

811 CMR 4.00 PROCEDURES FOR ESTABLISHING THREE CLASSES OF PROJECTS AND SELECTION OF FINALISTS BY PANELS OF LESS THAN THE FULL BOARD

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4.01: Scope and Purpose

811 CMR 4.00 establishes a procedure by which the Designer Selection Board can select finalists with panels of less than the full Board.

4.02: Definitions

As used in 811 CMR 4.00 the following terms shall have the meanings set forth, unless otherwise prescribed by statute:

Board or DSB – the State Designer Selection Board

Class I Projects –

- (a) All studies, programs, master plans or consultant services having an established upset *per diem* and not exceeding \$100,000;
- (b) All projects requiring design services with an established lump sum set fee not to exceed \$100,000.

Class II Projects –

- (a) All studies, programs, master plans or consultant services having an established upset *per diem* and not exceeding \$500,000;
- (b) All projects requiring design services with an established lump sum set fee not to exceed \$500,000.

Class III Projects – Projects which exceed Class II thresholds.

Commissioner – the Commissioner of the Division of Capital Asset Management and Maintenance.

Designer Selection Panels –

- (a) For Class I projects, at least ~~three~~six members, ~~four~~two of whom shall be architects or engineers;
- (b) For Class II projects, ~~six~~five members, four of whom shall be architects or engineers;
- (c) For Class III projects, at least nine members, seven of whom shall be architects or engineers.

4.03 Delegation of Powers and Duties to Panels

- (1) The Board may delegate its powers and duties under M.G.L. c. 7C, §§ ~~47-38D~~(b), ~~4838E~~(c) and (d), ~~49, 5038F~~(a) and (b), ~~5138H~~ and ~~5238I~~ to panels of less than all the Board members as defined in 811 CMR 4.02: Designer Selection Panels, on a rotating basis as follows:

At any meeting of the Designer Selection Board, the Chairman of the Board, or in his/her absence, the Vice Chairman or senior Designer Selection Board member, may assign the members present to any of the panels listed in 811 CMR 4.02: Designer Selection Panels.

- (2) Projects will be assigned to the various panels by vote of the Board.
- (3) The respective panels shall vote one of the panel members as acting Chairman for each established meeting.
- (4) Establishments of the panels shall not preclude the Board from acting on any or all classes of projects at a legally constituted meeting of the Designer Selection Board. ~~;~~
~~provided there is a quorum of the members.~~

4.04 Selection by DSB Panels

- (1) The designer selection panel selects at least three finalists from among all applicants for each project under its jurisdiction, whenever possible.
- (2) The panel ranks the finalists in order of qualifications and includes a record of the final vote of the panel, as well as a written statement explaining the panel's reasons for its choice and its ranking of the finalists.
- (3) For Class III projects only, panel members may participate in meetings by teleconference and may conduct voting by telephone polling of Panel members. Voting by telephone polling is limited to a maximum of two Panel members. Absentee and proxy votes are not otherwise allowed.
- (4) A majority of the appointed panel members constitute a quorum whenever a meeting or vote is required.
- (5) Procedure

- (a) Panel members, individually and collectively, review each application and related material to determine which firms are qualified for the project under consideration in accordance with the Board's approved "Criteria for Selection of Semi-finalists and Finalists".
- (b) If the initial list of qualified applicants is substantial, then applications are further scrutinized to arrive at a workable list of semi-finalists.
- (c) The panel may require a formal interview of the semi-finalists.
- (d) Any panel member may make a motion indicating their recommendation for selection of "at least three finalists from among all the applicants".
- (e) The panel customarily acts by voice vote. A majority of those members present are required to pass the motion. Abstentions or dissenting votes are recorded in the minutes and will also be included in the public letter listing the selected finalists in accordance with M.G.L. c. 7C, § ~~4938F~~.
- (f) A vote by ballot may be ordered by the panel Chair as to who the selected finalists should be or as to the ranking of the finalists. The tabulation of the vote for the three finalists shall be accomplished by crediting the respective finalists with the designated point count of each member's vote, similar to the procedure used in Emergency Selection, 811 CMR 3.05.

4.05 Notification of DSB Panel Action

- (1) The panel informs the Commissioner by public letter of the results of its action.
- (2) The public ~~record~~ letter includes the following:
 - (a) Project list number and DSB list and item number;
 - (b) Project title and location;
 - (c) Source of funds;
 - (d) Funds available;
 - (e) Number of applicants for project;
 - (f) Board panel meeting and date of panel action;
 - (g) The names and addresses of the selected finalists in rank order;
 - (h) The record of the final vote of the panel on the selection;
 - (i) A written statement explaining the panel's reason for its choice of the first ranked finalist;
 - (j) Designer services authorized for this project;
 - (k) The estimated or fixed fee to be paid to the designer for the above services or maximum established fee, if the fee is to be negotiated;
 - (l) The fixed limit construction cost of the project to be designed; and
 - (m) Any conditions or restrictions that accompany this assignment.

REGULATORY AUTHORITY

811 CMR 4.00: M.G.L. c. 7C, § ~~4938F~~(d)