

# Qualifications-Based Selection (QBS)





Promoting the Value of Quality First




## Objectives

- Understand the benefits that QBS provides to design professionals, public agencies, and the public and why we use it
- Provide an overview of Federal and California statutes that address procurement of professional services
- Help public clients adopt, understand, appreciate and comply with QBS policies

## Qualifications-Based Selection

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  - **Competitive Procurement Process used to Hire Design Professional Services based on qualifications**
    - Engineering, Land Surveying, Architectural, Construction Management, Environmental
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  - **Different than Hiring Contractors**
    - Construction contractors compete for a specified product. Innovation is rewarded when their means and methods result in lower cost.
    - *And not necessarily do the best qualified contractor always win.*
    - Procuring professional services is unique, not a commodity
    - Factors like experience, innovation, and reputation are key to evaluating designers that are likely to reduce bids, claims, life-cycle costs
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  - **State and federal statutes require public agencies to use QBS when procuring professional services**
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  - **QBS Process typically considers competitive factors such as:**
    - Relevant project experience
    - Experience of key personnel assigned
    - Depth of resources
    - Project Manager
    - Past Performance and client references
- **Goal**
    - Identify the best qualified firm or professional for the work
    - Then negotiate a fair and reasonable price for that work

## Support for QBS




- *"The successful selection of a consultant is the most important decision in a successful project. The process that best utilizes a fair and equitable selection is Qualifications-Based Selection." - American Public Works Association (APWA)*
- *The American Society of Civil Engineers (ASCE) believes that the selection of Professional Engineers as prime consultants and subcontractors should be based on the qualifications of the engineering firm. Qualifications including education, training, experience, past-performance, capabilities, personnel and workloads should be evaluated when selecting an engineering firm.*
- *It is the policy of the National Society of Professional Engineers (NSPE) that all engineering services should be performed by qualified engineers on the basis of design ability, experience, integrity and judgment. Engineering is a learned profession, requiring of its members sound technical experience, personal ability, education, honesty, and integrity.*

## Professional Services




- **The quality of professionals service impacts:**
  - Construction documents, detailing, completeness of specification
  - Construction cost and the ability of a contractor to bid work
  - The potential for problems to develop during construction (claims, delays, overruns, unanticipated conditions)
  - Public satisfaction with the completed public work
  - The satisfaction of the agency's personnel in using and managing those professional services
  - Safety and project risks
- **Cost of professional services relate to:**
  - Time spent working on the project
    - Experience working with similar types of projects, codes, site conditions, or standards
    - Staff resources and availability
- **Quality and cost of services are most often directly related to time spent working on a project**
- **There is value in procuring professional services based on the demonstrated competence, experience, background and reputation of the professional(s) who will be doing the work**

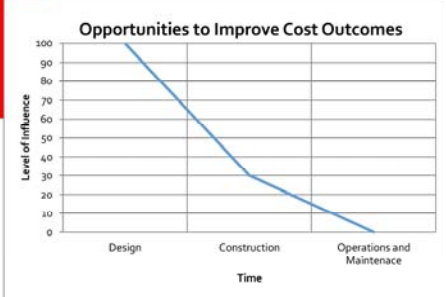
## Typical Steps of QBS Process



1. Agency identifies project and need for professional services.
2. Request for Qualifications is prepared and published stating project background, types of services required, submittal requirement, and scoring criteria
3. Statement of Qualifications are received, reviewed and submittals are ranked
4. Interviews are conducted with a limited number of the highest ranked firms (typically 3) to further evaluate qualifications
5. Firms are ranked by the agency: 1, 2, 3, and so on.
6. Negotiations begin with #1 highest ranked firm to settle on a fair and reasonable price for the scope of work. If those negotiations fail, agency moves on to #2, etc.



- 2009 Study prepared by APWA reports:
  - 93 percent of owners surveyed on QBS projects rated the success of their final project as high or very high
  - Public agencies using QBS to procure A-E services are better able to control construction costs and achieve a consistently high degree of project satisfaction than those using other procurement methods,
  - While the industry average on construction cost growth (defined by the value of the cost of change orders as a percentage of the final construction cost) is approximately 10 percent, QBS projects are 3 percent.
    - Also depends on scope, risks and effort (fee) that resulted from negotiations
- Greater public appreciation
  - Construction projects that address community needs, are time and impactful are appreciated by everyone
  - Shows responsible use of tax payer \$
- Sets a standard for quality and improvement
  - Design team perceives success
  - Lasting professional relationships may develop



**Opportunities to Improve Cost Outcomes**

Time	Level of Influence
Design	100
Construction	~35
Operations and Maintenance	0

## Cost-Effective

- Need to consider all project related costs
  - Construction, maintenance, operation, sustainability
  - Construction claims, delays or litigation
  - Design services are key to controlling construction and life-cycle costs
  - Biggest potential for savings/benefits is at the earliest phases of a project (before project is on a fixed path)


### Addresses Community Priorities

- Clients collaborate with professionals
- Increased Focus on Sustainability
- Design for Long-Term Value
- Seeks Innovation
- Less chance of costly litigation
- Fewer construction delays

### Trust


- A focus of APWA (2009) study and not always given specific attention
  - Contract officers measure trust in terms of believing a design consultant can meet the owner's project goals and with the technical requirements needed for the project
  - The trust variable is one that appears to receive consistently high scores from the design team respondents
  - Although trust may not be exclusive to QBS procurement relationships, it is valued highly by QBS-focused teams and is considered a significant benefit by these organizations
  - Encouraged when qualifications of team and individuals are acknowledged, and the agency and firm can discuss scope of work and risks openly to mutual benefit

Agreement Level for Six Trust Variables	1- Low to 5- High	1	2	3	4	5
Evenhanded Negotiations		0%	17%	10%	47%	27%
Act Opportunistically		23%	43%	13%	20%	0%
Lack of Confidence		30%	53%	13%	3%	0%
Hesitant With Vague Specifications		23%	40%	30%	7%	0%
Trustworthy		3%	0%	17%	40%	40%
Positive Experience		3%	3%	7%	43%	43%



Case history analysis

- Signs QBS is working
  - On-time, on-budget
  - Plans are easy to read, information is complete, and it is exactly what the agency's PM was expecting, or better...
  - Bids are reasonable. Minimal construction change orders or claims.
  - Public acknowledges success of project
  - Does not mean you will not have difficult projects
- Signs QBS was not used
  - Frequent claims from design team for work not included in scope
  - Work is late, requires significant red-lines
  - Good price, but folks assigned to project are not experience with this type of work
  - Call ID shows it is your consultant and you do not want to answer



Key Points

**QBS should:**

- Help agencies identify the best qualified firm for project
- Give satisfaction to agency and public with completed work
- Reward creativity, promote sustainability and specific goals of community
- Create time- and/or lifecycle cost-savings

# Statutes

The federal and State laws that guide all public agency procurement of design professionals in California

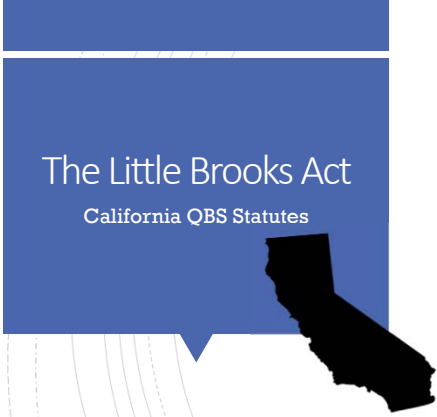


## The Brooks Act

Federal QBS Statutes




- Signed into law October 27, 1972
- Requirement to use federal funding
- 46 states followed federal lead
- *“Sec. 902. 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 qualification** for the type of professional services required and at fair and reasonable prices.”*



The Little Brooks Act  
California QBS Statutes


- Government Code 4526: “ *Notwithstanding any other provision of law, **selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.***”
- Required of State and local agencies
- Selection shall be based on qualifications and demonstrated competence (cost cannot be a factor)
- Step-by-step process mandated in statute
- Caltrans
  - Division of Local Assistance, LAPM Chapter 10
  - Simplified Acquisitions Threshold



Local Agencies


- All local agencies, including charter cities
- No exceptions
- California statutes allow local agencies flexibility to choose the steps they follow to comply with QBS or to follow the State procedure—but cost components cannot be a factor until after the initial selection.
- Section 4527(a) sets forth the specific procedures that a state agency must follow in providing notice of an RFP and the criteria for “selection” (as that term is used in Section 4526) of responsive firms. In making the selection, the state agency “shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project.” Consideration of costs is not authorized.”





Local Agencies


- Section 4527(a) authorizes discussions with no less than three firms regarding
- Discussion can include:
  - Anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services
- Local Agencies then shall select therefrom, in order of preference, based upon criteria established and published by the agency, no less than three of the firms deemed to be the most highly qualified to provide the services required.



Local Agencies


Section 4528(a) authorizes selection of the best qualified firm as follows:

- (1) ... [a]t compensation which the agency head determines is fair and reasonable to the agency.
- (2) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable . . . The agency head shall then undertake negotiations with the second most qualified firm.
- (3) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, the agency head shall select additional firms in order of their competence and qualification . . .




Common Misconceptions

- Proposition 35 (2000) overruled mandatory use of QBS
- Upheld in *Professional Engineers in California Government v. Kempton* decision
  - held that Proposition 35 did not impliedly repeal the QBS statutes, which remained in full force and effect



ACEC California

We are committed to serving our members and their public clients through an educational campaign that promotes the use of appropriate application of QBS processes.



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California

