**R131. Capitol Preservation Board (State), Administration.**

**R131-1. Procurement of Architectural and Engineering Services.**

**R131-1-1. Purpose and Authority.**

(1) As provided by Subsections 63O-2-301(2) and 63O-2-301(3) this rule establishes procedures for the procurement of architectural and engineering services by the State Capitol Preservation Board.

(2) The Board's authority to adopt rules is provided according to Subsection 63O-2-301(2).

(3) As required by Subsection 63O-2-301(3), procurement of architectural and engineering services shall be conducted in accordance with this rule, Title 63G, Chapter 6a, Utah Procurement Code, or of Title 63A, Chapter 5b, Administration of State Facilities, as determined by the Board.

**R131-1-2. Definitions.**

(1) Terms used in this rule are defined in Section 63G-6a-103.

(2) In addition:

(a) "Executive Director" means the Executive Director of the Capitol Preservation Board or authorized designee.

(b) "Office" means the staff and facilities of the Executive Director to the Board pursuant to Sections 63O-2-401 and 63O-2-402.

(c) "Record" shall have the same meaning as defined in Section 63G-2-103 of the Government Records Access and Management Act (GRAMA).

**R131-1-3. Maintaining a Register of Architectural/ or Engineering Firms.**

The Board shall select registered and licensed architects and engineers that are interested in being considered for state building projects in accordance with Section R23-1-1501, Utah Administrative Code.

**R131-1-4. Notification of Need for Architectural or Engineering Services.**

(1) The Board shall publish or cause to have published its needs for architectural or engineering services in the manner provided in Subsection 63G-30-102. The public notice shall include the following:

(a) The closing time and date for the submission of Statement of Qualifications;

(b) The address of the office to which Statements of Qualifications are to be delivered;

(c) The address where a more complete project description may be obtained;

(d) A brief description of the project; and

(e) A notice of any mandatory pre-submittal meetings.

(2) The architects or engineers shall respond with a Statement of Qualifications for each project.

**R131-1-5. Appointment of a Selection Committee.**

The Executive Director shall appoint a selection committee to review all applications of interested architectural or engineering firms. The committee shall include representatives of the Board, the Office, DFCM, and others as deemed appropriate.

**R131-1-6. Preliminary Screening and Evaluation.**

(1) The selection committee shall independently rate each interested firm. A weighted point system shall be used. A ranking of those qualified firms shall be made by using a composite scoring of all the individual rater's scores.

(2) The following criteria shall be used in the evaluation and ranking of firms for possible awards:

(a) Competence to perform the services as reflected by technical training and education, specialized experience in providing similar services, and the qualifications and competence of persons who would be assigned to assist with the performance of the services;

(b) Capacity to perform the services in the required time as reflected by present workload, availability of adequate personnel, equipment, and facilities;

(c) Past performance as reflected by the evaluation of the services of the architect or engineer; including such factors as control of costs, quality of work, and ability to meet deadlines; and

(d) Proximity of firm to the project.

**R131-1-7. Interviews with Architectural or Engineering Firms.**

(1) For all projects, interviews shall be held with no less than the top three ranked firms competing for the project design commission. The number of firms interviewed per project may vary according to the size and complexity of the project. Multiple interviews may be held on smaller projects at the discretion of the Executive Director.

(2) Firms selected to be interviewed shall be provided with as much pertinent information as possible of the job at least one week before the interview.

(3) After composite rankings or interviews are completed, the selection committee shall select the top three and rank them in order of selection.

**R131-1-8. Negotiation and Appointment.**

(1) The Executive Director shall negotiate with the top-ranked architectural or engineering firm to finalize the details of the project. If there are problems with reaching agreement, the Executive Director shall present a written offer of the terms which must then be accepted or rejected in writing by the architectural or engineering firm. If the offer is rejected by the top-ranked firm, the Executive Director may negotiate with the second-ranked firm to obtain an agreement. If negotiations with the second-ranked firm are not able to be successfully concluded, the Office may negotiate with the third-ranked firm.

(2) Following completion of negotiations, the Executive Director will present the choice of the selected firm to the Board for approval, to enter into a contract with the selected firm. Upon Board approval, the Executive Director will enter into a contract with the selected firm. Other firms who were interviewed shall receive notification of award.

**R131-1-9. Role of the Board.**

(1) The Executive Director shall establish and monitor the selection process, may take appropriate steps to verify the acceptability of the procedure, and make changes in procedure at any time as may be determined necessary by the Board.

(2) At each meeting of the Board, the Executive Director shall submit a list of all architect or engineer contracts entered into, and a description of the methods of selection used to the Board as a second review of actions taken.

**R131-1-10. Disclosure of Submittals, Performance Evaluations, References and Award.**

(1) After the date established for the first submittal of information, a register of submitting architects and engineers shall be prepared and open to public inspection. Before award, submittals and modifications shall be shown only to procurement officials and other persons involved with the review and selection process who shall adhere to the requirements of GRAMA and this rule.

(2) The Executive Director shall, throughout the course of, and at the end of the contract, evaluate the performance of the architectural or engineering firm; verbally and in writing. There shall be at least one verbal review of the architectural or engineering firm's performance on each project, before the project's completion. The Executive Director shall also advise the architectural or engineering firm, in writing, about their performance at the end of the project. If the firm wishes to respond to those evaluations, it may enter its responses in the file.

(3) Except as provided in this rule, submittals shall be open to public inspection after notice of the selection results.

(4) The classification of records as protected, and the treatment of such records shall be as provided in Section R131-4-411A.

(5) The Board finds that it is necessary to maintain the confidentiality of performance evaluations and reference information to avoid competitive injury and to encourage those persons providing the information to respond in an open and honest manner without fear of retribution. Accordingly, records containing performance evaluations and reference information are classified as protected records under Subsection 63G-2-305(6) and shall be disclosed only to those persons involved with the performance evaluation, the architect-engineer that the information addresses and persons involved with the review and selection of submittals. The Board or Executive Director may, however, provide reference information to other governmental entities for use in their procurement activities and to other parties when requested by the architect-engineer that is the subject of the information. Any other disclosure of such performance evaluations and reference information shall only be as required by applicable law.

(6) Notice. After the selection of the successful firm, notice of the selection shall be available in the principal office of the Executive Director in Salt Lake City, Utah and may be available on the internet.

(7) Information Disclosed. The following shall be disclosed with the notice of selection:

(a) the ranking of the firms;

(b) the names of the selection committee members;

(c) the final scores used by the selection committee to make the selection, except that the names of the individual scorers may not be associated with their individual scores; and

(d) the written justification statement supporting the selection.

(8) Information Classified as Protected. After due consideration, the following has been determined by the Board to impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract with the Board or Executive Director and shall be classified as protected records:

(a) the names of individual selection committee scorers in relation to their individual scores or rankings; and

(b) non-public financial statements.

**R131-1-11. Emergency Conditions.**

The Executive Director, in consultation with the chair of the Board, shall determine if it is necessary to respond to any emergency conditions that may occur. They shall also document their decision to take emergency action in writing. The Executive Director may use any reasonable method of awarding architect or engineer design contracts when emergency conditions occur. If the Executive Director determines that a particular specialization is needed, they may appoint any firms they find may be necessary to accomplish work on the emergency project design.

**R131-1-12. Direct Awards.**

(1) The Executive Director may award a contract to an architectural or engineering firm without following the procedures of this rule if:

(a) The contract is for a project which is integrally related to, or an extension of, a project which was awarded to the architectural or engineering firm;

(b) The architectural or engineering firm performed satisfactorily on any similar or related project; and

(c) The Executive Director determines that the direct award is in the best interests of the State.

(2) The Executive Director shall place written documentation of the reasons for the direct award in the project file and shall report the action to the Board at its next meeting.

**R131-1-13. Small Purchases.**

(1) If the Executive Director determines that the services of architects and engineers can be procured for less than $50,000, or if the estimated construction cost of the project is less than $500,000, the procedures contained in Subsection (2) may be used.

(2) Before contacting any person to perform the required services, the Executive Director may refer to or examine any current statements of qualifications on file with the Office. Following that, the Executive Director may contact a qualified firm and negotiate a contract for the required services at a fair and reasonable price. If no current statements of qualifications are on file or if the statements on file are, in the judgment of the Executive Director, inadequate to determine a qualified firm, technical proposals or statements of qualifications shall be solicited. If, after negotiations, the parties cannot agree upon a price that, in the Executive Director's judgment, is fair and reasonable, negotiations shall be terminated with that firm and negotiations begun with another qualified firm. This process shall continue until a contract is negotiated that reflects a fair and reasonable price and meets the necessary conditions of the project.

**R131-1-14. Performance Evaluations.**

(1) The Executive Director shall evaluate the performance of the architectural or engineering firm.

(2) This evaluation shall become a part of the record of that architectural or engineering firm with the Board and the State. The architectural or engineering firm shall be provided with a copy of its evaluation at the end of the project and may enter its response in the file.

(3) Confidentiality of the evaluation information shall be addressed as provided in Subsection R131-1-10(5).

**R131-1-15. Alternative Procedures.**

(1) The Board may revise or enhance the procurement process when the Executive Director determines that it would be in the best interest of the State. Examples of enhancements or changes which may be made include design competitions and outside representation on selection committees.

(2) Any exceptions to this rule shall be justified to and approved by the Board.

**KEY: architects, capitol-preservation, engineers, procurement**

**Date of Last Change: November 4, 2024**

**Notice of Continuation: September 30, 2024**

**Authorizing, and Implemented or Interpreted Law: 63O-2-301(2); 63O-2-301(3)**