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April 16, 1990
2807H/AT/cm

Introduced by: Cynthia Sullivan

Proposed No: 90-16

MOTION NO. 7930

A MOTION approving the administrative rules prepared by the Executive for implementation of Ordinance 8998, with regard to the Environmental Impact Statement preparation

WHEREAS, the county council adopted Ordinance 8998 on June 5, 1989 amending the county's environmental review procedures, and

WHEREAS, by that ordinance the council determined it to be in the public interest for the county to assume responsibility for the preparation of environmental projects, and

WHEREAS, by that ordinance the council directed the executive to propose a process by which to select consultants to prepare environmental documents for private development projects;

NOW THEREFORE, BE IT MOVED by the Council of King County:

The attached SEPA Consultant Rules and Regulations are approved.

PASSED this 29th day of May, 1990.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Lois North
Chair

ATTEST:

Gerald A. Feter
Clerk of the Council

Chapter 20.44
RULES AND REGULATIONS OF THE
BUILDING AND LAND DEVELOPMENT DIVISION

7930

SEPA CONSULTANT RULES & REGULATIONS

EFFECTIVE DATE: May 8, 1990
Sections:

Document No. _____

- 20.44.010 Definitions
- 20.44.020 Purpose
- 20.44.030 Limitations on Consultants & Subconsultants
- 20.44.040 Consultant List
- 20.44.050 Consultant Qualification
- 20.44.060 Consultant Disqualification
- 20.44.070 Consultant Responsibilities
- 20.44.080 Consultant Selection
- 20.44.090 Reconsideration
- 20.44.100 Appeals
- 20.44.110 Consultant Payments

20 - 44 - 010 Definitions.

- A. Applicant. "Applicant" means a person, group of persons, corporation, association or other business entity of any kind whatsoever that applies to the Division for a development permit.
- B. Consultant. "Consultant" means a person, group of persons, corporation, association or other business entity of any kind whatsoever that contracts with King County to prepare all or any part of an environmental impact statement (EIS) or other environmental document for the Division.
- C. Department. "Department" means the King County Department of Parks, Planning and Resources
- D. Division. "Division" means the King County Division of Building and Land Development of the Parks, Planning and Resources Department.
- E. EIS. "EIS" means Environmental Impact Statement as defined in WAC 197-11, SEPA Rules.
- F. Environmental Document. "Environmental Document" means any written public document prepared under Washington Administrative Code Chapter 197-11.
- G. Project. "Project" means a development proposal submitted to the Division by an applicant.
- H. SEPA. "SEPA" means the State Environmental Policy Act, RCW 43.21C.
- I. Subconsultant. "Subconsultant" means a person, group of persons, corporation, association or other business entity of any kind whatsoever that contracts to perform part of the consultant's contract.

20 - 44 - 020 Purpose.

The purpose of these rules is to implement the EIS consultant selection provisions of KCC Chapter 20.44.130. for private development purposes.

20 - 44 - 030 Limitations on EIS Consultants & Subconsultants.

- A. Consultants and Subconsultants hired to prepare an environmental document may not be employed by the applicant in any other capacity related to the Project.

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- B. Consultants and Subconsultants may not have any financial interest in any projects owned or managed by the Applicant.
- C. Consultants and Subconsultants may not be full-time King County officers or employees or other persons employed by King County in any capacity related to the project.
- D. Consultants and Subconsultants shall have no connection with the applicant that may result in a conflict of interest or otherwise impair the consultant's ability to prepare an unbiased Environmental Document.
- E. Consultants shall not derive more than 10% on their annual income from contracts with the applicant.

20 - 44 - 040 Environmental Documents Consultant List.

- A. The Division shall create and maintain a list of consultants who are qualified and eligible to contract with King County to prepare Environmental Documents.
- B. Additions to the consultant list shall be made annually on the second Monday of February and June. Consultant requests to be added to the list must be submitted to the Division's SEPA Center at least three (3) weeks prior to the date of additions. The consultant request must include a Consultant Statement of Qualifications.
- C. Consultants on the selection list will be listed by subject matter categories and by levels of expertise.
- D. The categories of expertise shall be the same as the elements of the environment listed in WAC 197-11.
- E. The "levels of expertise" shall be:

Expert: Has been qualified in Superior Court as an Expert Witness; has a PhD in the subject; or has a minimum of ten (10) years of experience in the subject.

Professional: Has a professional license/seal/certificate; has a college degree with specialization in the subject; has a college degree with two years of work experience concentrated on the subject; or has four years of continuous work experience concentrated on the subject.

Technical: Has completed a technical training course; or has one year of continuous work experience concentrated in the subject.

20 - 44 - 050 Consultant Qualification.

- A. Consultants must demonstrate their ability to prepare Environmental Documents to Division standards.
- B. Consultants must demonstrate their qualifications to prepare an Environmental Document by satisfactorily documenting their education, training and experience in the preparation of an Environmental Document.

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Each such proposed consultant must identify a principal author of the Environmental Documents. Such principal author must have previous experience in the preparation of an Environmental Documents for a governmental agency and must demonstrate a strong working knowledge of the provisions of WAC 197-11.

- C. Consultants must submit a current Consultant Statement of Qualifications each year by the second Monday of March. Failure to comply may result in removal from the Consultant Selection List.
- D. A Consultant Statement of Qualifications shall be in the form prescribed by the Division and shall among other things include an Affidavit and Certificate of Compliance; the consultant's fee schedule, minority staffing/ownership; categories of expertise; numbers of staff; and staff qualifications (areas and levels of expertise).
- E. Consultants who have been disqualified through the provisions of KCC 20.44.060 may seek re-qualification through the February and June consultant qualification process, in accordance with KCC 20.44.040(c).
- F. Consultants must provide a Certificate of Compliance with 20-44-030.

20 - 44 - 060 Consultant Disqualification.

- A. A consultant is disqualified from continuing to work on an environmental document or from future environmental document work when their work fails to meet Division standards.
- B. Following the preparation of Environmental Documents, each consultant will be evaluated on objectivity; approach to preparation of Environmental Documents; the text, clarity and readability of Environmental Documents prepared; and management. The work must be rated as "acceptable" in all categories for a consultant to remain on the Environmental Document consultant list. If a consultant is rated "unacceptable" in one or more of these categories, it will be disqualified and removed from the list.
- C. Consultants who have been disqualified from the list may seek re-qualification through the February and June consultant qualification process, KCC 20.44.040(c).
- D. A consultant shall be disqualified if the consultant deliberately falsifies or withholds information relevant to the Environmental Documents.

20 - 44 - 070 Consultant Responsibilities

- A. Consultants shall maintain a neutral and objective position in relation to the proposal.
 1. The primary clients of the Environmental Document consultant are the decision makers and the public in general.
 2. Consultants writing the Environmental Document may not work on the project as part of the design or

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project management team or have a financial interest in the project

- B. The Environmental Document Consultant ensure that the document is concise, factual, objective and internally consistent to the best knowledge of the Consultant.
1. Environmental Documents shall be readable reports, which allow the reader to understand the most significant and vital information concerning the proposed action, alternatives, and impacts, without turning to other documents.
 2. The Environmental Document Consultant critically analyzes the proposal and its impacts. The description of the proposal and its impacts are based upon application materials, statements of the applicant's intent or objectives, and other data which the Consultant may deem appropriate to assess environmental impacts.
 3. Most of the text of an environmental impact statement discusses and compares the environmental impacts and their significance, rather than describing the proposal and the environmental setting. Detailed descriptions may be included in appendices or supporting documents.
 4. Conclusions are substantiated. All assumptions and methodology used are clearly stated; where extensive, the explanation of assumptions and methodology can be put in an appendix. The sensitivity of the results and the direction of change based on changes in the assumptions are noted.
 5. The assessment of impacts is specific. Impacts are quantified where possible and appropriate. For example, the Environmental Document does not just state that construction noise will occur but states what levels, when, what noise sensitive receptors will be impacted, and the character and magnitude of the impacts.
 6. The Environmental Document Consultant proposes feasible and effective mitigating measures. Specific historic examples to substantiate the effectiveness of the mitigating measures shall be included.
 7. The Environmental Document indicates when mitigating measures will not be effective, why and discloses unavoidable adverse impacts.
- C. In the preparation of Environmental Documents, alternatives will be developed by the consultant through an evaluation of the objectives of the proposal and potential impacts.
1. A no action alternative discusses the benefits and disadvantages of reserving implementation for some future time.
 2. For a private project where the range of alternatives have been limited by the applicant's objectives, one alternative will include

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- development otherwise allowed by the Comprehensive Plan or zoning but excluded by the applicant's objectives.
3. An alternative or alternatives which reduce environmental impacts, and meet the objectives of the proposal, should be developed.
 4. The Division will have final approval on alternatives.
- D. Environmental Document's are clearly written for decision makers and the public.
1. Technical terms and jargon are avoided where possible; or, if necessary, they are clearly defined. Subjective terms are avoided. (Impacts are presented in a straightforward manner and not minimized by use of euphemisms, omissions, modifiers such as "only" or other methods.)
 2. Graphics, maps and photos are legible and labeled for ease of orientation.
 3. Summaries are meaningful. For instance, rather than stating that a project will increase traffic, the summary states what the actual trips will be, the percentage increase on vicinity streets, the projected change in level of service, and the land use receptors of the increased activity.
 4. Where detailed studies are done, technical and scientific information is presented in technical appendixes. The Environmental Document text contains summarized facts and background information necessary for decision-makers and the public to understand and evaluate the conclusions.
- E. The consultant is responsible for effectively managing the Environmental Document and meeting schedule and cost projections. The consultant is responsible for monthly status reports and for notifying the Division of circumstances requiring revision of the scope of services, schedule and cost prior to undertaking additional studies.
- F. The preliminary Draft Environmental Document submitted for BALD staff review is the consultants final draft (except for revisions necessitated by Division comments) and has already been reviewed by the consultant for consistency, accuracy, and conformity to the agreed upon scope of work. In some cases, arrangements will be made for review of work products to respond to those comments that have been incorporated into the preliminary Draft Environmental Document.
- G. The Environmental Document Consultant is expected to respond to all the Division's comments on preliminary drafts. If there is a question about the intent of a comment, or what is needed to respond, the consultant is responsible for contacting the Division staff for clarification.

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20 - 44 - 080 Consultant Selection.

- A. Consultants shall be listed alphabetically and numbered consecutively for each category of expertise and level of expertise.
- B. All of the consultants listed as qualified for a particular scope of Environmental Document will be entered in a drawing to select the environmental document consultant, first alternate and second alternate. If the selected Environmental Document consultant is unable to perform the work due to scheduling conflicts or a change in level of expertise because of staffing changes or declines to accept the Environmental Document contract then the backup consultants will be considered. If none of the three is able to perform the work, a new drawing from the qualified consultants will be conducted.
- C. Prior to finalizing their selection to prepare a specific Environmental Document, consultants and subconsultants must file with the Division a sworn, written statement detailing any information known to the consultant regarding any connection with the applicant that may result in a conflict of interest or otherwise impair the consultant's ability to prepare an unbiased Environmental Document.
- D. Consultant selection shall be solely at the discretion of the Division manager.
- E. Consultants requested to prepare an Environmental Document must submit a proposed work program to the Division within 10 work days including:
 1. A statement explaining any uncertainties or assumptions in the work proposal with an indication for each as to the manner in which these will be resolved.
 2. A specific listing of data requirements required from the County, applicant or third party consultants.
 3. A schedule for Environmental Document preparation identifying work hours, number of weeks and calendar dates for each element of the Environmental Document preparation.
 4. A cost estimate based on time and materials with a cost not to exceed a specified amount. Information should be presented in table form and include:
 - i. A breakdown by tasks of the number of hours to be expended by each member of the project team or subconsultant and the hourly rate.
 - ii. The number of hours estimated to be spent on each of the Elements of the Environment (or of groupings of elements).
 - iii. Hours and fees of subconsultants.

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- iv. Costs of computer modeling, exploratory drillings and similar charges.
 - v. Costs of report preparation including word processing and graphics.
 - vi. Costs of materials and other miscellaneous charges.
 - vii. Estimates of printing costs.
5. A listing of the project manager/coordinator and of all the team members who will be responsible for each of the specific tasks involved in preparing the Environmental Document. If the team includes members who were not previously listed in the Consultant Statement of Qualifications, then a resume' for the new member must be included in the submittal.

20 - 44 - 090 Reconsiderations.

- A. Consultants who believe they have been improperly denied placement on the Environmental Document Consultant selection list, selection for an Environmental Document contract or disqualified may request reconsideration by letter to the director of the Department of Parks, Planning and Resources. The letter must specify the consultant's arguments for the reconsideration and must be received by the director no later than close of business five calendar days after the notification date for contracts and later than 14 calendar days for disqualification or denial of placement on the Environmental Document Consultant list.
- B. Applicants may request reconsideration of a consultant's selection if they show that the consultant would be biased against the proposal. The request for reconsideration must be submitted to the division manager no later than close of business five calendar days after the notification of consultant selection.
- C. The department director shall provide a written response within 21 days of a request for reconsideration.

20 - 44 - 100 Appeals.

- A. Consultants may appeal their disqualification or denial of placement on the Environmental Document Consultant Selection List to the King County Zoning and Subdivision Examiner, per KCC 20.24., after action by the director on a request for reconsideration.

20 - 44 - 110 Consultant Payments.

- A. The Environmental Document Consultant will have the primary responsibility for tracking the cost of Environmental Document services and reporting to the Division.
- B. In order to facilitate Division review of invoices and tracking of cost in relation to the contract and scope

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of services, progress reports and billing invoices shall be in a format prescribed by the Division.

- C. The County will use the following criteria in approving invoices based on monthly report information.

Prior to submission of initial Preliminary Draft for staff review:

No more than 70 percent of the budgeted amount will be approved for partial payment of a given element or item. An exception to this would be work products from subconsultants which are "stand alone" reports. Payment will be based on the Consultant's monthly progress report which indicates the percentage completed of each identified element or work item. Ten percent will be withheld from each invoice until completion of the Environmental Document.

After submission and review of the initial Preliminary Draft:

Additional payments will be made beyond 70 percent of the budgeted amount only if staff review indicates that only minor revisions of the initial text are needed. Otherwise, payment beyond 70 percent will be withheld until an acceptable Preliminary Draft is submitted and found generally acceptable. Ten percent will be withheld until Environmental Document completion.

Acceptance in final form occurs upon publication of the Environmental Document.

- D. The Consultant is responsible for notifying the Division of any proposed changes in the Scope of Services and cost and obtaining approval prior to undertaking additional work.

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