

June 9, 2009

Ms. Diane Stoddard
Assistant City Manager
City of Lawrence
PO Box 708
Lawrence, KS 66044-2268

Dear Ms. Stoddard:

I have appreciated the opportunity to visit with you about the Qualifications Based Selection (QBS) method of choosing consulting engineers.

I have prepared a letter for the City Commission and am forwarding that along with several brochures. I very much appreciate your help in placing this information before the Commission.

Mr. Scott Heidner and I stand ready to assist the Commission and staff in any way that you believe we could be helpful.

Sincerely yours,

G. David Comstock, P.E., QBS Facilitator
American Council of Engineering Companies of Kansas
American Institute of Architects of Kansas
825 S. Kansas Avenue, Suite 500
Topeka, KS 66612

(785) 221-2167

comstockpe@gmail.com

cc: Mr. Scott Heidner, Executive Director
American Council of Engineering Companies (ACEC) – Kansas

June 9, 2009

City Commissioners
City of Lawrence
PO Box 708
Lawrence, KS 66044-2268

Honorable Commissioners:

I appreciate this opportunity to provide you with a brief overview of the engineering procurement practice known as Qualifications Based Selection (QBS).

I am a retired Professional Engineer who utilized QBS during my career with the Kansas Department of Transportation (KDOT), and who selected literally hundreds of consulting engineering firms to provide project design work using the QBS process. I now represent the American Council of Engineering Companies – Kansas, the statewide trade group that represents the consulting engineering firms of Kansas.

The foundation of Qualifications Based Selection is the idea that proposals would be solicited from engineering firms on the basis of their qualifications to do the work that needs to be done. Professional staff would then interview a short list of three to five qualified firms and select the preferred firm to do the work.

At that point, the city's staff would sit down with the selected firm to finalize the exact scope of services that is to be performed and the firm would prepare a proposal of the cost to do that work, which is then negotiated with staff until agreement is reached on the scope and price. If the city and the firm are unable to agree to a price for the services, the city moves to the next firm on the qualified list and repeats the process until a comprehensive agreement is reached. This process provides assurance that you will get exactly the scope of work desired at the best negotiated price.

I would emphasize the importance of not allowing price to become a factor until a firm has been selected and negotiations have begun. The short listing of qualified firms and interview process provide an excellent opportunity to share ideas and refine and consolidate the scope of work, so that the fee can be based upon the detailed scope of work, representing the exact needs of the city.

I would further suggest that the city can have much greater control over the scope of work, the cost, and the outcome of a project by utilizing the QBS process. I am confident that the QBS method results in the best possible value from the expenditure of your taxpayer dollars and ensures that the scope of work will be exactly what you intended.

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Enclosed are two brochures with additional information about QBS and my business card. Also, Scott Heidner of ACEC-Kansas has provided Diane Stoddard with information about the professional services procurement policies of many of the other larger communities across Kansas. We would be pleased to visit with you at your convenience to answer your questions and discuss QBS in further detail. Please contact me if there is any way we can help with your review of your QBS policy.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David Comstock", with a stylized flourish at the end.

G. David Comstock, P.E., QBS Facilitator
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cc: Mr. Scott Heidner, Executive Director
American Council of Engineering Companies (ACEC) – Kansas
Ron Gaches, Executive Director
Kansas Society of Professional Engineers

COMMON MISCONCEPTIONS

MYTH: ♦ *Procuring engineering services based on qualifications takes significantly more time than awarding a contract based on low-bid.*

FACT: ♦ An emphasis on qualifications as the prime selection criteria can substantially reduce the overall time to complete a project.

MYTH: ♦ *State and local agencies should procure A/E services based on low-bid to save taxpayers' money.*

FACT: ♦ Low-bid procurement does not save taxpayer money over the life of the project because it leads to increased change orders and project maintenance costs. In addition, public health and safety — paramount concerns for public-sector projects — are undermined by low-bid procurement. Federal, state and local government agencies have a responsibility to obtain the high quality and safe design that is achieved through QBS.

MYTH: ♦ *QBS eliminates price as a selection criteria.*

FACT: ♦ Price is a factor! Price becomes a factor only after the most qualified firm has been identified and a detailed scope of work has been jointly developed by the owner and the firm. QBS gives the owner and design professional an opportunity to negotiate a fee based on the scope of services being provided. If in the owner's view, a fair and reasonable price cannot be concluded with the highest-ranked firm, negotiations may proceed with the next-highest-ranked firm.

TESTIMONIALS

"QBS is an invaluable tool for us. It consistently delivers high-quality, on-time infrastructure projects for the citizens of New York."

— William F. O'Connor, Deputy Commissioner
New York State Office of General Services.

"The public interest is best served when government agencies select engineers, architects and related professional services and technical consultants for projects and studies through QBS."

— Marty Manning, Past President
American Public Works Association.

"In general, QBS has allowed us greater flexibility, placed minimal financial burden on prospective consulting firms, initiated greater understanding of the scope of work, and facilitated the development of contracts that are based on common understanding and sound fiscal principles associated with the expected work."

— Harry Judd, Manager of TMDL
Utah State Division of Water Quality.

"The whole QBS process was very helpful. My only regret is that I wish we would have adopted it sooner."

— Rick Manchester, Parks and Recreation Director
City of Two Rivers, WI.

"QBS means that the owner gets a qualified, competent engineer who is known to have the qualifications for a specific project. And the taxpayer receives a quality infrastructure system that is well-designed and meets the required service life."

— Paul Kinshella, Superintendent
for the City of Phoenix Water Services Department.

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ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES



The Voice of America's Engineering Industry

Qualifications-Based Selection

QBS

*Why Value Outweighs Cost
in the Selection of
Engineering Services*

WHAT IS QBS?

Enacted by Congress in 1972, the Brooks Act (P.L. 92-582) established a qualifications-based selection (QBS) process for federal agencies when acquiring architectural and engineering services. QBS is a competitive procurement process in which engineering firms submit qualifications to the procuring agency (the owner); the owner assesses the expertise of the competing firms; and the most qualified firm is selected to negotiate the project scope and associated fee. If the owner and most-qualified firm cannot reach an agreement on project scope, schedule and budget, the owner then negotiates with the next-most-qualified firm.

QBS has been so successful at the federal level that it has been adopted by 44 states and hundreds of localities throughout the country. The QBS process is widely endorsed by the American Bar Association, the American Public Works Association, the Associated General Contractors and all major design professional associations.

WHY QBS WORKS

If you needed to have heart surgery, would you choose a doctor based on the lowest price? Or would you search for a qualified doctor who had performed this operation many times before? The answer is clear. Engineering services should be procured the same way — based on qualifications and competence.

Those unfamiliar with the role of design professionals often ask, "If we buy everything else from the lowest bidder, why shouldn't we select our engineering firm based on low-bid, too?"

The answer is that design professional firms do not sell a commodity, but provide technical expertise, innovation and the latest technology. These skills enhance the quality of a project and lead to cost savings. Simply stated, selecting an engineering firm based on low-bid prevents an owner from receiving the best value.

Why? Seeking the cheapest design is bound to produce

Qualifications are the most important factors when choosing an engineering firm, yet the process also embraces value by identifying project fees prior to the signing of a contract. Proposals are weighed first on competence, creativity and performance, followed by negotiation of a fair and reasonable price with the most-qualified firm. Placing the focus on qualifications first affords the owner the flexibility to select a design professional firm best suited for the task. It creates an atmosphere of trust where the owner and a firm's engineers can develop a detailed scope together, avoid miscommunication and establish a mutually agreed upon price.

QBS LEADS TO COST SAVINGS

The services provided by design firms are the single most important factor in determining a project's overall construction and life-cycle costs. The fee for the technical skills and experience provided by a high-quality engineering firm amount to approximately 1% of the total cost of the project. Yet these services are critical to determining the other 99% of the project's life-cycle costs, as well as the quality of the completed project. QBS creates a relationship that allows the owner and design professional firm to work together to develop the project scope and determine alternative materials and designs that will minimize long-term operational and maintenance costs. By identifying these costs early in the project, owners receive a clear indication of the overall financial requirements.

Projects procured on a low-bid basis may save owners a small amount on up front design costs, but can lead to significantly higher construction costs, increased change orders and higher maintenance costs over the life of the project. The long-term savings achieved by placing an emphasis on quality outweigh potential savings in procuring design services based on low-bid.

HOW DOES QBS WORK?

Selecting a Design Firm

1. An owner identifies the general scope of work and develops a selection schedule.
2. A request for qualifications is issued.
3. Statements of qualifications are evaluated.
4. A short-list of qualified firms to be interviewed is determined.
5. Interviews are conducted and the firms are ranked.

Negotiating a Contract

6. The owner invites the highest-ranked firm to assist in defining a detailed scope of work.
7. The design firm develops and submits to the owner a detailed fee proposal based on the agreed-upon scope of work.
8. If the proposed fee is not acceptable to the owner, the owner and designer work together to modify the scope of work, schedule, and budget to determine if an agreement on fee can be achieved.
9. If an agreement cannot be reached with the top-ranked firm, those negotiations are ended and negotiations begin with the next-most-qualified firm.
10. An agreement covering scope and fee is executed.
11. Firms involved in the selection process are given post-selection feedback, when requested.

"It is unwise to pay too much, but it's worse to pay too little. When you pay too little, you sometimes lose everything because the thing you bought was incapable of doing the thing you bought it to do."

What Precedents Exist for Qualifications Based Selection?

- It has been in use since the Civil War.
- Public Law 92-582 (Brooks Bill) confirms it is in the nation's best interest in federal procurement on civilian agency projects.
- Public Law 100-464 reaffirms 92-582 and adds specific services covered by the law.
- Kansas Law 75-5801 confirms it is in the state's best interest in state procurement.
- The American Bar Association's Model Procurement Code for State and Local Governments specifies it as the preferred method of procuring design professional services.
- The American Public Works Association endorses it in a strongly worded policy statement.
- Experience. Maryland adopted price-based selection in 1974, which in 1985 was overwhelmingly replaced with a qualifications based selection type procurement method because of its efficiency and benefits to the state.

Why?

Because Maryland's research and experience clearly showed that meaningful price-based comparisons are quite difficult to make at the time the selection is made. Price-based selection increased the design phase cost by ~94% and resulted in major construction cost increases. The cost increase resulted from the time and effort it took Maryland to prepare a scope of work that could be used to obtain bids from design professionals.

What Is Qualifications Based Selection?

Qualifications Based Selection is a process for the selection of design professionals by public owners. It is a negotiated procurement process for selection based on qualifications and competence in relation to the work to be performed.

The Value:

- Fosters broad based competition.
- Affords the selected professional an opportunity to understand the public owner's needs and objectives as a basis for negotiating the professional fee.
- Saves money over bid-based methods, as proven in actual practice by public owners.
- Takes full advantage of creativity and expertise of the design professional.

What About Price-Based Selection?

An RFP that requests fee proposals requires the design professional to determine the lowest fee at which the tasks for the project can be accomplished. A fee proposal can only be as precise and accurate as the public owner's statement of the scope of work. For some projects it may be possible to state in advance a comprehensive scope of work on which proposals can be based, but many public projects are complex, often more so than they first appear.

Who Defines this Scope? — At What Cost?

You, as the public owner, must define the scope of design services you expect. This is a difficult task and is best accomplished jointly with the highest rated firm as determined using Qualifications Based Selection.

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How to Engage Design Professionals*

to achieve quality and cost effectiveness in public projects using

Qualifications Based Selection

As based on:

1. Federal Law PL 92-582
2. Federal Law PL 100-464
3. State Law KSA 75-5801
4. Common practice in public projects

*Registered architects, engineers, surveyors, and landscape architects

Do We Have to Use Qualifications Based Selection?

NO, you, the public owners, have the right to choose any selection process you wish. Likewise, the design professional has freedom of choice as to participation. For example:

Situation # 1

- You have an existing relationship with a design professional.
- Your needs are met, and the firm you are working with has the qualifications needed for the new project.

The recommended method for you is to continue the current relationship by jointly developing the new project scope, contract form and fee.

Situation # 2

- You do not have a relationship with a design professional.
- You have a project requiring the attention of a competent technical professional.

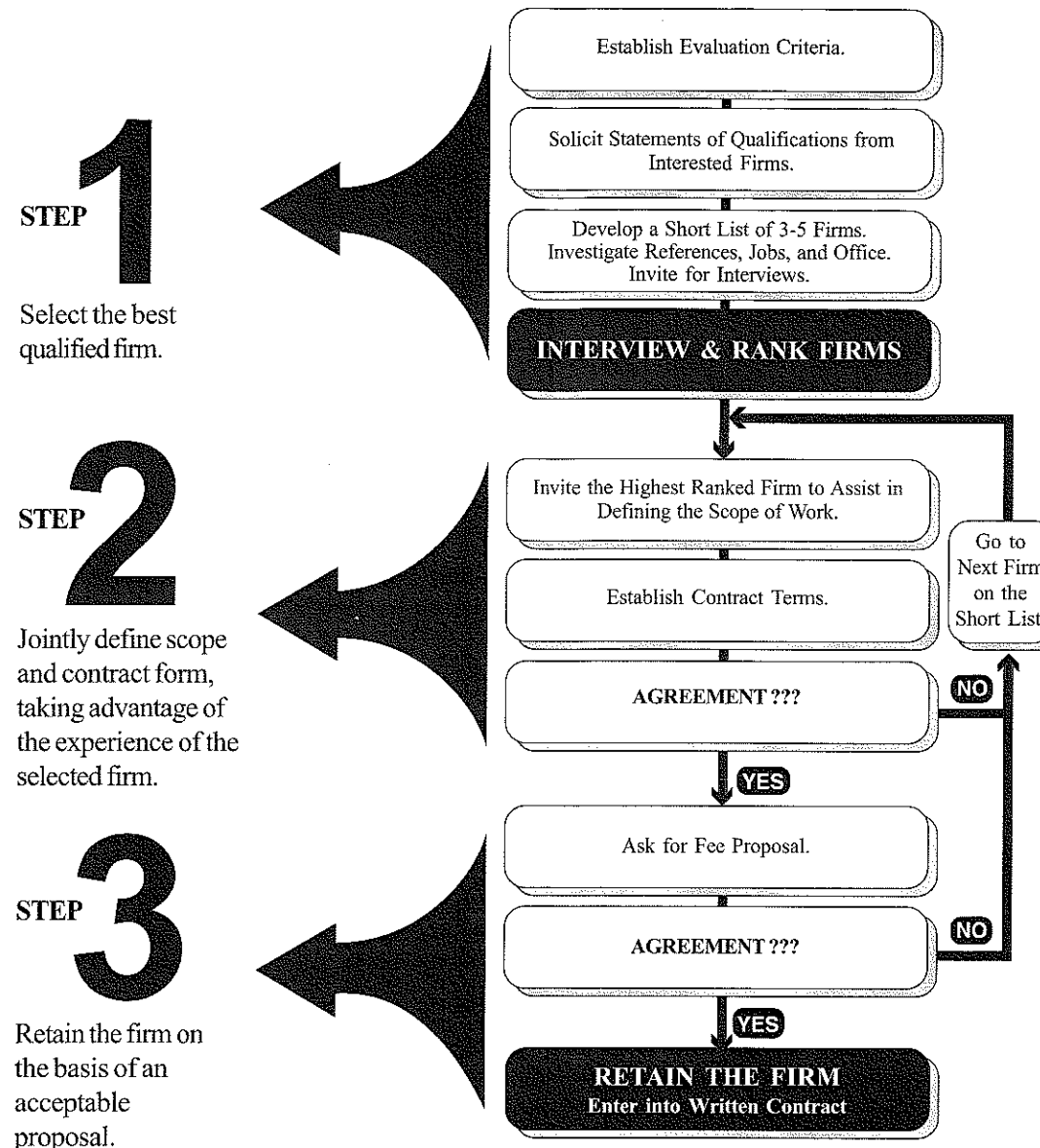
The recommended method for you is to use Qualifications Based Selection.

Situation # 3

- You may or may not have an existing relationship with a design professional.
- You have to (or want to) go through a competitive selection process.

The recommended method for you is to use Qualifications Based Selection.

This Qualifications Based Hiring Process Stands Up To Public Scrutiny.



Why Would a Public Owner Want to Use Qualifications Based Selection?

Because:

- High quality consultant services are only a small percentage of the project cost yet affect and influence the entire project cost and outcome.
- It promotes improved project quality by assuring that the client clearly understands the scope of work required.
- It leads to realistic construction bids based upon a definitive scope of work.
- Studies have shown that use of Qualifications Based Selection for public projects is more efficient and less costly than use of a selection process that uses price as a primary criterion.
- Qualifications Based Selection avoids the situation where the greatest benefit of the design professional's innovation and creativity is lost because its importance was not recognized at the fee proposal stage.