

Why Use Qualifications-Based Selection (QBS)?

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Three years ago, I fell off a ladder and fractured my left elbow joint requiring surgery. At the time, searching for the right surgeon seemed like a time consuming process, involving finding one with experience performing surgery similar to my circumstance, interviewing them and checking references. Even though I was unsure how I was going to pay for the surgery, I focused on identifying the most qualified surgeon for the job first. In the end, I am glad that I took extensive measures to select the most qualified one because any error in the operation could have left me with a crippled hand.

In the same regard, when selecting a consultant for a new project do we want to choose them based on who is **least expensive** or the **most qualified**?

This article describes the process of selecting consultants in the architecture/engineering (A/E) industry based on qualifications through the Qualifications-Based Selection (QBS) method (mandated by law) and presents and analyzes findings that support this method based on a recent APWA local and national survey.

What is the QBS process?

The QBS process involves evaluating a consultant based on qualifications first followed by negotiation of a fair and reasonable fee. It focuses on recognizing the critical role of professional services in building our public infrastructure.

QBS begins when a project owner (agency) establishes evaluation criteria and solicits from consultants through a request for qualifications (RFQ) or a request for proposals (RFP). While the RFQ and RFP process is similar, RFQ's differ because its criteria is typically general, whereas RFP's are more project specific (i.e. describes project challenges and approach). During the selection process, agencies review submitted consultant qualifications, shortlist top ranked firms, and interview them. The highest ranked firm is selected and enters into contract negotiation of the initial scope of work and fee. If an agreement cannot be reached, an agency can negotiate a contract with the second ranked consultant and so on until an agreement is reached.

Why Use QBS?

Compared to the selection of consultants based on price, studies indicate that the QBS process lowers agency risk, provides higher quality of service and lowers lifetime costs of a project. QBS benefits include:

- Provides agencies with confidence in selecting the most qualified consultant
- Flexible process that can be tailored to fit agency needs
- Promotes technical innovation and creativity
- Encourages competition based on merit
- Clearly defines scope of consultants work before asking for a cost estimate
- Is a negotiated and competitive procurement process
- Is well documented and open to audit
- Establishes positive relationships between agency and consultant
- Creates teamwork culture helping consultants to understand community/agency concerns
- Projects meet the needs of public health and safety

The Law

- Brooks Bill (Public Law 92-582), enacted in 1972 by Congress, is a federal policy requiring the selection of A/E consulting services based on competence and qualifications at a fair and reasonable price. In 1987, legislator approved concurrent resolution No. 206 urged state and local agencies to use the QBS process.
- The Washington State Legislature adopted the WA Mini-Brooks Law in 1981 (RCW Chapter 39.80) for A/E service contracts. It covers professional services rendered by any person,

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Familiarity with Project	4	4
Responsiveness to Solicitation Requirements	4	4
Immediate Availability	4	4
References	4	4
Location of Firm to Project Size & Scope	3	3
Level of Effort Estimates	3	3 & 1
Desire to Spread Work	3	3
Location of Firm to Agency	3	3
Desire to Retain Consultant for Follow-Up Work	3	3
Familiarity of Firm through Networking	3	3
Marketing Materials	2	2
Funding Source	2	2

As demonstrated by this table, agencies and consultants rated most of the survey questions similarly. The following categories capture their most important factors in selecting consultants:

Qualifications

- Similar past work experience
- Proposed team's qualifications
- Specific experience on the project
- Quantity of similar projects performed
- References

Competence

- Ability to perform specific tasks
- Capability to perform the work
- Depth
- Back-up support
- Reputation

Past Performance

- Responsiveness
- Availability
- Meeting deadlines
- Cares about community and client concerns
- Keeps promises
- Offering qualified subconsultants on the team

The majority surveyed (74.3% of public agency representatives and 96.6% of consultants) agreed that selection of consulting services should follow the QBS method. Then why are we not utilizing the QBS process more regularly? When we use the QBS process, why are we not following the process effectively? Do we sincerely believe in the QBS process or do it because we are required?

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One contributing factor is that Washington State law lacks strong enforcement mechanisms and leaves the law open to interpretation. As a result, misguided interpretation, implementation and enforcement of QBS combined with uninformed and inexperienced contracting officers create the current challenges.

In the hopes of clarifying QBS, the following addresses common misconceptions and comments expressed in response to the survey.

Misconception

"QBS Costs More and Creates a Lot of Work on Both Sides"

This suggests that an agency is at a disadvantage when negotiating fees after a consultant is selected for work. By referring to national/local fee scale surveys and discussing consultant fees with firms that agencies have worked with or with other agency colleagues, typical consultant fees can be conveniently identified within a particular state or region.

Also, during the fee negotiation process, if an agreement is not reached, the QBS process allows an agency to negotiate with the next highest ranked firm, thus, creating an atmosphere of competitive pricing while maintaining a highly qualified consultant.

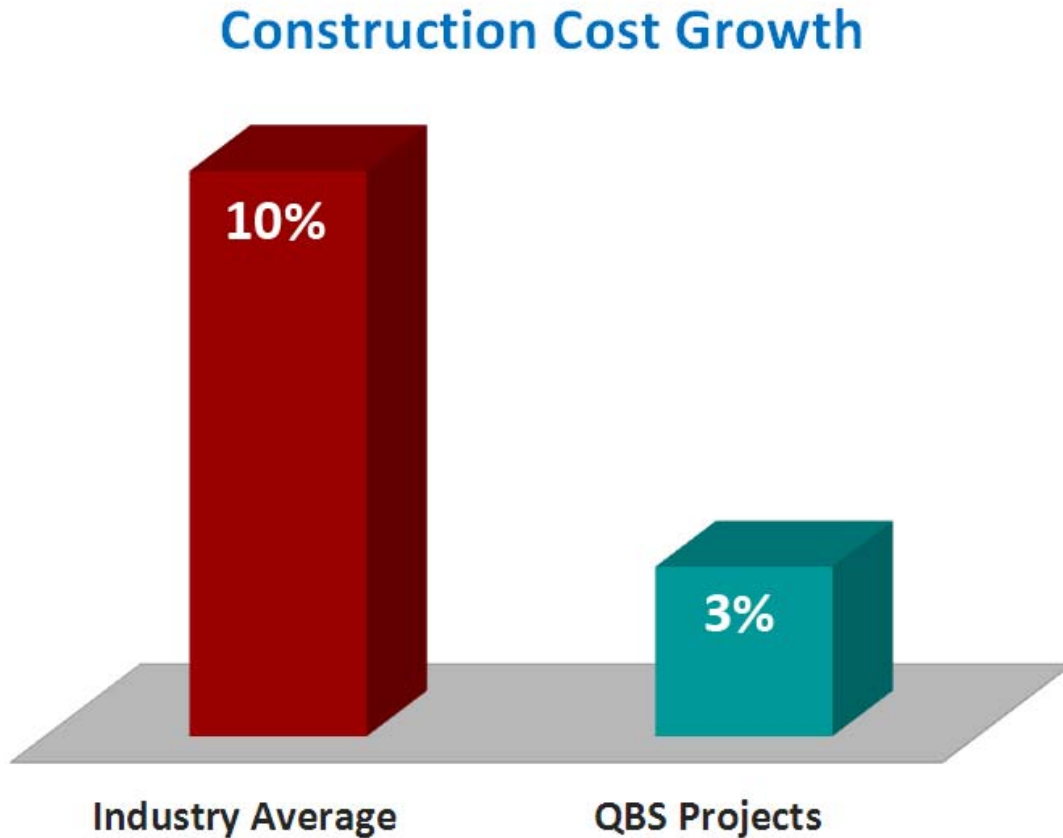


On the other hand, no matter how small and non-complex a project is, when a consultant is forced to submit a low bid to win a job, their priority shifts from protecting the agency's interest to protecting its financial well-being. As a result, a smaller project could develop into a large liability for an agency.

In most cases, while agencies and consultants feel they have to go through a time-consuming selection process, at the end they both reach an agreement that it is well worth the effort. The following are a few supporting reasons.

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Consultant Impact on Project Cost: Based on the 2009 APWA/ACEC (American Council of Engineering Companies) national study on QBS, “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 three percent.”



When a consultant is selected based on their qualifications, their most innovative and creative efforts are proposed in order to stay competitive. Consultants will have enough time to pay more attention to items that protect public health and safety. Because an agreed scope and price has been reached, consultants are less pressured to minimize their efforts by devoting less time to project details, considering fewer alternatives or reducing quality checks. These cost savings are substantially more than one percent of the total project cost.

Undefined Scope of Work: In most cases, it's premature to ask for a consultant's fee because the scope is not fully defined. There is a full range of services that can be provided and specific project details that need to be discussed to come to a mutual agreement. One major difference between bidding construction contracts compared to requesting fee proposals is the scope. When a contractor bids for work the project scope is defined with design documents and quantifying bid items. When selecting consultants, the scope is not always fully defined, especially during the conceptual phase.

Building Stronger Relationships: QBS is the primary method to eliminate adversarial relationships. When a consultant is selected for a project, they become the advocate/primary representative for an agency. The ACEC/APWA national study reveals that “93% of owners surveyed on QBS projects in the study rated the success of their final project high or very high...The study found other similar indicators of satisfaction and quality, including a high level of trust...”

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A consultant is hired to make critical decisions or provide advice for an agency and eventually an agency has to take ownership for those decisions. It becomes critical to establish a positive, trustworthy and reliable relationship between an agency and consultant from the beginning. This is not to be confused with a buyer-seller relationship which results in providing limited services in proportion to the fee received; it must foster cooperation and help the consultant understand community and public agency concerns, culture and objectives. A consultant's incorrect decision could substantially cost an agency to correct or mitigate consequences and liabilities.

Comment

"I Don't Use QBS for Smaller Projects."

The size of a project can be so small resulting in few consultant responses to an RFQ undermining the main purpose of QBS. By the time a consultant goes through a complete QBS process for a small size project, they have already lost their profit.

Nevertheless, QBS can be modified if an agency either has or subscribes to a consultant roster. As part of the consultant roster, firms submit a general SOQ that can be used by an agency to determine whether consultants have the appropriate resources to perform work on an on-call basis. When project assistance is needed, agencies can shortlist the most qualified consultants off the roster and conduct one or a combination of:

- Phone interviews
- In-person informal meetings
- Formal interviews
- Sending an RFP specific to the project

It would be highly helpful if agencies have codes or policies in place describing these specific processes.

Another option is an on-call agreement. This is a situation where an agency has already selected a consultant or several consultants from their roster to perform a specific type of professional service and has pre-qualified them into an on-call agreement. In this agreement, the QBS selection, negotiation of a general scope of work, and approval of an hourly rate structure is completed. As work is needed by an agency, a task order is issued with a specific scope and total fee amount.

In both of these options, there is effort spent by both agencies and consultants to complete a general selection process and a contract agreement in advance to allow work to begin quickly and on multiple projects without going through the QBS process on short notice for smaller projects.

On the other hand, how small does a project have to be to follow this different QBS process? The range of a consultant's profit is a percentage of the project cost. As an example, for a \$200,000 project, a consultant's fee ranges from 5-10 percent with a profit of 5-10 percent of that fee making the consultant's profit \$2,000. With such a limited profit it is not encouraging for a consultant to go through the complete QBS process. This is why the use of a consultant roster or an on-call consultant agreement via the QBS process is a more appropriate approach.

Comment

"We Like to Choose Local Consultants Who Contribute to the Local Community."

What if a preferred consultant is not the most qualified to work on a specific project? Public agencies are committed to providing quality projects with the least amount of short and long term costs. If an unqualified consultant's work results in higher construction and maintenance costs then a commitment to the community has not been fulfilled. When several different consultants are invited to compete in order to find the best fit for a particular project then the local community benefits the most.

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A workshop on QBS was recently conducted during the 2010 APWA Washington State Chapter Fall Conference. At this workshop consultants and agencies agreed that selecting local consultants is justified if it's proven to be important to the performance of a project. Nevertheless, political bias or local preferences, although a real issue for elected officials, is not a valid reason to use location as criteria for selection.

Comment

"We Want to Continue Using the Same Consultant on Other Phases of the Work and on Future Projects Since We Know They Will Do a Good Job for Us."

A consultant that has performed successfully for an agency has certainly established a positive relationship and a commitment to a quality performance. Here again, QBS is flexible in that it enables an agency to address its preferences in the RFQ. As an example, we have seen requests state that a contract may be extended for other phases of a project for the selected consultant upon an agency's satisfaction of work during the first phase.

How about using the same consultant for many years without issuing an RFQ or RFP? Or asking the preferred consultant to perform other tasks that may be a conflict of interest? Examples of common conflicts of interest involve when a geotechnical firm that designs a foundation performs quality assurance of its own design, or a survey consultant performs quality assurance surveying for an agency while working for the contractor, or when a designer manages construction of its project, therefore, not being in a position to provide a third-party judgment especially when the design documents are in need of changes and corrections.

Do these relationships guarantee that an agency representing the public is getting optimal results? Are there other consultants that can do a better job using a more innovative approach to minimize risks, costs and a better life cycle product? Is it possible that the preferred consultant is taking the situation for granted and minimizing their incentive to do a better job and be more innovative and creative? Would using the same consultant minimize an agency's exposure to more qualified consultants?

This is not about fairness or trying to spread work. Our focus should be concerned with what is the best approach for the tax payers. By processing QBS regardless of past relationships we promote competition, inspire innovation, and find ways to reduce costs and risk, and provide safer options to manage projects.

The ACEC/APWA national study found that ["the study results support the conclusion that QBS should be considered the procurement method of choice....new challenges that owners must now address actually reinforce the need for QBS."](#) Because of its competitive nature, QBS motivates consultants to be more creative and innovative while keeping an agency's best interest in mind. QBS delivers the best value for the price by reducing construction claims and operation and maintenance costs. To get the most out of QBS, agencies and consultants first need to believe in the rightness of the method, and then strive to apply it with an unbiased and thorough interpretation and implementation of the law.

Sam Yaghmaie is the 2010 recipient of APWA's James Robertson Award (which recognizes outstanding service to the Washington State Chapter). He is co-chair of the APWA Washington State Chapter's CM Committee, is vice chair of APWA's National Sustainable Transportation Subcommittee, and has served as president of CMAA (Washington Chapter) for two years. He can be reached at (206) 898-5594 or syaghmaie@harris-assoc.com.