

**SUBCHAPTER 30E - STATE BUILDING COMMISSION DESIGNER OR CONSULTANT
EVALUATION PROCEDURES**

SECTION .0100 - GENERAL PROVISIONS

01 NCAC 30E .0101 AUTHORITY

The State Building Commission, hereinafter referred to as SBC, is a statutory body, empowered by Public Law to perform a multiplicity of duties with regard to the State's Capital Facilities development and management program. In the specific area of state capital improvement project designer and consultant evaluation, the SBC is empowered to develop procedures for accomplishment of such evaluation.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0102 POLICY

It is the policy of the SBC to evaluate designers for capital improvement projects as defined in G.S. 143-135.27 based on criteria contained herein. Further, it is considered of paramount importance that every state capital improvement project receive a professional design which is timely, of highest professional quality, and in keeping with the project scope. It is to this end that individual designer's or consultant's performance on state capital improvement projects should be fairly and consistently evaluated and used as a factor in designer or consultant selection for future work.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0103 DEFINITIONS

For purposes of this Subchapter, the following definitions shall apply:

- (1) "Capital Projects Coordinator" means the individual authorized by each funded agency to coordinate all capital improvement projects and related matters with the State Construction Office and to represent that agency on all matters presented to the SBC. The individual so designated for purposes of these rules may have other titles within the individual's agency but shall carry out the duties assigned herein to the Capital Projects Coordinator. Whenever the Capital Projects Coordinator is referenced herein, it shall be understood to include a designated assistant or representative. Concerning evaluation of designers, or consultants the Capital Projects Coordinator is responsible for the agency's evaluation of each phase of the project as well as the overall designer's or consultant's evaluation.
- (2) "Project Designer" means any individual, firm, partnership, corporation, association or other legal entity licensed to practice architecture, engineering, or landscape architecture in the State of North Carolina. The designer or consultant shall be responsible for the performance of all his consultants. Accordingly, the evaluation of the project designer will include evaluation of the work of all consultants who are included in the designer's contract with the funded agency.
- (3) "Consultant" means any individual, firm, partnership, corporation, association or other legal entity selected for planning and studies of an architectural and engineering nature associated with a capital improvement project. The consultant must be licensed to practice architecture or engineering in the State of North Carolina.
- (4) "Funded Agency" means the department, agency, authority or office that is named in the legislation appropriating funds for the design and/or construction project.
- (5) "Owner's Representative" is an individual appointed by the using agency to represent the using agency on all user-related matters. The owner is the representative of the using agency as defined in Rule .0103(9) of Subchapter 30D - State Building Commission Designer Selection Procedures.

- (6) "Professional Services" means those services within the scope of the practice of architecture, engineering, landscape architecture or surveying as defined by the public laws of North Carolina.
- (7) "Scope Statement" means a written description of the capital project that is to be designed. Normally the scope statement shall reflect the written project description as contained in the project cost estimate validated by the State Construction Office.
- (8) "Evaluation Form" is the form to be used for all designers' or consultants' evaluations. The form shall be developed and approved by the State Building Commission and is the only approved document for this purpose; it may be reproduced by the agencies as required.

History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

SECTION .0200 - PROJECT INFORMATION

01 NCAC 30E .0201 PROJECT DESCRIPTION

It shall be the responsibility of each Capital Projects Coordinator, for each Capital Improvements project as defined in G.S. 143-135.27 requiring professional services, to provide the State Construction Office with a written description of the professional services desired, the scope of work, schedule requirements, amount of authorized funds and other appropriate information. Particular emphasis will be placed on a determination as to whether the designer's or consultant's services are to include items such as programming, modeling, special presentations or other requirements beyond specific facility design. This requirement data shall be incorporated in the designer's or consultant's professional services contract and will serve as key elements against which the designer's or consultant's performance will be evaluated.

History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30E .0202 DESIGN CONTRACT

It shall be the responsibility of the Office of State Construction to ensure that both the Capital Projects Coordinator and the designer or consultant have a clear mutual understanding of design requirements for the project and key elements of these requirements are included in the professional services contract between the agency and the designer or consultant.

History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

SECTION .0300 - EVALUATION OF DESIGNERS OR CONSULTANTS

01 NCAC 30E .0301 DESIGN PHASES

Definitions:

- (1) "Pre-Design Phase" is the description of the provision of professional services prior to actual design. If a firm scope of the work is not known, the design agreement may be written in such a manner as to require project programming assistance by the designer or consultant, followed by agency approval of a designer-proposed project scope, prior to commencement of actual design. In evaluating design or consultant services during this phase, the Capital Projects Coordinator may wish to receive input from the Owner's representative.

- (2) "Design Phase" involves preparation of the actual design. The Capital Projects Coordinator must maintain active involvement during the design process in order to be able to evaluate the designer's or consultant's response to owner requirements, the consistency of owner requirements, external design requirements driven by insurance or environmental considerations, etc., the technical design itself, designer/owner response to review comments, adherence to design schedule, and quality of cost estimate, as well as adherence of the cost estimate to the project budget. In general, the evaluation of this phase is to encompass the efficiency and effectiveness of the designer in adherence to the project scope statement. Included is an evaluation of subconsultants if utilized. The subconsultant performance will also be considered in evaluation of the principal designer. The Capital Projects Coordinator, in preparing the evaluation of the design phase, may wish to receive input from the Owner's representative as well as the State Construction Office.
- (3) "Bidding-Construction Phase" encompasses the process for provision of professional services for bidding, award, and construction of the project. As the job progresses past contract award, the Capital Projects Coordinator must maintain a continuing awareness of designer performance during the period of construction including the shop drawing review process, payment processing, change order management, and field administration including project cost control. The Capital Projects Coordinator or owner's representative should attend the monthly construction progress meetings. The Capital Projects Coordinator must be capable of discerning the degree to which change orders are precipitated by design errors or omissions. The Capital Projects Coordinator must be capable of determining how well the designer provides general administration of the performance of construction contracts, including inspection and continuous liaison of the work to ensure compliance with plans and specifications during the construction process. At the completion of the project, the Capital Projects Coordinator must ensure that the project designer has completed all required close-out actions. The Capital Projects Coordinator will be responsible for preparation of the Bidding-Construction Phase evaluation. Assistance will be sought from the Owner's representative and the State Construction Office in preparation of the evaluation for this phase of the project.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0302 OVERALL JOB PERFORMANCE

The Capital Projects Coordinator shall determine the designer's or consultant's overall performance for the completed project. The overall rating is intended to reflect the effectiveness of the design in achieving the predetermined project scope in a timely, cost effective manner. The evaluation shall encompass the designer's or consultant's management approach to the project including cooperation of the designer's staff, communication with the Capital Projects Coordinator and Owner's representative, timeliness of action, and performance of consultants. The Capital Projects Coordinator shall invite input from the Owner's representative and the State Construction Office. All prime contractors shall be offered the opportunity to provide an assessment of the designer at job completion. The Capital Projects Coordinator shall be responsible for the final overall rating. This summary evaluation shall not necessarily reflect a precise numerical averaging of scores for the Pre-design, Design, and Bidding-Construction phases but will be generally representative of those scores. To be timely and useful, designer evaluation data will be accumulated within 30 days of submission of the final report. Prior to completion of the final designer evaluation, the Capital Projects Coordinator shall submit the proposed evaluation to the designer for comment. Comments received from designers or consultants shall be considered by the Capital Projects Coordinator. At this stage, the Capital Projects Coordinator shall prepare the final designer or consultant evaluation and provide a copy to the designer or consultant. The form approved by the SBC shall be used for this purpose.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30E .0303 POST OCCUPANCY EVALUATION

The designer evaluation process allows for a second evaluation to be conducted within 36 months of the completion of a capital project if design-related latent defects are discovered. A separate procedure of the State Building Commission may require a formal post-occupancy evaluation within 12 months of a building completion. The data from the 12 month post-occupancy evaluation can be used as a substitute for the follow-up designer evaluation if the Capital Projects Coordinator so determines.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0304 INTERIM DESIGNER OR CONSULTANT EVALUATION

The designer or consultant may request preparation of an interim evaluation form by the Capital Projects Coordinator or the Coordinator may elect to prepare an interim evaluation if so desired. This interim evaluation is intended to reflect performance to date and should be used as a guidance device for correction of performance prior to the final evaluation.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0305 SUBMISSION OF FINAL REPORT

The Capital Projects Coordinator shall submit the completed final evaluation to the Office of State Construction with a copy to the designer or consultant. The designer or consultant shall have the opportunity to comment on the evaluation to the Office of State Construction with a copy to the Capital Projects Coordinator. Such comments on the final evaluation shall become a part of the final evaluation record. It is imperative that the final designer or consultant evaluation be completed and presented to the State Construction Office for all capital projects within 60 days of the final report. If the evaluation is not completed within the prescribed time frame, the State Building Commission may elect to process no further design awards for an agency until the evaluation is complete.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0306 REPORT COMPILATION

The Office of State Construction will be responsible for maintaining designer or consultant evaluation data. The data maintained shall be on an individual job basis and also cumulative by the designer or consultant. Data will be made available on request to individual designer or consultant preselection committees. The data maintained by the State Construction Office will reflect performance history for a period of five years. All evaluation data on completed projects in excess of five years of age will be removed from State Construction Office files and will not be used as a factor in the cumulative evaluation.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

SECTION .0400 - POST-EVALUATION PROCEDURES

01 NCAC 30E .0401 AWARDS PROGRAM

Capital Projects Coordinators who consider that designer performance on a completed Capital Improvement Project merits special recognition may nominate the designer for a certificate of Design Merit. Nominations will be made by the Capital Projects Coordinator to the Office of State Construction which will screen the nominees and will in turn make appropriate recommendations to the State Building Commission. The State Construction Office may also initiate award recommendations. The SCB will consider all nominations and make final approval of all awards. The State Building Commission shall arrange for presentation of the certificates at a suitable ceremony during a time and place of its own choosing; however, these presentations will normally be made during the annual State Construction Conference. The State Construction Office shall provide staff support to the State Building Commission for this program.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30E .0402 APPEALS OF ASSIGNED EVALUATIONS

If a design or consultant firm considers that the assigned evaluation is improper and the opportunity to provide rebuttal comments for the record is insufficient to resolve the assigned rating, the designer or consultant may appeal the rating to the Office of State Construction. The State Construction Office will appoint and convene a rating panel of three professional State employees of which at least one member is a licensed professional architect or engineer to hear the appeal and render a decision. The hearing shall involve at a minimum the Capital Projects Coordinator and the Owner's representative as well as representatives of the designer or consultant who shall appear before the panel and which is open to the public. The State Construction Office hearing panel shall issue a report to the State Building Commission of the hearing and the decision reached. If the Capital Projects Coordinator or designer desires further recourse, the State Construction Office panel decision may be formally appealed to the Office of Administrative Hearings pursuant to N.C.G.S. 150B.

*History Note: Authority G.S. 143-135.25; 143-135.26;
Eff. October 1, 1988;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*