



AIA Kansas Qualifications-Based-Selection

A Process for the Selection of Architects by Public Owners

Preface

How do public owners choose an architect? When selecting a design professional, a public owner's primary concerns are to get the best available design services for the taxpayers' money and conduct a fair and equitable selection process. Qualifications-based selection, or QBS, evolved from the public owner's need to be an informed consumer and to have a logical, fair, and objective means of selecting an architect.

This traditional, qualifications-based approach to procuring architectural and engineering services on publicly funded projects was codified into law (P.L. 92-582) in 1972 by the U.S. Congress. Called the "Brooks Act" after U.S. Representative Jack Brooks of Texas, the legislation's sponsor, the law requires that architects and engineers be selected for all federal government projects on the basis of qualifications, subject to negotiation of fair and reasonable compensation.

Whether it's called Brooks selection or qualifications-based selection, the process is the same. It provides owners with a fair, rational, and efficient method of selecting an architect based on an evaluation of the architect's qualifications and competence as they relate to the demands and needs of the specific project. QBS is used not only by the federal government but also by most states and numerous localities. And QBS is recommended by the American Bar Association's Model Procurement Code for State and Local Government.

The American Institute of Architects has long supported the qualifications-based approach to selecting architects for public projects. All clients in the public and private sectors are, of course, free to choose an architect by whatever lawful method they believe best suits their needs, and it is not the policy of the AIA that it is unprofessional or unethical for architects to submit price quotations. Long experience with many successful and unsuccessful projects tells us, however, that selection first on the basis of qualifications, followed by negotiation of a fair and reasonable fee, and is most likely to achieve the good results every public owner desires.

WHY DO PUBLIC OWNERS USE QBS?

The QBS process recognizes that design professionals play a critical role in the public building process and that procurement of architectural services is a very specialized type of procurement. The quality of the design services provided by the architect or engineer is the single most important factor in determining the overall construction costs and life-cycle costs of a building. Since design services represent only a small percentage of the initial construction

budget, it is in the best interest of the taxpayer to ensure that the most qualified firms are selected for public projects.

Competitive bidding for architectural and engineering services is not in the best interest of the public owner. At the beginning of the selection procedure, the client often is not aware of which professional services are required; the client and the selected architect define the scope of those services as part of their negotiation to ensure that the services provided fully meet the owner's needs.

In recommending QBS for public owners, the American Bar Association's Model Procurement Code for State and Local Governments says:

The principal reasons supporting this selection procedure for architect-engineer and land surveying services are the lack of a definitive scope of work for such services at the time the selection is made and the importance of selecting the best qualified firm. In general, the architect-engineer or land surveyor is engaged to represent the (state's) interest and is, therefore, in a different relationship with the (state) from that normally existing in a buyer-seller situation. For these reasons, the qualifications, competence, and availability of three most qualified architect-engineer or land surveying firms is considered initially, and price negotiated later.

In addition, studies have shown that the use of QBS for public buildings is more efficient and less costly than the use of a selection system that uses price as a primary criteria.

HOW DOES QBS WORK?

QBS is a fair and rational procedure that facilitates the selection of a design professional for government projects based on qualifications and competence in relation to the scope and needs of the particular project. There is no magic process that is QBS. Instead, QBS evolves from multiple variables that must be tailored to fit each specific project.

In most instances, the QBS process will include all or part of the following steps.

1. The owner identifies the general scope of work.
2. The selection time frame is established.
3. A list of architectural firms is compiled.
4. Letters of qualifications are requested.
5. Letters of qualifications are evaluated.
6. A short list of firms to be interviewed is determined.
7. A tour of the site and/or facility is arranged for short-listed firms.
8. Interviews are conducted and the firms ranked for selection.
9. A contract is negotiated with the selected firm. If an agreement cannot be reached with the top-ranked firm, those negotiations are ended and negotiations begin with the second-ranked firm, and so on down the line until agreement is reached.
10. All firms involved receive post-selection communications.

This process, and variations, are detailed in the following sections.

DEVELOPING THE GENERAL SCOPE OF WORK

To begin the selection process, the public owner must briefly identify the general scope and the particular needs of the project. Just as the owner needs information about the qualifications and competence of the architectural firms, the firms need to know what the project parameters are. When the scope of work is properly described and communicated, it saves time, money, and effort for the owner and the architects alike. A well-defined scope of work allows the architectural firms to tailor their statements of qualifications directly to the project requirements, and provides the owner with a more uniform basis for evaluating the responses.

The following are the basic elements that normally will be included in a statement of the scope of work for a public project:

- Owner's name.
- Description of function and short history of the owner organization or agency, including the goals or events that prompt the project.
- Project name or identification
- Project location.
- Contact person. (This person should be identified clearly as the only person to contact for information on the project.)
- The selection panel or client groups, e.g., boards, foundations, committees, and citizen groups, are identified and their involvement explained
- Other construction in process or planned for the same site but not part of the scope of work is described.
- Completed studies, surveys, and/or preliminary feasibility work that are relevant to the project and available to the firms that will be short-listed and interviewed are described.
- Requirements are set for further feasibility planning prior to design and construction.
- Project outline is developed, including intended size, function, and occupancy and other general anticipated requirements, e.g., renovation, demolition, additions, new construction, and energy, land use, and site selection considerations.
- Anticipated time frame is set, including completion of design work, beginning of construction, and planned project completion date.
- Architect selection process is described, including involvement of groups mentioned above.
- Additional or unique requirements/considerations are identified, such as referenda, anticipated funding delays, and budgeting.

Additional items may be added to this list as appropriate to provide guidance to the competing firms and meet the needs of the owner. All services the owner wishes the architect to provide—including feasibility studies, design, construction coordination, and budget development—should be specifically identified.

ESTABLISHING A SELECTION TIME FRAME

To keep the process of selecting an architect proceeding smoothly, owners should establish a time frame for completion of the selection process. Establishing the time frame prevents misunderstandings and last-minute surprises that might delay or sidetrack the process.

The time frame for each public project will differ, depending upon the nature of the project, the concerns of the owner, and other factors. In some instances, the tour of existing facilities may be provided to firms prior to short-listing. Usually, however, tours will only be provided to short-listed firms. There may also be instances where the complexity of a project calls for second or third interviews, although multiple interviews should be generally discouraged. In any case, the time frame should be modified to ensure that all of these variables are taken into account and that the established schedule is appropriate for the project.

COMPILING A LIST OF ARCHITECTURAL FIRMS

How does the public owner identify architecture firms from which to request a statement of qualifications? Some of the factors that should be considered in compiling the list of architecture firms are:

- The number of firms the owner wishes to involve
- The geographic location and distribution of the firms.

Advertisements. Placing public notices of projects in newspapers and trade or professional publications is often required by state or local laws and regulations. Such announcements will reach a significant sector of the architectural community and will result in a large number of responses through the mail and over the telephone. If this approach is used, the owner should be prepared to spend time evaluating these initial expressions of interest to narrow the list down to a workable number of firms, which will then be asked to submit letters of qualifications.

Directories. Some professional organizations publish directories or make mailing lists of their member firms available. These are often helpful in identifying firms with interest and/or experience in specific types of projects. Some AIA chapters also operate job referral programs to help owners locate firms. Local telephone yellow pages and other kinds of community business directories are also a source of architecture firms, and can usually be found in the reference section of the local library.

Referrals. To identify firms on a more selective basis, an owner may wish to contact other owners who have used architects' services recently on their own projects.

How many firms should be included on the list? There is no magic formula. The owner should determine the number appropriate for the specific project and circumstances.

REQUESTING LETTERS OF QUALIFICATIONS

When the list of firms to be considered is compiled, the owner should prepare the following materials to send to the firms:

1. A memo to all firms that are being invited to submit their statements of qualifications, listing all firms in alphabetical order (it is customary for owners to let firms know the names of other competing firms)
2. A list of requested information to be included with the firms' statements and letters of qualifications
3. A schedule of planned activities
4. A scope-of-work statement.

It is most important that all firms receive the same materials so that all of the firms' responses will be based on the same set of project specifications and constraints and, therefore, can fairly be compared with one another.

The exchange of information between the owner and the architecture firms is an important initial phase in the selection process. The individual who is listed as the public owner's representative on the memo requesting letters of qualifications should be prepared to handle telephone calls and authorized to respond to questions from the firms. If a question from one firm reveals an important item of information missing from the materials sent to the firms, all of the firms should be supplied in writing with that piece of information.

EVALUATING THE LETTERS OF QUALIFICATIONS

The selection committee of individuals assigned the task of developing a short list of firms should evaluate the letters of qualifications received from the firms. (It is up to the owner to ensure that the screening committee is composed of competent individuals who will be able to make an intelligent selection decision.) It is recommended that the owner establish the policy up front that statements of qualifications received after the deadline not be considered.

The number of firms to be included on the short list—and then interviewed—may vary depending on the size and scope of the project. Three to five firms are generally sufficient.

ESTABLISHING A SHORT LIST OF FIRMS TO BE INTERVIEWED

Based upon the evaluation of the letters of qualifications and reference checks discussed in the preceding section, the public owner can establish a short list of three to five firms to be interviewed for the project. Because all the firms who submitted their letters of qualification have made a commitment of time and expense in pursuing the project, the owner should contact the firms not selected for the short list as well as those to be interviewed. The memo sent to the firms who did not make the short list can express thanks and identify the firms who will be invited in to interview.

The firms selected for interviews should immediately be sent information regarding the interview requirements. What should be included in the memo to these firms? The following should be considered.

1. A date should be established for a tour or tours of the site/facilities as appropriate. The tour provides the firm with an important firsthand look at the concerns that give rise to the project. The tour also provides a further opportunity for an exchange of information about the project between the owner and the firms. If the project site is vacant, the owner may simple provide maps and directions to the site for the firms to visit themselves; if there are existing facilities, however, the firms will probably want the opportunity to tour them with the owner.
2. A list of the interview criteria and questions and an explanation of the scoring and selection process should be sent to the firms on the short list. Predetermining the

selection scoring criteria and specific areas of owner concern and providing that information to the short-listed firms will provide the interviewing committee with the best possible basis for making an "apples to apples" comparison of the firms.

3. If the owner has feasibility studies, a project program, or other background information on the project, these materials should be submitted to the firms or made available to them for purposes of review.
4. Other specifics regarding the interviews themselves, including the date, place, time, and the names of the members of the group that will be conducting the interviews, should also be included.

TOURS OF THE SITE AND/OR FACILITY

In many instances, tours of a facility or project site will be an integral part of the selection process. Such tours provide interested architecture firms with the opportunity to obtain first-hand information pertaining to the proposed project.

Tours can be handled individually, i.e., the owner's representative meeting individually with representatives of competing firms, or in a group, i.e., all interested firms meeting at a given date, time, and place for a group review of the site and/or facility. Vacant, particularly rural, sites are often left to the architects to visit by themselves.

Another issue that arises pertaining to tours is whether to offer tours to all interested firms or just to those firms that have been short-listed and invited in for interviews. Again, this is a question that should be resolved with the individual needs of the owner and project in mind. In most cases, however, it is recommended that one tour be provided for short-listed firms only.

INTERVIEWING THE SHORT-LISTED FIRMS

Purpose. The interviews of the short-listed firms give the owner an opportunity to compare the firms' different approaches to the design process, as well as their interpretations and understanding of the specific project requirements. The owner should not expect sketches of the project at this time. The design requirements for even "simple" projects can be quite complex, and the architect will not be sufficiently aware of the owner's needs and requirements at this stage to be able to produce a meaningful design solution.

The interviews are designed to allow for the evaluation of the personal styles of each firm's management and key personnel and how they match up with the pre-identified criteria for the owner's project. It is imperative that the architectural personnel to be assigned to the project, as well as key representatives from the firm's consultants, be present at the interview. It is also essential for the project users to be involved in the interview process. Direct interaction between the owner/user and the architect is essential for the development of a design that truly meets the owner's needs.

Set-Up. The physical set-up for the interview should be comfortable, with good acoustics and ample room. A separate area should be provided for firms waiting to be interviewed. Equipment such as blackboards, flip charts, and audiovisual screens probably will be useful if available, although most firms will bring their own equipment as needed to present their materials. Since

equipment set-up time may cause some delays in the interviewing process, two rooms should be used if possible. While one firm is being interviewed in the first room, another firm can set up for its presentation in the second room, thereby speeding up the process and ensuring that important interview time is not spent checking equipment.

Most interviews are held in a closed session. If applicable statutes or regulations require an open public meeting, the firms should be notified of this in advance.

Some Interviewing Guidelines. The following are suggested guidelines for setting up and conducting the interviews.

- Interview only the firms communicated with during the selection process to ensure that all interviewed firms have had an equal opportunity to prepare their presentations.
- Schedule 45 minutes for each presentation and 15 minutes between interviews. This should allow ample time for the presentation and question-and-answer period, and for the committee members to discuss among themselves before beginning the next interview.
- Schedule all the interviews on the same day. This permits the committee to compare all of the interviewed firms while information is fresh in their minds and ensures consistent interview scoring.
- The evaluation criteria for the interview scoring system should be communicated to all firms in advance.
- While it is appropriate to question firms about how they would approach the design of a project, owners should not ask for an actual design solution during the interview. Appropriate and responsive designs require considerably more interaction between the owner and architect than is possible during the selection phase. If either the owner or the architect comes to the project with a preconceived design solution, considerable time and energy may have to be spent to get beyond it to a better one, or the existence of it may stop further inquiry and prevent other, perhaps optimum, solutions from being explored.
- Owners may want to ask how the firms plan to develop an appropriate level of compensation for their professional services, but specific compensation amounts are best resolved through detailed discussion with the firm finally selected, and only after there is a comprehensive and mutual understanding of the actual scope of services.
- Let all firms know when the selection decision will be made. If possible, it is recommended that the decision be made on the same date as the interviews after the committee had had ample time to evaluate all firms.

RANKING THE FIRMS IN CONTENTION FOR SELECTION

An evaluation form that includes a weight and a score for each criteria/question is a useful instrument for evaluating, ranking, and, finally, selecting the most qualified firm. Each firm should be evaluated separately by each interviewer during the firms' presentations and interviews. The head of the interviewing committee should compile the individual score sheets when all the interviews have been concluded. This system provides a documented record of the selection process as support for the selection committee's actions. It is recommended that the selection committee members take the time to achieve the ranking and selection by consensus rather than just by majority vote.

After interviews and ranking are completed, a memo should be prepared and mailed to all firms that participated in the interview process. The memo should list all interviewed firms in alphabetical order and state by name in what order the committee ranked them. (It is customary for owners to provide this information as a courtesy to the firms.)

NEGOTIATING AN AGREEMENT WITH THE SELECTED FIRM

As soon as possible after selection, the owner should begin negotiations with the firm deemed most qualified. If an agreement on the scope of services and compensation cannot be reached, negotiations with the first-ranked firm should be terminated, and the owner should open negotiations with the second-ranked firm. Normally it is not difficult to reach an agreement on fee since the QBS process facilitates an early understanding of the project scope and requirements through the progression of steps involved in the selection.

The following are additional suggested considerations.

- A detailed and comprehensive scope of services should be developed jointly by the owner and the top ranked firm. This is often accomplished through one or more meetings of the architect and the owner, leading to the submission by the architect of a project and work plan. The work plan should list consultants and the roles and responsibilities of all members of the design team as well as the owner.
- A written contract should be used. The parties may wish to use the AIA standard forms of agreement. These contracts are widely used, time tested, and designed to coordinate the needs of the owners, contractors and architects.
- The agreement between the owner and architect should ensure that both parties have the same expectations and understanding of the project requirements.
- Legal counsel should be involved in the development of the agreements.
- The architecture firm should submit its proposal for compensation to the owner to initiate fee negotiations.

Public Law 92-582

TITLE IX SELECTION OF ARCHITECTS AND ENGINEERS

DEFINITIONS

SEC. 901. [40 U.S.C. 541] As used in this title-(1) The term "firm" means any individual, firm, partnership, corporation, association, or any legal entity permitted by law to practice the profession of architecture or engineering. (2) The term "agency head" means the Secretary, Administrator, or head of a department, agency or bureau of the Federal Government. (3) The term "architectural and engineering services" means: (A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as defined in this paragraph; (B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design,

construction, alteration, or repair of real property; and (C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiable perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soil engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

POLICY

SEC. 902. [40 U.S.C. 542] 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 contract 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.

REQUESTS FOR DATA ON ARCHITECTURAL AND ENGINEERING SERVICES

SEC. 903. [40 U.S.C. 543] In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications, and performance data. The agency head, for each proposed project, 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, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

NEGOTIATION OF CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

SEC. 904. [40 U.S.C. 544] (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. (b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm. (c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached

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