

Chapter 20-44
Rules and Regulations of the
Department of Development and Environmental Services

SEPA Consultant Selection

Effective Date: June 15, 1994

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20-44-001 Definitions.

A. Applicant. "Applicant" means the person or entity designated as "applicant" in an application for a development permit or approval.

B. Consultant. "Consultant" means a person, group of persons, corporation, association or other business entity of any kind whatsoever which has expertise and experience in the creation of an environmental impact statement ("EIS") or other environmental document.

C. Department. "Department" means the Department of Development and Environmental Services of King County.

D. Environmental Document. "Environmental document" means any written public document prepared under WAC 197-11.

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E. Prime Consultant. "Prime consultant" means a consultant which has both technical and management expertise and experience and is responsible for the overall production of the environmental document and which may employ one (1) or more subconsultants to prepare various sections of the environmental document.

F. Project. "Project" means a development proposal submitted to the department by an applicant.

G. SEPA. "SEPA" means the State Environmental Policy Act, RCW 43.21C.

H. Subconsultant. "Subconsultant" means a person, group of persons, corporation, association or other business entity of any kind whatsoever which has expertise and experience enabling it to perform part of the prime consultant's contract.

20-44-002 Purpose. The purpose of these rules is to implement the environmental document consultant selection provisions of K.C.C. 20.44.130 and 20.44.050 and to prescribe additional limitations on consultants and subconsultants, standards for the consultant list and procedures and standards for consultant qualification, disqualification and selection, reconsideration of the department's decisions and payment.

20-44-003 Limitations on Consultants and Subconsultants. In addition to the limitations placed upon consultants and subconsultants in K.C.C. 20.44.050, consultants and subconsultants shall:

A. not have any financial interest in any projects owned or managed by the applicant;

B. not be King County officers or employees or other persons employed by King County in any capacity related to the project; and

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C. have no connection with the applicant which may result in a conflict of interest or otherwise impair the consultants' or subconsultants' ability to prepare unbiased environmental documents.

20-44-004 Consultant List. A. The department shall create and maintain a list of consultants who are qualified and eligible to contract with King County to prepare environmental documents. This list shall be composed of consultants which are willing and able to be prime consultants on environmental documents required to be prepared by SEPA, or rules promulgated thereunder, with the department acting as the lead agency. The department shall not be required to create and maintain a list of subconsultants.

B. The consultant list shall be created yearly. All interested consultants shall submit to the department a cover letter and application package, as prescribed by the department's Environmental Division, during the month of January, postmarked January 1 - January 31, for the purpose of being included on the consultant list for that year.

20-44-005 Qualification for Consultant List. A. The department shall evaluate the application packages submitted by consultants for the purpose of determining whether the consultants qualify for inclusion on the consultant list. Consultants shall demonstrate their qualifications and ability to prepare environmental documents to department standards by satisfactorily documenting their education, training and experience in the preparation of environmental documents in the application package prescribed by the department's Environmental Division. All consultants shall identify the principal authors of any environmental documents referenced or used to demonstrate their experience.

B. To qualify for placement on the list, each consultant shall demonstrate that it meets the following minimum qualifications:

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1. it possesses a thorough and comprehensive knowledge of the procedural and substantive requirements of SEPA and rules promulgated thereunder;

2. it possesses adequate technical and administrative capacity to produce a large and complex environmental impact statement and/or associated technical documents;

3. it produced at least two (2) environmental impact statements focused on typical land use decisions issued by the department where the consultant was functioning as the prime consultant in charge of the environmental impact statements; and

4. it states a desire to act as the prime consultant on environmental impact statements issued by the department.

20-44-006 Disqualification from Consultant List. A. A consultant shall be disqualified from continuing to work on an environmental document if its work fails to meet department standards including standards set forth in the environmental document contract between the consultant and the county.

B. Following the preparation of an environmental document, each consultant shall be evaluated on objectivity, approach to preparation of environmental documents, the text, clarity and readability of environmental documents prepared and management skills. The work must be rated as "acceptable" in all categories for a consultant to remain on the consultant list. If a consultant is rated "unacceptable" in one or more of these categories, the consultant shall be disqualified and removed from the list.

C. A consultant shall be disqualified if the consultant deliberately falsifies or withholds information relevant to the environmental documents.

D. Consultants who have been disqualified from the list may seek re-qualification when the department creates its annual consultant list according to the process set forth in these rules.

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20-44-007 Consultant Selection. A. All of the consultants listed as qualified for preparing environmental documents shall be entered in a drawing to select the consultant with which the department will contract. Five (5) consultant names shall be randomly drawn, and each interested consultant shall provide to the department a proposal and attachments and/or submittals as described in the Request for Proposal package provided by the department. The consultants shall be evaluated according to criteria listed in the Request for Proposal Package. The department shall select the consultant with the best evaluation. However, final consultant selection shall be solely within the discretion of the department director and dependent upon the ability of the consultant and the department to reach a satisfactory agreement concerning the work to be done.

B. If the selected consultant is unable or unwilling to perform the work due to scheduling conflicts, a change in level of expertise or any other reason, the remaining consultants which submitted complete proposals shall be considered. If none of the remaining consultants is able or willing to perform the work, a new drawing from the consultant list shall be conducted.

20-44-008 Reconsideration. A. Consultants who believe that they have been improperly denied placement on the consultant list, have been improperly denied selection for an environmental document contract or have been improperly disqualified may request reconsideration by letter to the department director. The letter shall specify, with particularity, the consultant's grounds, including all facts supporting those grounds, for believing that the consultant was improperly denied placement on the consultant list, improperly denied selection for a contract pursuant to the criteria set forth in K.C.C. 20.44.050(D) or improperly disqualified.

B. The letter shall be received by the director no later than the close of business five (5) calendar days after the notification of consultant selection if the basis

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for the consultant's claim is improper denial of a contract, and no later than close of business fourteen (14) calendar days after disqualification or denial of placement on the consultant list if the basis for the consultant's claim is improper disqualification or denial of placement.

C. The department director shall provide a written response to a request for reconsideration within twenty-one (21) working days after receipt of the request.

20-44-009 Waiver of Consultant Selection Requirements.

Pursuant to K.C.C. 20.44.050(D), the department director may waive all or part of the consultant selection requirements and procedures set forth in these rules and select a qualified consultant if the director finds:

A. that the consultant previously prepared all or part of an environmental document pertaining to the project; and

B. that waiver of the consultant selection requirements and procedures will avoid unnecessary costs to the applicant; or

C. that the work to be performed on the environmental document is limited in scope and requires specialized technical expertise; or

D. that waiver of the consultant selection requirements and procedures is in the best interests of the county.

20-44-010 Consultant Payment. A. The consultant shall be responsible for effectively managing the environmental document, meeting schedule and cost projections, keeping track of the cost of environmental document services and reporting costs to the department. All monthly progress reports and billing invoices shall be in a format prescribed by the department.

B. The department shall approve invoices based on monthly progress report information, and payment shall be made according to the terms of the contract agreed upon.

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C. The consultant shall be responsible for notifying the department of any proposed changes in the scope of services, schedule and cost and obtaining approval from the department prior to undertaking any additional work.

20-44-011 Severability. If a provision of the rules contained herein or its applicability to any person or circumstance is held invalid, the remainder of the provisions of these rules or the application of the provision to other persons or circumstances shall not be affected.