**NC DEQ Division of Water Infrastructure**

**Professional Engineering Services Procurement**

Section 602(b)(14) of the Clean Water Act requires projects receiving Clean Water State Revolving Fund funding to comply with engineering procurement guidelines. North Carolina Session Law 2021-180 authorizes the Division of Water Infrastructure (Division) to award grant funds from the American Rescue Plan Act (ARPA) State Fiscal Recovery Fund for drinking water, wastewater, and stormwater infrastructure projects. The Uniform Guidance 2 CFR 200.317 through 2 CFR 200.327 gives minimum requirements for procurement, with 2 CFR 200.319(b) addressing engineering services procurement guidelines.

To comply, you must follow North Carolina General Statute 143-64.31, Article 3D Procurement of Architectural, Engineering, and Surveying Services. You cannot exempt yourself using NCGS 143-64.32. Complete and sign this form and provide the information indicated to ensure that engineering services for your project are eligible for reimbursement.

**Applicant:** Click or tap here to enter text.

**Project Name:** Click or tap here to enter text.

**Division Funding Number:** Click or tap here to enter text.

1. List the basic services being provided: (i.e., planning, design, inspection etc.)

Click or tap here to enter text.

1. Describe the method of announcement for the project.

Click or tap here to enter text.

1. List the firms the announcement was discussed with or that proposals were received from in order of quality.

Click or tap here to enter text.

1. Was a contract negotiated with the best qualified firm?  Yes  No (Check one)

If no, explain why.

Click or tap here to enter text.

**NOTE:** Documentation of Qualification-Based-Selection of Engineering Services shall be provided to the Division upon request (to include announcement and qualifications requested).

By signing below, I Click or tap here to enter text., the Authorized Representative designated for this project in the project application, attest that the contract pricing, as seen in the attached contract(s), contains pricing that is fair and reasonable based on scope, complexity, professional nature, and the estimated value of the services being provided and the firm selected, was selected based on their qualifications.

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(signed name, title and date)

(DWI staff use only – Check and initial here if debarment status checked and firm is NOT debarred  \_\_\_\_\_)

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| **Clean Water Act, Section 602(b)(14)** | (14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State).  From: [water\_resources\_reform\_and\_development\_act\_guidance.pdf (epa.gov)](https://www.epa.gov/sites/default/files/2015-04/documents/water_resources_reform_and_development_act_guidance.pdf)  *The requirements of 40 U.S.C. 1101 et seq. are:*  *• Public announcement of the solicitation (e.g., a Request for Qualifications);*  *• Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (e.g., identified in the solicitation); o Evaluation criteria should be based on demonstrated competence and qualification for the type of professional services required (e.g., past performance, specialized experience, and technical competence in the type of work required);*  *• Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services;*  *• Selection of at least three firms considered to be the most highly qualified to provide the services required; and*  *• Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional nature, and the estimated value of the services to be rendered;*   * *In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.* |
| **Uniform Guidance**  **2 CFR 200.319(b**) | **Competition.**  The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. |
| **NC General Statute 143-64.31** | **Procurement of Architectural, Engineering, and Surveying Services (NC “Mini-Brooks”)**  …It is the public policy of this State… and Local Governmental Units…, to announce all requirements for architectural, engineering, surveying, construction management at risk services, design‑build services,…, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. … |
| **NC General Statute 143-64.32** | **NOTE: CWSRF and ARPA funding: NCGS 143-64.32 cannot be used to exempt a local government unit from abiding by NCGS 143-63.31. This is because there is no minimum dollar exemption allowed in the Federal Brooks Act, the Clean Water Act Section 602(b)(14), or 2 CFR 200.319.**  **Written exemption of particular contracts.**  Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars ($50,000).  (1987, c. 102, s. 2; 2013-401, s. 2.) |
| **21 NCAC 56.0701(f)** | SECTION .0700 – RULES OF PROFESSIONAL CONDUCT, adopted in accordance with NC General Statute 89C-20 (Board Rules for Professional Engineers, etc.)  (f) A licensee shall solicit or accept work only on the basis of qualifications and:  (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;  (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;  (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.);  … |