to subsection (a) of this section, who desires to provide consultant services to the department in response to a notice published in accordance with the provisions of section 13b-20g shall submit only a letter of interest to that effect.

(c) If the prequalified list contains less than five consulting firms or does not include a consultant with a particular expertise required by the department, any consultant may submit a letter of interest to the department in response to a notice published, in accordance with the provisions of section 13b-20g. The letter of interest shall set forth the consultant's qualifications for performing the specific service sought by the department. The selection panel shall then develop a qualified list of consultants in accordance with sections 13b-20i and 13b-20j.

(P.A. 83-521, S. 4, 13; P.A. 89-152, S. 1; P.A. 91-124, S. 5.)

History: P.A. 89-152 inserted new Subsec. (a) re process for prequalification of consultants and designated former provisions as Subsec. (b); P.A. 91-124 in Subsec. (a) changed the submittal date from November thirtieth to the fifteenth and deleted the provision requiring consultants moving into the state or expanding their services to submit information to the department, in Subsec. (b) added language making prequalification mandatory for those consultants desiring to provide services to the department and added a new Subsec. (c) establishing procedures for the department to obtain consultant when the prequalification list does not contain a consultant with the necessary expertise or when the list contains less than five consultants.

Sec. 13b-20f. Evaluation of consultants having active agreements with department. The performance of all consultants who have active agreements with the department shall be evaluated by the supervising unit within the bureau utilizing the consultant services, at six-month intervals and upon completion of the consultant services. Each such evaluation shall be kept on file in the supervising unit and a copy filed with the permanent selection panel.

(P.A. 83-521, S. 5, 13.)

Sec. 13b-20g. Notice of need for consultants. Responses. Whenever there is a need to engage a consultant, the commissioner shall publish a notice in appropriate professional magazines, professional newsletters and newspapers indicating the general scope of the assignment and requesting responses in accordance with subsection (b) of section 13b-20e, and at least once in one or more newspapers having a circulation in each county of the state. Responses shall be received at the Department of Transportation not later than fourteen days after the last date on which the notice is published, unless additional time is specifically authorized by the commissioner, or not later than any specific date set forth in such notice. For certain specialized projects the notice may also solicit a full work proposal in addition to the technical qualifications of a firm.

(P.A. 83-521, S. 6, 13; P.A. 89-152, S. 2.)

History: P.A. 89-152 made technical change.

Sec. 13b-20h. Selection panel. Responsibilities. Meetings. (a) A selection panel shall be responsible for the preparation of the evaluation of interested consultants and for the development of a list of prospective consultants for each specific project.

(b) Meetings of a selection panel may be called any time during normal working hours. All motions and decisions shall require for passage the affirmative vote of at least three of the members.

(c) A selection panel shall screen all responses submitted in proper form for a project and shall select five consultant

firms for further consideration for appointment and award of a contract. If fewer than five responses are received, all responses shall be considered as eligible for further consideration.

(P.A. 83-521, S. 7, 13; P.A. 85-613, S. 150, 154; P.A. 89-152, S. 3; P.A. 91-124, S. 6.)

History: P.A. 85-613 made technical changes; P.A. 89-152 made technical change; P.A. 91-124 in Subsec. (c) changed the number of firms the department shall interview for a project from seven to five.

Sec. 13b-20i. Criteria for selection of consultants. In making the initial review of responses and in all other steps of the selection process, the commissioner and the selection panel shall be guided by the following objective criteria:

- (1) Specialized design and technical competence of the consultant firm regarding the types of service required;
- (2) Capacity and capability of the firm to perform the work, including any specialized services, within the time limitations;
- (3) Past record of performance on contracts with the state and other clients with respect to such factors as control of costs, quality of work, conformance with program and cooperation with client;
- (4) The volume of work performed by the firm within the previous three years for the Department of Transportation and the volume of work to be completed by such firm, if any, with the objective of effecting an equitable distribution of contracts among qualified firms and of assuring that the interest of the public in having available a substantial number of qualified firms is protected, provided, the principle of selection of the most highly qualified firms is not violated; and
- (5) Where a full work proposal process is utilized, the degree to which the consultant's proposal satisfies the requirements of the department.

(P.A. 83-521, S. 8, 13; P.A. 89-152, S. 4.)

History: P.A. 89-152 added provision in Subdiv. (4) re providing department with information re work to be completed by firm for the department.

Sec. 13b-20j. Procedure for selection of consultants. Memorandum re application of evaluation criteria. (a) A selection panel shall conduct interviews with the five consultant firms selected, or if fewer than five responses are received, the panel shall conduct interviews with all such firms and present the names of all the consultant firms responding to the commissioner.

(b) A selection panel shall proceed to furnish a list of the most qualified consultant firms to the commissioner, or the names of all the consultant firms responding if fewer than five respond. A panel shall prepare a memorandum of the selection process, indicating how the evaluation criteria were applied to determine the most qualified firms, which shall be available to the public after execution of the contract with the selected consultant. The commissioner shall select a consultant from among the list of firms submitted by a selection panel. After the commissioner has made his selection, the names of the consultant firms submitted to the commissioner shall be available to the public upon request. The commissioner shall also prepare a memorandum of the final phase of the selection process, indicating how he applied the evaluation criteria to determine the most qualified firm. Such memorandum shall be available to the public after execution of the contract with the selected consultant.

(P.A. 83-521, S. 9, 13; P.A. 85-613, S. 151, 154; P.A. 91-124, S. 7.)

History: P.A. 85-613 made technical changes; P.A. 91-124 in Subsecs. (a) and (b) changed the number of firms the department shall interview for a project from seven to five.

Sec. 13b-20k. Negotiations with selected consultants. Memorandum re negotiations. (a) Upon notification by the commissioner of his selection, the bureau head who will administer the contract shall notify the consultant of his selection. The selected firm shall be audited if necessary prior to negotiations and also during the contract life in accordance with federal statutes, the general statutes and regulations adopted pursuant to such statutes. A member of the negotiation committee shall be present at all such audit meetings.

(b) The selected consultant shall send its fee proposal to the negotiation committee. The appropriate bureau of the department shall prepare a comparative fee proposal that shall also be submitted to a negotiation committee. The committee shall complete negotiations and submit appropriate data to the initiating bureau for the purpose of processing an agreement.

(c) Prior to a contract being executed, the selected consultant shall execute a certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting and the consultant firm shall provide to the bureau responsible for administering the project a list of individuals who are expected to contribute to the project.

(d) Any such contract shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the commissioner determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(e) If the negotiation committee is unable to negotiate a satisfactory contract with the firm selected by the commissioner, at a price the committee determines to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated. The commissioner shall select a consultant from the remaining firms on the list submitted by the selection panel and the procedure established under this section shall be followed.

(f) Should the negotiation committee be unable to negotiate a satisfactory contract with any of the firms selected by the panel, the panel shall select additional firms and the procedures established under section 13b-20j and this section shall be followed.

(g) After award of a contract under sections 13b-20b to 13b-20k, inclusive, the negotiation committee shall prepare a memorandum setting forth the principal elements of the negotiations with each firm. Such memorandum shall contain sufficient detail to reflect the significant considerations controlling price and other terms of the contract. The memorandum shall be available to the public upon request.

(P.A. 83-521, S. 10, 13; P.A. 85-613, S. 152, 154.)

History: P.A. 85-613 made technical change; (Revisor's note: In 1999 a reference to Sec. 13b-20l in Subsec. (g) was changed editorially by the Revisors to Sec. 13b-20k, since section 13b-20l was repealed by P.A. 98-182).

Sec. 13b-20l. Regulations re selection of consultants. Section 13b-20l is repealed, effective July 1, 1998.

(P.A. 83-521, S. 11, 13; P.A. 98-182, S. 21, 22.)

Sec. 13b-20m. Guidelines for determining reasonableness of consultant services. In order to promote engineering and design quality and ensure maximum competition by firms providing consultant services, as defined in section 13b-20b, the Secretary of the Office of Policy and Management, in consultation with the Commissioner of Transportation, shall establish guidelines for determining the reasonableness and allowability of various cost factors which shall include, but not be limited to, salary limits, benefits and expense reimbursement.

(P.A. 96-222, S. 24, 41.)

History: P.A. 96-222 effective June 4, 1996.