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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Elections and Urban
Affairs (SC-LEUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

03-05-2008

Packet

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Wisconsin

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AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Wisconsin

The American Council of Engineering Companies of Wisconsin

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the business voice of the Wisconsin consulting engineering industry

March 5, 2008

Senator Spencer Coggs
Senate Committee on Labor, Elections and Urban Affairs
Wisconsin State Legislature
Madison, WI

RE: SB295 SA1 – Qualifications Based Selection for Procurement of Professional Services

Dear Senator Coggs and Members of the Senate Committee on Labor, Elections and Urban Affairs:

March 5, 2008

Senator Spencer Coggs
Senate Committee on Labor, Elections and Urban Affairs
Wisconsin State Legislature
Madison, WI

RE: SB295 SA1 – Qualifications Based Selection for Procurement of Professional Services

Dear Senator Coggs and Members of the Senate Committee on Labor, Elections and Urban Affairs:

Thank you for holding this hearing on SB295 SA1. The American Council of Engineering Companies of Wisconsin (ACEC WI) supports this legislation. We believe it offers the best value for procurement of professional services. Receiving bipartisan support, this is a best practices bill, ensuring that the most qualified firm is selected and precious state funds are not wasted.

ACEC WI represents consulting engineering firms. Our member firms employ over 4,000 design professionals in 120 offices across the state. ACEC WI members play a critical role for Wisconsin, from designing infrastructure that assures the safety of its citizens and fuels economic development to developing ways to clean up and protect the environment.

Our members work with local communities, the state, and other governmental units to identify critical needs and solve problems. The design solutions are creative, cost effective, and provide clear direction for the bidding and construction of the final project.

Owners may have an idea of what is needed for a project, but it is almost never clearly defined. That's why they engage the services of a design professional – to help develop the project's scope. By selecting the most qualified firm, the owner is ensured of receiving the best value and the highest level of satisfaction over the life of the project.

SB295 SA1 spells out the process for selecting the most qualified firm through a Qualifications-Based Selection (QBS) process. Using this procurement process, an owner initially selects a design professional based on the owner's full satisfaction with the design professional's qualifications. The price is secondary. Using QBS does not mean there's a blank check given to the design professional. Price will always be a factor and, for state projects, providing value to the taxpayers of Wisconsin is paramount.

50th Anniversary



Building Wisconsin One Project at a Time

The difference in this procurement method is that price comes into play after the highest technically ranked firm is selected and the scope of work is fully defined. The owner is not obligated to contract with the top ranked firm if the two parties cannot agree on the tasks and money. The owner is never obligated to pay more than it can afford or has budgeted. The owner can simply move to the next highest ranked firm and begin negotiations.

QBS ensures safe, quality design work while saving taxpayers money, which is why state and local governments mandate it across the country. In fact, Wisconsin is one of only four states that do not have QBS legislation on the books.

This is best value procurement legislation that is time-tested, fair, and equitable. In 1972 Congress required QBS in order to save money and ensure quality design on all projects using federal funding. According to a U S Senate report that accompanied the federal legislation, the law's purpose was to codify practices of the previous 30 years of federal, state, and local governments to "retain the present practice of selecting the best qualified design professional, subject to the negotiations of compensation that is fair and reasonable to government." This bill's intent is to capture similar savings by having local governments use QBS. Here in Wisconsin, both the Department of Administration and the Department of Transportation use the QBS process in the selection of engineers and architects.

Cheap design is expensive. Design costs typically represent 10 – 15% of construction costs and, factoring design into the total life-cycle cost of projects, they represent 2% of the project. Yet the design professional incurs a significant responsibility in shaping the owner's concept into a workable project and a biddable set of drawings and specifications. It makes sense to hire the best-qualified design professional in order to reduce construction costs and longer term operations and maintenance costs. The small increases in design fees are more than offset by the long-term savings. Just one example of the successful use of QBS is the reconstruction of the Marquette Interchange, which is coming in on time and within budget largely in part because the QBS process was used for the selection of the design team.

For more than 20 years, ACEC WI has pooled resources with the American Institute of Architects, Wisconsin chapter, to provide public owners with tools and facilitation services to guide these units of government through the QBS process for selecting an engineer, architect, or land surveyor. There has never been a charge for this assistance. The QBS Wisconsin website receives more than 3,000 new visitors annually. Attached to this testimony is one of the tools we have made available; it provides answers to frequently asked questions.

Using QBS to procure design services provides value and saves the Wisconsin taxpayer money. ACEC WI asks you to vote in favor of SB295 SA1. Thank you.

Sincerely,


Carol Godiksen
Executive Director

Raasch, only bidder, selected for new center

BY TONY WALTER
twalter@greenbaypressgazette.com

Raasch Associates of Green Bay has been selected as the architect for the new Public Safety Communication Center, although some Brown County supervisors said they were unhappy that Raasch was the only bidder.

By voice vote, the Public Safety Committee approved hiring Raasch to do the design work for the center that will be constructed above one of the pods of the Brown County Jail.

Raasch will be required to design the center using certified LEED (Leadership in Energy and Environmental Design) standards. Its bid was \$216,000.

The selection of Raasch will have to be approved by the Brown County Board at its Feb. 20 meeting.

Bill Dowell, Facility Management director, said requests for proposals have been sent out to recruit bids from construction firms. Total cost of the new center is estimated to be \$3.6 million.

The Public Safety Communication Center is currently located on the second floor of the Green Bay Police Department, but county supervisors voted last year to build a new center. The present

center is cramped and is taking space that is needed by the police department.

Building the center under LEED standards adds \$40,000 to the architectural cost. Dowell said the same standards are being used in construction of the new mental health center.

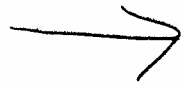
County Executive Tom Hinz said payback to the county by using LEED standards for the mental health center will be between three and five years. Dowell said he doesn't know what the payback timetable will be for the communication center but added that energy-saving measures will be a dominant part of the structure.

Requests for proposals were sent to 31 architecture firms, but Raasch was the only one to offer a bid.

"Are all the architecture firms so flush with work that they don't want to bid?" Supervisor Guy Zima said.

Committee Chairman Harold Kaye said he wasn't comfortable granting the project to the only bidder but said he was reassured after meeting with Raasch officials Wednesday morning.

Construction of the center is expected to begin in May or June, with completion expected in early 2009.



COMMON MISCONCEPTIONS

- MYTH:** Procuring engineering/architectural 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, 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.

www.qbswi.org

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QBS

Why Value Outweighs Cost
in the Selection of
Engineering Services

"When quality and value matter."

Qualifications-Based Selection



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/architectural 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/architectural 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 A/E 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 or architectural firm based on low bid prevents an owner from receiving the best value.

WHY QBS WORKS: QUALIFICATIONS-BASED SELECTION IS A BETTER WAY TO SELECT DESIGN PROFESSIONALS

Qualifications are the most important factors when choosing an engineering/architectural 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/architectural 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

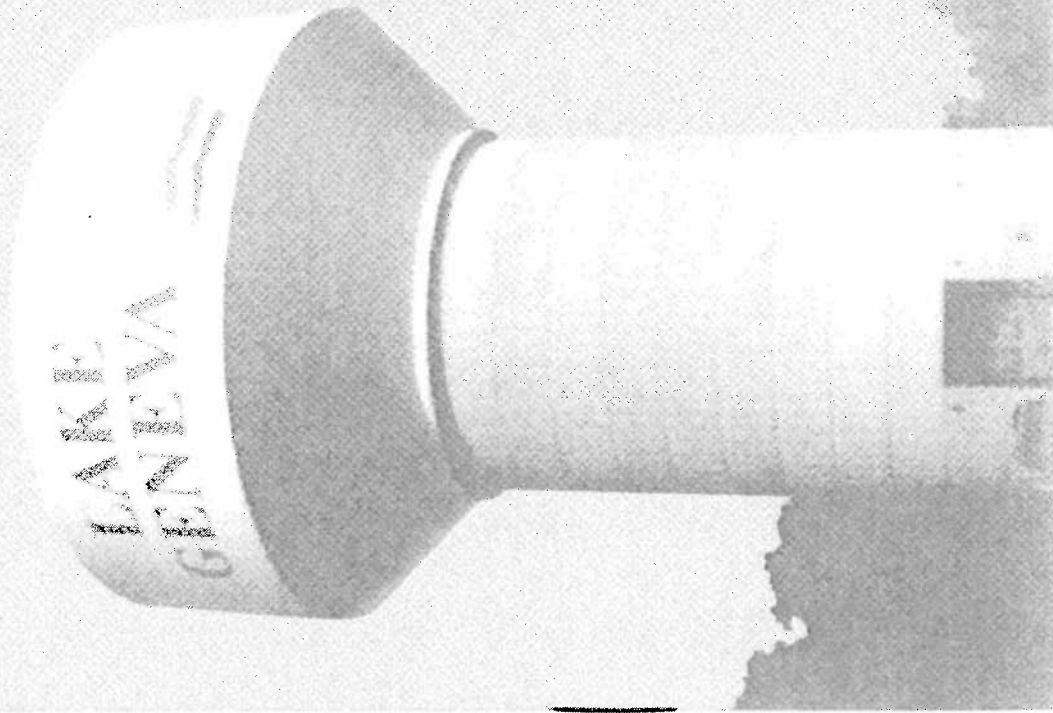
1. An owner identifies the general scope of work and develops a selection schedule.
2. A request for qualifications is issued.
3. Statements of qualifications are evaluated.
4. A short-list of qualified firms to be interviewed is determined.
5. Interviews are conducted and the firms are ranked.

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, these 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."

(Qualifications-Based Selection)



*Frequently
Asked
Questions*

1 What is QBS?

1 What is QBS?

QBS is the acronym for Qualifications-Based Selection, a method of procuring professional architectural and engineering (A/E) services that makes relevant qualifications and experience the paramount basis for selection. It is an accepted, time-tested, fair, and equitable method of selecting design professionals that replaces bidding and results in the best overall value for the project.

2 Why use QBS?

3 What are the benefits of QBS?

4 Is the competition fair?

5 Who uses QBS?

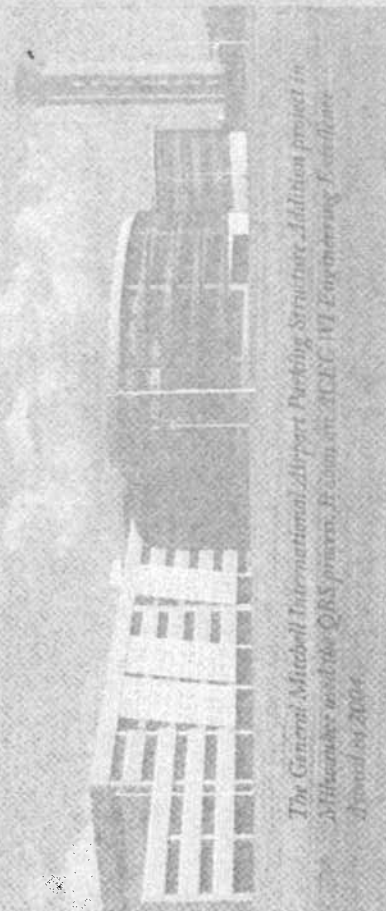
6 Why legislate QBS?

7 Where can I find more information?

8 The QBS process

Where did QBS come from?

The US Congress has long recognized the merits of competitive selection based on qualifications by requiring A/E services [for federal projects] be selected on the basis of competence and unique abilities. It was in the best interest of the taxpayers. In 1972, the US Congress established **US Public Law - 92-582 referred to as the "Brooks Act"**, which states that *"The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualifications"*



The General Mitchell International Airport Parking Structure Addition project in Milwaukee used the QBS process. Photo by GBCA, A/E Engineering Excellence Award 2004

1 What is QBS?

for the type of professional services required and at fair and reasonable prices."

Forty-six states and numerous local governments have followed the lead of the federal government requiring procurement of A/E services based on Qualifications-Based Selection.

How does Qualifications-Based Selection work?

The QBS process can be summarized in four steps:

- (1) The owner determines it needs A/E services for a project and invites interested firms to submit their qualifications and experience.
- (2) The owner reviews and evaluates the submissions and either selects an A/E firm or a short list of A/E firms.
- (3) Personal interviews may be conducted with these A/E firms to discuss their philosophy and approach to the project.
- (4) The owner ranks the firms and invites the top firm to negotiate a formal agreement. During negotiation, the scope of the project is further defined. If an agreement cannot be reached, which is unusual, the owner negotiates with the next highest rated firm.

The cost of A/E services is a factor in procurement, just not the only factor.

Qualifications-Based Selection

Frequently Asked Questions

2 Why use QBS?

Selecting design professionals is a key component to a successful project. The design team's performance will influence the entire course of the project - financial, feasibility, public response, design, functional efficiency, construction costs, and maintenance costs during the project's life. It is in the best interest of the public to retain professionals that are hired based on qualifications, not price.

Cheap design is expensive. Studies have shown for a typical public works project the costs, over the life of the facility, are 99% for operation, maintenance, and construction costs, and 1% for design costs. This demonstrates that if the "best-qualified" designer were able to reduce the long-term O&M and/or construction costs, it would be well worth any small increase in design fees.

I have been very pleased with the QBS process. The proposals I receive allow me to understand each firm's capabilities and compare the value that each will provide. Because price is not the only criteria I am able to select a firm that best satisfies the requirements of the project for the least cost.

Roy Simonson, PE
Director of Public Works
City of De Pere

3 What are the benefits of QBS?

- It reduces overall costs. The owner's time and money is saved through an organized approach. Involving the design team early in the project improves the design phase and can eliminate costly errors and re-design.
- It produces a better quality project based on the owner's needs and goals. This process fosters innovative, creative, cost-saving, and timesaving approaches to problems. It makes sure that project expectations are clear and minimizes long-term maintenance and repair costs.
- It allows a fair and open competition. QBS uses a uniform set of criteria and information shared equally with interested or invited A/E firms.
- It provides a defensible step-by-step process. This provides the owner with a written record to verify that a fair and open selection process was followed. It also allows the owner to select the highest qualified A/E firm based on qualifications specific to the needs of the project.
- It safeguards public interest by allowing the owner to focus on qualifications to achieve the owner's requirements, which will lead to a successful and cost effective construction project rather than just the lowest design cost.
- It allows the owner to maintain control of the design process. The selection of the A/E firm is based upon qualifications. The fee is negotiated. It gives the owner and A/E firm the chance to define the project scope and to add or subtract options so that the owner's expectations can be met.

QBS is unlike the "bidding" process that requires the A/E firm to only provide the narrow definition of services required in the bid document. With bidding, there is no ability for the owner to be assured the most cost effective solution will be developed. Bidding discourages the design professional from looking at alternatives and "thinking out of the box." Instead the quickest and easiest design answer will be used to minimize design time. The consequence is a design based only on basic standards without concern for construction cost and, more importantly, maintenance and life cycle costs, resulting in the owner not knowing the difference until it's too late.

The QBS system was a great solution for our recent selection process. The QBS Workbook provided us with the "nuts and bolts" of an excellent procedure for selecting the right firm for our planning projects. We were more than pleased with the system, as the firm we selected was truly the best choice. We (I) consistently recommend the process to other managers responsible for preparing RFPs.

Again, QBS is a great system! We will definitely use it again.

Tim Krueger
Village Manager
Village of Maple Bluff

4 Is the competition fair?

Is QBS consistent with competitive procedures?

Yes, the concept that public procurement should be on a competitive basis is fully met by QBS and negotiation procedures. It is highly competitive among the firms seeking the assignment. Congress' 1984 Competition in Contracting Act explicitly includes procurement of A/E services under the Brooks Act.

Does this process inhibit competition?

Not at all. It simply focuses competition for professional services on the most meaningful factors for the specific project: qualifications, competence, previous performance, and availability.

Does QBS eliminate price competition?

Not at all. Price is always a factor. The difference is price comes into play later in the selection process, after the highest technically ranked A/E firm is selected and the scope of work is fully defined.

Does bidding for A/E services create more competition?

No, the opposite is true. Many of the more qualified firms are not willing to "bid" on projects. Quality-oriented firms are far more interested in QBS opportunities, in part, because they can present their best ideas to save the owner money and find approaches to improve the projects.

Does QBS give small firms a fair chance?

Yes, QBS encourages competition based on a firm's ability to

perform a job. A small firm has the same opportunity to match its design team's experience against a larger firm for the project. The skills, experiences, and specialization of a firm and individuals are considered, not merely the number of employees.

What happens if the owner and A/E firm cannot agree on the fee?

The owner is not obligated to contract with the top ranked firm if the two parties cannot agree on the tasks and money. The owner is never required to pay more than it can afford or has budgeted. The owner can simply move to the next firm on the list.

QBS means the owner can negotiate a fair and

reasonable price for services.

Price is negotiated after the selection of the most competent, qualified professionals. Most

importantly, it means our buildings, bridges, roadways, and wastewater treatment facilities will be designed in the most competent and cost effective manner, not only for today, but also for the future.

The QBS process was extremely thorough. We felt very confident using QBS to select an engineering firm for our sewage treatment plant upgrade. The information and forms were easy to use and helped us make sure that "no stone was unturned."

QBS was the right way to go. The Village is very pleased with our selection. We will definitely use the process and the services of the QBS Wisconsin program, again!

Joel Yaeger
Utility Superintendent
Village of Writenberg

5 Who uses QBS?

QBS has long been recognized as the process that best serves the public interest throughout the nation and in many parts of the world.

- The State of Wisconsin procures A/E services through the QBS process (Wis Adm 20).
- Transportation projects with federal funding require QBS selection of design firms.
- Wisconsin municipalities and counties voluntarily use QBS, recognizing the influence on the entire project cost and outcome.
- The American Public Works Association, a professional association of public agencies, endorses QBS.
- QBS is included in the American Bar Association's model procurement code for state and local governments.
- Private owners use QBS, realizing it generates quality construction documents and realistic contractor bids.

These varied decision makers know QBS projects put the proper emphasis on public health, safety, and quality of life. Taxpayers benefit because QBS fosters the development of innovative, cost-effective design solutions at a fair market value. This consistently results in lower overall project costs; the minimization of delays, cost overruns and litigation; and reduced operating and ownership costs over the life of the project.

The Trinity Creek Wetland and Stream Enhancement project in Mequon used QBS. It won an ACEC WI Engineering Excellence Award in 2005.



6 Why legislate QBS?

• To clarify a confusing situation. It is a common misconception for Wisconsin public owners to believe A/E services must be bid. Professional services related to public works projects should not be confused with construction contractors' work, which typically must be publicly bid. In fact, the League of Wisconsin Municipalities includes information on its website clarifying A/E services do not have to be bid.

- To provide value and save Wisconsin taxpayers money. The Department of Administration understands the value of QBS. Wisconsin Adm Chapter 20 specifies A/E services shall be selected using a Qualifications-Based Selection. Forty-six states have passed legislation calling for the use of QBS to hire design professionals and the American Bar Association endorses QBS in its *Model Code for State and Local Government.*

Your QBS system is great. We followed the suggestions in the workbook to the letter in selecting the architect to design our new office & visitors' center. It made the entire process work smoothly, kept us on track and made sure we didn't forget anything. It was especially helpful for our Building Committee members, none of whom were experienced in selecting professional services for a project like this.

Our facility opened on September 17th. The QBS process resulted in an excellent choice in architects and, more importantly, a fantastic finished project. We encourage everyone to stop by and see our new Center!

Glenn Brill
Executive Director
Fond du Lac Area Convention & Visitors Bureau

7 Where can I find more information?

Visit the following websites for helpful resources and reference material.

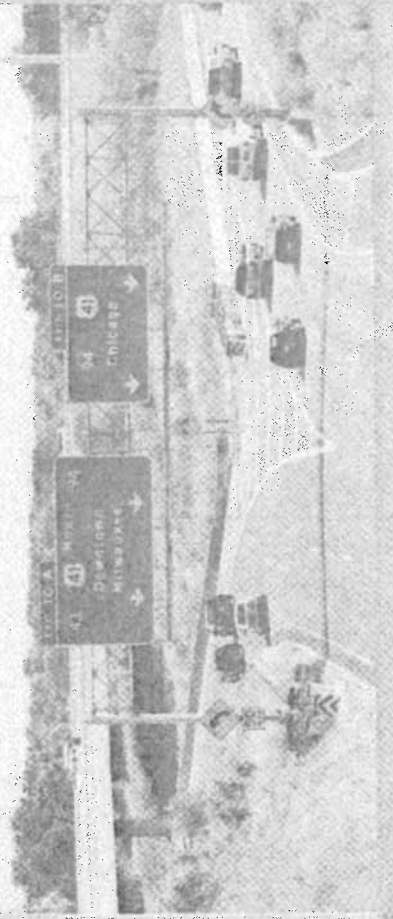
QBS Wisconsin website
www.qbswi.org

American Council of Engineering Companies of Wisconsin (ACEC WI)
www.acecwi.org (608) 257-9223

American Institute of Architects of Wisconsin (AIA Wisconsin)
www.aiaaw.org (608) 257-8477

League of Wisconsin Municipalities
<http://www.lwm-info.org/legal/faq/faq5.html#4>

The Interstate 894 resurfacing project in Milwaukee County used QBS. It won an ACEC WI Engineering Excellence Award in 2005.



8 The QBS Process

1

Planning

- Describe your project needs and goals
- Identify your selection committee
- Establish a schedule for selection
- Establish selection criteria
- Compile a list of Architecture/Engineering (A/E) firms



If you already have a relationship with a firm and determine the firm meets the criteria for your project, you may proceed to step 3, negotiation.

- Prepare a request for Statements of Qualifications (SOQ)
- Distribute the SOQ requests

2

Selection

- Evaluate SOQs
- Establish a short-list of A/E firms
- Inform all A/E firms of selection results



If you are able to make a decision based on SOQ, you may proceed to step 3, negotiation.

- Arrange a site tour
- Conduct interviews and rank firms
- Inform short-listed A/E firms of selection results

3

Negotiation

- Discuss approach, schedule and resources with highest ranked firm
- Negotiate fee, terms and conditions

The cities that I have worked for have procured professional engineering services using various methods over the years, ranging from competitive priced proposals to QBS. The QBS system, when used, has resulted in a better understanding by all the parties involved with respect to the project scope, work effort required and how the compensation was established. We have found QBS to be beneficial on those projects where the work scope is difficult to define, such as studies, project development and preliminary engineering analysis that require a significant amount of public participation to arrive at an ultimate decision.

Brian Amundson
Director of Public Works
City of Eau Claire

Contact us:

info@qbswi.org

www.qbswi.org

QBS resources are offered as a public service by:



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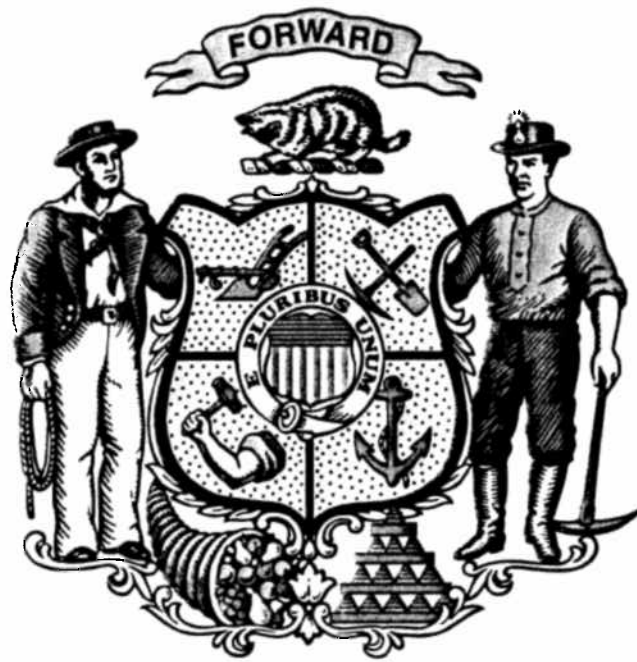
AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Wisconsin

The business voice of the Wisconsin consulting engineering industry



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Wisconsin

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SB295

Date?

Please Support AB 553 – Qualifications-Based Selection (QBS)

This bi-partisan bill is being offered by Representative Mark Gottlieb in the Assembly and Senator Jeff Plale in the Senate. This bill mirrors federal requirements for the use of the QBS method of procuring professional architectural and engineering (A/E) services. QBS ensures safe, quality design work while saving taxpayers money, which is why it is currently required across the country.

Why is this bill important?

- The federal Government requires QBS in order to save money and ensure quality design on all projects using federal funding. This bill hopes to capture similar savings by having local government use QBS on certain projects.
- Wisconsin is 1 of only 4 states that does not have QBS legislation on the books.
- In Wisconsin, both the Department of Administration and the Department of Transportation use the QBS process in the selection of engineers and architects with exceptional results.
- Procurement of design services using QBS provides value and saves Wisconsin taxpayers money.
- Cheap design is expensive. Design costs typically represent 1% of the total life-cycle cost of the project. It makes sense to hire the best qualified designer in order to reduce construction costs and longer term operations and maintenance costs.

50th Anniversary



Building Wisconsin One Project at a Time

Qualifications-Based Selection (QBS)

Frequently Asked Questions

What is QBS?

QBS is the acronym for Qualifications-Based Selection, a method of procuring professional architectural and engineering (A/E) services that makes relevant qualifications and experience the paramount basis for selection. It is an accepted, time-tested, fair, and equitable method of selecting design professionals that replaces bidding and results in the best overall value for the project.

Q. Where did QBS come from?

A. The US Congress has long recognized the merits of competitive selection based on qualifications by requiring A/E services [for federal projects] be selected on the basis of competence and unique abilities. It was in the best interest of the taxpayers. In 1972, the US Congress established **US Public Law - 92-582 referred to as the "Brooks Act"**, which states that *"The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualifications for the type of professional services required and at fair and reasonable prices."*

Forty-six states and numerous local governments have followed the lead of the federal government requiring procurement of A/E services based on Qualifications-Based Selection.

Q. How does Qualifications-Based Selection work?

A. The QBS process can be summarized in four steps:

- (1) The owner determines it needs A/E services for a project and invites interested firms to submit their qualifications and experience.
- (2) The owner reviews and evaluates the submissions and either selects an A/E firm or a short list of A/E firms.
- (3) Personal interviews may be conducted with these A/E firms to discuss their philosophy and approach to the project.
- (4) The owner ranks the firms and invites the top firm to negotiate a formal agreement. During negotiation, the scope of the project is further defined. If an agreement cannot be reached, which is unusual, the owner negotiates with the next highest rated firm.

The cost of A/E services is a factor in procurement, just not the only factor.

Why use QBS?

Selecting design professionals is a key component to a successful project. The design team's performance will influence the entire course of the project—financial, feasibility, public response, design, functional efficiency, construction costs, and maintenance costs during the

project's life. It is in the best interest of the public to retain professionals that are hired based on qualifications, not price.

Cheap design is expensive. Studies have shown for a typical public works project the costs, over the life of the facility, are 99% for operation, maintenance, and construction costs, and 1% for design costs. This demonstrates that if the "best-qualified" designer were able to reduce the long-term O&M and/or construction costs, it would be well worth any small increase in design fees.

What are the benefits of QBS?

- It reduces overall costs. The owner's time and money is saved through an organized approach. Involving the design team early in the project improves overall planning and can identify costly errors.
- It produces a better quality project based on the owner's needs and goals. This process fosters innovative, creative, cost-saving, and timesaving approaches to problems. It makes sure that project expectations are clear and minimizes long-term maintenance and repair.
- It allows a fair and open competition based on a uniform set of criteria and information shared equally with interested or invited A/E firms.
- It provides a defensible step-by-step process that allows the owner to select the highest qualified A/E firm based on qualifications specific to the needs of the project.
- It safeguards public interest by allowing the owner to focus on qualifications to achieve the owner's requirements, which will lead to a successful and cost effective construction project rather than just the lowest design cost.
- It allows the owner to maintain control of the design process. The selection of the A/E firm is based upon qualifications. The price is negotiated to be fair to both parties, which encourages teamwork. It gives the owner and A/E firm the chance to define the project scope and to add or subtract options so that the owner's expectations can be met.

QBS is unlike the "bidding" process that requires the A/E firm to only provide the narrow definition of services required in the bid document. With bidding, there is no ability for the owner to be assured the most cost effective solution will be developed. Bidding discourages the design professional from looking at alternatives and "thinking out of the box." Instead the quickest and easiest design answer will be used to minimize design time. The consequence is a design based only on basic standards without concern for construction cost and, more importantly, maintenance and life cycle costs, resulting in the owner not knowing the difference until it's too late.

Is the competition fair?

Q. Is QBS consistent with competitive procedures?

A. Yes, the concept that public procurement should be on a competitive basis is fully met by QBS and negotiation procedures. It is highly competitive among the firms seeking the assignment. Congress' 1984 Competition in Contracting Act explicitly includes procurement of A/E services under the Brooks Act.

Q. Does this process inhibit competition?

A. Not at all. It simply focuses competition for professional services on the most meaningful factors for the specific project: qualifications, competence, previous performance, and availability.

Q. Does QBS eliminate price competition?

A. Not at all. Price is always a factor. The difference is price comes into play later in the selection process, after the highest technically ranked A/E firm is selected and the scope of work is fully defined.

Q. Does bidding for A/E services create more competition?

A. No, the opposite is true. Many of the more qualified firms are not willing to "bid" on projects. Quality-oriented firms are far more interested in QBS opportunities, in part because they can present their best ideas to save the owner money and find approaches to improve the projects.

Q. Does QBS give small firms a fair chance?

A. Yes, QBS encourages competition based on a firm's ability to perform a job. A small firm has the same opportunity to match its design team's experience against a larger firm for the project. The skills, experiences, and specialization of a firm and individuals are considered, not merely the number of employees.

Q. What happens if the owner and A/E firm cannot agree on the fee?

A. The owner is not obligated to contract with the top ranked firm if the two parties cannot agree on the tasks and money. The owner is never required to pay more than it can afford or has budgeted. The owner can simply move to the next firm on the list.

QBS means the owner can negotiate a fair and reasonable price for services. Price is negotiated after the selection of the most competent, qualified professionals. Most importantly, it means our buildings, bridges, roadways, and wastewater treatment facilities will be designed in the most competent and cost effective manner, not only for today, but also for the future.

Who uses QBS?

QBS has long been recognized as the process that best serves the public interest throughout the nation and in many parts of the world.

- The State of Wisconsin procures A/E services through the QBS process (Wis Adm 20.)
- Transportation projects with federal funding require QBS selection of design firms.
- Wisconsin municipalities and counties voluntarily use QBS, recognizing the influence on the entire project cost and outcome.
- The American Public Works Association, a professional association of public agencies, endorses QBS.
- QBS is included in the American Bar Association's model procurement code for state and local governments.
- Private owners use QBS, realizing it generates quality construction documents and realistic contractor bids.

These varied decision makers know QBS projects put the proper emphasis on public health, safety, and quality of life. Taxpayers benefit because QBS fosters the development of innovative, cost-effective design solutions at a fair market value. This consistently results in

lower overall project costs; the minimization of delays, cost overruns and litigation; and reduced operating and ownership costs over the life of the project.

Why legislate QBS?

- To clarify a confusing situation.
It is a common misconception for Wisconsin public owners to believe A/E services must be bid. Professional services related to public works projects should not be confused with construction contractor's work, which typically must be publicly bid. In fact, the League of Wisconsin Municipalities includes information on its website clarifying A/E services do not have to be bid.
- To provide value and save Wisconsin taxpayers money.
The Department of Administration understands the value of QBS. Wisconsin Adm Chapter 20 specifies A/E services shall be selected using a Qualifications-Based Selection. Forty-six states have passed legislation calling for the use of QBS to hire design professionals, and the American Bar Association endorses QBS in its *Model Code for State and Local Government*.

Where can I go to find out more information?

Visit the following websites for helpful resources and reference material.

- QBS Wisconsin website, www.qbswi.org
- American Council of Engineering Companies of Wisconsin (ACEC WI) www.acecwi.org, 608/257-9223
- American Institute of Architects of Wisconsin (AIA Wisconsin) www.aiaw.org, 608/257-8477
- League of Wisconsin Municipalities <http://www.lwm-info.org/legal/faq/faq5.html> - 4



Date?

The difference in this procurement method is that price comes into play after the highest technically ranked firm is selected and the scope of work is fully defined. The owner is not obligated to contract with the top ranked firm if the two parties cannot agree on the tasks and money. The owner is never obligated to pay more than it can afford or has budgeted. The owner can simply move to the next highest ranked firm and begin negotiations.

already down road

QBS ensures safe, quality design work while saving taxpayers money, which is why state and local governments mandate it across the country. In fact, Wisconsin is one of only four states that do not have QBS legislation on the books.

This is best value procurement legislation that is time-tested, fair, and equitable. In 1972 Congress required QBS in order to save money and ensure quality design on all projects using federal funding. According to a U S Senate report that accompanied the federal legislation, the law's purpose was to codify practices of the previous 30 years of federal, state, and local governments to "retain the present practice of selecting the best qualified design professional, subject to the negotiations of compensation that is fair and reasonable to government." This bill's intent is to capture similar savings by having local governments use QBS. Here in Wisconsin, both the Department of Administration and the Department of Transportation use the QBS process in the selection of engineers and architects.

Cheap design is expensive. Design costs typically represent 10 – 15% of construction costs and, factoring design into the total life-cycle cost of projects, they represent 2% of the project. Yet the design professional incurs a significant responsibility in shaping the owner's concept into a workable project and a biddable set of drawings and specifications. It makes sense to hire the best-qualified design professional in order to reduce construction costs and longer term operations and maintenance costs. The small increases in design fees are more than offset by the long-term savings. Just one example of the successful use of QBS is the reconstruction of the Marquette Interchange, which is coming in on time and within budget largely in part because the QBS process was used for the selection of the design team.

For more than 20 years, ACEC WI has pooled resources with the American Institute of Architects, Wisconsin chapter, to provide public owners with tools and facilitation services to guide these units of government through the QBS process for selecting an engineer, architect, or land surveyor. There has never been a charge for this assistance. The QBS Wisconsin website receives more than 3,000 new visitors annually. Attached to this testimony is one of the tools we have made available; it provides answers to frequently asked questions.

Using QBS to procure design services provides value and saves the Wisconsin taxpayer money. ACEC WI asks you to vote in favor of SB295 SA1. Thank you.

Sincerely,


Carol Godiksen
Executive Director



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- ▶ Lobbyists



as of Monday, March 03, 2008

2007-2008 legislative session
Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

Senate Bill 295

limiting the use of the lowest responsible bidder process and requiring local units of government to use the qualification-based selection process for certain public works consulting contracts. (FE)

<p>TEXT sponsors LBR analysis</p>	<p>STATUS committee actions and votes text of amendments</p>	<p>COST & HOURS of lobbying efforts directed at this proposal</p>
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Organization		These organizations have reported lobbying on this proposal:	Place pointer on icon to display comments, click icon to display prior comments		
Profile	Interests		Date Notified	Position	Comments
●	●	American Council of Engineering Companies of Wisconsin	1/7/2008	↑	
●	●	Associated General Contractors of Greater Milwaukee Inc	11/9/2007	↔	
●	●	Associated General Contractors of Wisconsin Inc	11/5/2007	↔	
●	●	Brown County	1/22/2008	↓	
●	●	Fox Cities Chamber of Commerce & Industry	11/9/2007	?	
●	●	League of Wisconsin Municipalities	2/28/2008	↓	
●	●	Waukesha County	2/28/2008	↓	
●	●	Wisconsin Alliance of Cities Inc	12/18/2007	↓	
●	●	Wisconsin Society of Architects	11/27/2007	↑	
●	●	Wisconsin Technical College District Boards Association Inc	1/8/2008	?	
●	●	Wisconsin Towns Association	12/9/2007	↓	
●	●	Wisconsin Transportation Builders Association	11/9/2007	↑	

Select a legislative proposal and click "go"

House	<div style="border: 1px solid black; padding: 2px;"> Assembly Senate </div>
Proposal Type	<div style="border: 1px solid black; padding: 2px;"> Bill Joint Resolution Resolution </div>