

811 CMR: DESIGNER SELECTION BOARD

811 CMR 3.00: EXPEDITED PROCEDURE FOR SELECTION OF DESIGNERS WHEN AN EMERGENCY SITUATION EXISTS

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3.01: Scope and Purpose

811 CMR 3.00 establishes a speedy procedure by which the Designer Selection Board can select a designer, programmer or construction manager, when an emergency situation exists.

3.02: Definitions

As used in 811 CMR 3.00 the following terms shall have the meanings set forth, unless otherwise prescribed by statute:

Board or DSB - the State Designer Selection Board.

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

3.03 Declaration of Emergency

- (1) The declaration will be made by the Commissioner, based upon one of the following criteria.
 - (a) Danger to health or safety of any persons because of the time required for selection of a designer by the regular statutory process.
 - (b) Deadline for action on a project set by a court or federal agency which cannot be met if the regular statutory process is followed.
- (2) The Commissioner will file a memorandum with the Board, stating the reasons for the emergency declaration, listing proposed scope of work, estimated cost of construction, the established lump sum fee for designers' services, and any other relevant information.
- (3) Upon receipt of the memorandum from the Commissioner, the Board may elect to follow the expedited procedures set forth in 811 CMR 3.04 and 3.05.

3.04: Studies, Programs and Design and Administration of Construction Projects

- (1) If the scope of work involves a study or program, finalists may be selected from the existing standing list of consultants who have previously applied to the Board for projects of this nature as advertised in Public Notices as Item 2, or from applicants who have filed a master file brochure with the Board, without public advertising.
- (2) If the scope of the work involves design and administration of a construction project, finalists may be selected from the existing standing list of consultants who have previously applied to the DSB for projects as advertised in Public Notices as Item 1, or from applicants who have filed a master file brochure with the Board, without public advertising.
- (3) The Chairman of the DSB, or in his absence, the Vice Chairman or senior DSB member, upon receipt of the declaration by the Commissioner that an emergency exists; will select at least six semi-finalists as described in 811 CMR 3.04(1) and (2).

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3.05: Voting by DSB Members for Selection in an Emergency Situation

- (1) The Executive Director of the DSB shall compile the information set forth in 811 CMR 3.03 and 3.04 into a package for distribution and action by all the DSB members. Material shall be mailed if time permits. When possible, selection shall be made at the next scheduled meeting. When time or other circumstances do not permit, members may respond by mail.
- (2) In those cases where the Chairman or in his absence the Vice Chairman or senior DSB member determines that immediate action is required, on the basis of an immediate threat to health and safety, that person shall nominate at least six semi-finalists for the specific project to be acted on. Said Board member may direct the Executive Director to poll all available DSB members by phone and record their vote, tabulate the results, and forward the names of the three or more finalists to the Commissioner for his appointment in accordance with M.G.L. c. 7, §§ 38F and 38G.
- (3) The tabulation of the vote by DSB members for the three or more finalists to be submitted to the Commissioner shall be accomplished by crediting the designated point count of each member's vote to the firm so selected by each respective member. Every firm ranked first will be credited with three points, the second ranked firm will be credited with two points and third ranked finalist will obtain one point. The firm obtaining the highest cumulative total of points will be ranked first, the next higher total will be ranked second and the third highest total point count will be ranked third. All additional recommended finalists shall receive zero points.
- (4) In the case of an equal total point count, the board shall be re-pollled to determine the final ranking of the three or more finalists.

REGULATORY AUTHORITY

811 CMR 3.00: M.G.L. c. 7, § 38J.