

## Chapter NR 734

## SELECTING AND CONTRACTING ENVIRONMENTAL CONSULTING SERVICES

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**NR 734.01 Purpose.** The purpose of this chapter is to establish procedures that apply to the procurement of professional services of consultants by the department for projects related to hazardous substance discharge and environmental repair response actions. This chapter is adopted pursuant to ss. 227.11 (2) and 289.06 (1) and (2), Stats., and ch. 292, Stats.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 12-023: am. Register October 2013 No. 694, eff. 11-1-13.

**NR 734.02 Applicability.** This chapter applies to the department's selection of, and contract negotiations with, consultants which the department proposes to hire to conduct response actions under the authority of ch. 292, Stats.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, April, 2000, No. 532; CR 12-023: am. Register October 2013 No. 694, eff. 11-1-13.

**NR 734.03 Definitions.** In this chapter:

(1) "Consultant data record form" means a form upon which consultants provide specific data requested by the department to facilitate evaluation of their performance capabilities, experience, personnel and staff and information on past projects.

(2) "Consultant proposal" means those documents submitted by a consultant, indicating interest in providing professional services to the department for a proposed project. The documents may include a tentative project work schedule, the method and shall identify the staff that would be employed to meet the requirements of the proposed project and other information, as requested by the department.

(3) "Project" means any response action which the department proposes to conduct or conducts.

(4) "Minority business" means a business certified by the department of administration pursuant to s. 16.287 (2), Stats.

(5) "Selection committee" means a group composed of department employees appointed by the department secretary, or his or her designee, for the purpose of selecting consultants to provide professional services to the department for a project.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; corrections in (4) made under s. 13.92 (4) (b) 6., 7., Stats., Register June 2013 No. 690; CR 12-023: am. (2), (4) Register October 2013 No. 694, eff. 11-1-13.

**NR 734.05 Consultant qualification list.** (1) The department shall maintain a list of consultants interested in providing professional services to the department. Consultants who wish to be on the list may submit a consultant data record form to the department at any time, listing their qualifications.

(2) Updated consultant data record forms or verification that the information currently on file is still accurate shall be submitted to the department by January 15<sup>th</sup> of even numbered years in order to remain eligible for providing professional services to the department.

(4) The consultant data record forms shall include a request for information on the firm's status as a minority business.

**Note:** Consultant data record forms may be obtained by contacting the DNR's Bureau for Remediation and Redevelopment, Fiscal and Information Technology

Section, Public Information Request, 101 S. Webster St., P.O. Box 7921, Madison, WI 53707.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; CR 12-023: am. (2), r. (3) Register October 2013 No. 694, eff. 11-1-13.

**NR 734.07 Selection process.** (1) A list of consultants that, based on an accurate and completed consultant data record form, possess the necessary capabilities for each proposed project shall be provided to the selection committee members.

(2) The selection committee shall review the requirements of each project and the qualifications of consultants and select a consultant considered to be appropriate for each project.

(3) When selecting a consultant, the selection committee may utilize any of the procedures specified in ss. NR 734.09, 734.11 and 734.13, for projects with projected costs less than \$2,500,000.

(4) For projects with projected costs greater than \$2,500,000, the selection committee shall utilize the procedures in s. NR 734.13.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.

**NR 734.09 Committee nomination procedure.**

(1) Any member of the selection committee may nominate a consultant for consideration. The nominated consultant shall either be from the list of consultants supplied under s. NR 734.07 (1) or the consultant shall, at the request of the committee, complete a consultant data record form within 20 days after nomination. If the nominated consultant fails to provide a completed consultant data record form within that time frame the consultant's name shall be removed from consideration for the project.

(2) Upon review of the consultant data record forms of nominated consultants for appropriate capabilities, the committee shall select one or more consultants considered appropriate for the proposed project.

(3) Upon selection, the selection committee shall request a proposal from one or more consultants.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.

**NR 734.11 Request for qualifications.** (1) The selection committee may request consultants who have submitted a consultant data record form to submit an additional statement of qualifications specific to a project.

(2) Criteria for evaluating the project-specific qualifications shall be established by the selection committee or a designee of the chairperson prior to the review of the statement of qualifications.

(3) Proposals may be requested from one or more consultants who meet the project-specific qualification criteria.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.

**NR 734.13 Public notice for proposals.** (1) For projects having an estimated cost which exceeds \$2,500,000, an invitation for any consultant to submit a project-specific statement of qualifications for consideration by the selection committee shall be published by the department as a class 2 notice under ch. 985, Stats., in the official state newspaper. The notice shall contain, at a minimum, all of the following information:

- (a) Project title and location.
- (b) Name of the department.
- (c) Date and place where project information and scope of work may be obtained.
- (d) Description of services required.
- (e) Location where proposals will be received and the date and time receipt of proposals will close.
- (f) Name and phone number of the department contact.

(2) In addition to the class 2 notice required in sub. (1), the department may also solicit project-specific statements of qualifications by any appropriate method, including any of the following:

- (a) Placing the notice in trade publications or newspapers within the locale of the project.
- (b) Mailing the notice directly to potential consultants, if such measure is deemed necessary by the department to assure an adequate number of consultants for consideration by the selection committee.

(3) Criteria for evaluating project-specific qualifications shall be established by the selection committee or the designee of the chairperson prior to review of the statements of qualification.

(4) Proposals may be requested from one or more consultants who meet the project-specific qualification criteria.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; CR 12-023: am. (title), cr. (1) (f) Register October 2013 No. 694, eff. 11-1-13.

**NR 734.15 Request for proposal.** (1) Upon selection of one or more qualified consultants, the selection committee shall transmit to the consultants the department's project scope of work and a request for a proposal for completing the project.

(2) The selection committee may request proposals from any number of qualified consultants.

(3) The department's proposed project scope of work shall include all of the following:

- (a) Consultant reporting requirements.
- (b) Consultant data generation requirements.
- (c) The requirements for a site safety plan.
- (d) A copy of the department's standard contract.
- (e) Any other project-specific requirements.

(4) The request for proposal shall specify a date by which the consultant's proposal shall be submitted to the department. If the consultant cannot provide the completed proposal by the time specified, the department may either grant a time extension or deem the consultant non-responsive and remove the consultant from further consideration for the project.

(5) The consultant's proposal shall include all of the following:

- (a) A detailed description of the work to be completed.
- (b) A list of key personnel expected to work on the project and their qualifications pursuant to ch. NR 712.
- (c) A cost breakdown for the work to be performed, by task and assigned personnel.
- (d) A list of subcontractors expected to work on the project and their qualifications pursuant to ch. NR 712.

- (e) A quality assurance and quality control plan.
- (f) A site safety plan.
- (g) A proposed schedule for completing each phase of work.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; CR 12-023: cr. (5) (g) Register October 2013 No. 694, eff. 11-1-13.

**NR 734.17 Proposal review.** In selecting a consultant for a project, the department shall consider the adequacy of the proposal submitted under s. NR 734.15, in addition to the information in subs. (1) to (5).

- (1) Past performance on similar projects.
- (2) Experience and expertise necessary for the specific project.
- (3) Availability of qualified environmental staff, as required by ch. NR 712.
- (4) The consultant's geographic proximity to the site or facility.
- (5) Status as a minority-owned firm.

**Note:** The department shall attempt to ensure that at least 5% of the total amount expended under this section in each fiscal year is paid to minority businesses, as required in s. 23.41 (6), Stats.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.

**NR 734.19 Interview.** (1) If the selection committee considers it necessary, the committee may interview one or more consultants for the purpose of discussing the department's requested scope of services and the consultant's proposed method to implement the department's scope of work.

(2) Upon completion of the consultant's presentations, the selection committee shall select a consultant in accordance with the requirements of s. NR 734.15. An alternate consultant may also be designated by the committee.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.

**NR 734.21 Award of contract.** (1) The department may negotiate the costs and scope of work for any project with a consultant.

(2) Upon completion of contract negotiations, a contract shall be sent to the consultant for signature.

(3) The contract shall be signed by the consultant and the department's secretary.

(4) Projects with a cost greater than \$60,000 shall be signed by the governor, in addition to the signatures required pursuant to sub. (3).

(5) No work on a project may commence until after the required signatures have been obtained.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94; CR 12-023: am. (4) Register October 2013 No. 694, eff. 11-1-13.

**NR 734.23 Performance reporting.** The department may evaluate the performance of consultants, create a written record of that evaluation, provide summaries of the evaluation to the consultant, provide the consultant an opportunity to discuss the evaluation with the department and allow the consultant to submit a written response for inclusion in the record.

**History:** Cr. Register, April, 1994, No. 460, eff. 5-1-94.