

01 NCAC 30J .0306 CONTRACT NEGOTIATION

After the three firms have been notified of the selection action by the SBC or the University of North Carolina, a representative from the State Construction Office, the capital projects coordinator, and a representative from the using agency shall discuss with the first ranked construction manager-at-risk services and information about the project. The State Construction Office shall request in writing a detailed fee proposal from the first ranked Construction Manager-at-Risk. The State Construction Office in coordination with the capital projects coordinator and the using agency shall attempt to negotiate a fair and equitable fee consistent with the project program and the professional services required for the specific project. In the event a fee cannot be agreed upon, the State Construction Office shall terminate the negotiations and shall repeat the notification and negotiation process with the next ranked firm on the selection list. In the event a fee cannot be agreed upon with the second-ranked Construction Manager-at-Risk, the process shall be repeated with the third-ranked Construction Manager-at-Risk. If a fee still cannot be agreed upon, the SBC shall review the history of negotiations and make determinations including program adjustments so as to lead to a negotiated contract with one of the original three firms selected. Such renegotiation with the firms shall be carried out in the original selection order, or a call shall be made for the capital projects coordinator to submit another list of three firms in priority order to the SBC or to the UNC system. The negotiation process shall continue until a fee has been determined that is agreed to by the State Construction Office, the using agency and the Construction Manager-at-Risk. Following execution of the contract, the State Construction Office shall publish on the State Construction Office website, the list of three firms selected in priority order, the firm to be contracted with, and the fee negotiated.

*History Note: Authority G.S. 143-135.26;
 Temporary Adoption Eff. February 1, 2003;
 Eff. March 1, 2004;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,
 2018.*