



March 28, 2022

Senator Theresa Gavarone, Chair
Committee on Local Government and Elections Committee
Ohio State Senate
Ohio Statehouse 1 Capitol Square
Columbus, Ohio 43215

Senator Tina Maharath, Ranking Member
Committee on Local Government and Elections Committee
Ohio State Senate
Ohio Statehouse 1 Capitol Square
Columbus, Ohio 43215

Re: Oppose S. 260, Political Subdivision Joint Purchasing Authority

Dear Chair Gavarone and Ranking Member Maharath:

On behalf of the over 3,500 members of the International Institute of Building Enclosure Consultants (IIBEC), and especially our members located across the great state of Ohio, I respectfully request that the committee not consider legislation that fundamentally undermines the state's primary procurement process for architectural, engineering and design services.

IIBEC members come from a diverse group of architecture, engineering and design and specialize in design, investigation, repair, and management of roofing, exterior wall, and waterproofing systems.

S. 260 undermines QBS to the detriment of taxpayers

As you are aware, Ohio uses the Qualifications-Based Selection (QBS) process for the selection of architecture, engineering, and design services for public construction projects, a process that has proven effective for taxpayers. S. 260 is written to allow national companies that provide cooperative purchasing services to also provide design and construction services. This mixing of product sales and design services undermines the independence of the design professional and focuses on price in contradiction of the QBS process.

Cooperative purchasing has become increasingly popular due to the potential for saving state governments significant time and money. Often referred to as the Amazon.com for public entities, the service allows participants to easily differentiate between products whose price is widely available allowing them to purchase the one that meets their needs the best at a price that meets their budget.

IIBEC fully supports this wise use of taxpayer funds. However, there is a vast difference between choosing a product based on price that you can easily determine is a deal for the taxpayers and a service, which is much more subjective.

History has proven that when price is the primary determinant for construction services, corners may be cut, and public safety is put at risk. The downsides have been recognized for over a century. As a matter of fact, as far back as 1862, the Attorney General, when ruling on a case observed:

Although this policy (price competition) is certainly desirable in all cases, there are yet some to which it cannot well be applied. Such are contracts for services which require special skill and experience... In all contracts for services which presuppose trained skill and experience, the public officer who employs the service must be allowed to exercise a judicious discrimination, and to select such as, in his judgment, possesses the required qualifications.¹

For decades QBS has proven that contract negotiations that start with qualifications and experience have resulted in better more cost-effective construction projects. When it comes to the design of buildings, roads, bridges, or water systems, the citizens of Ohio are best served by the qualified professionals - not the lowest bidder.

For the record, the U.S. Federal Government has used QBS since 1972 (Brooks Act – Public Law 92-582) as incorporated into Federal Acquisition Regulation (FAR) Subpart 36.6 - Architect-Engineer Services. This process has been so successful at the federal level that it is recommended by the American Bar Association in its model procurement code for state and local government. Since then, 46 states and many more local governments have incorporated the principles of QBS into their own state procurement processes. QBS has proven to be more efficient and less costly than the use of price-based selection criteria. Note: the ABA also supports cooperative purchasing for commodities.

QBS Background

QBS is a proven step-by-step process that facilitates the owner's selection of a design professional firm on the basis of qualifications and competence in relation to the scope of the project and facilitates the development of an appropriate scope of work for a specific project. The process is straightforward and easy to implement. It is objective and fair. It can be well documented, and it is open to public scrutiny.²

QBS allows procurement officials to exercise greater latitude in selecting design professionals like building enclosure consultants (BEC), by recognizing both objective and subjective criteria such as innovation, unique design approaches, sustainable design, and in identifying the best match for a project's size, scope, location, and regulatory requirements.

Sadly, the siren song of “faster and cheaper” often leads people to think that starting with price will result in a better product. Former U.S. Senate Public Works Committee Chairman, Senator Jennings Randolph, said it best on the floor of the Senate when the federal A/E selection law was passed. He said:

“Ask 10 firms to bid ... and many agencies will take the easy way out and select the low bidder. Under such circumstances, we may end up with a technically capable architect or engineer, but one who, for lack of experience or because of a desire to stay within his bid reduces the time spent on field surveys or in the preparation of detailed drawings, or in providing inspection services. As a result, the government may have saved itself a half of

¹ Ibid, page 1.

² Qualifications-Based Selection: A Guide Including Model Local Government Policy and Procedures for Selecting Architects, Engineers and Land Surveyors, July 2000. <http://docs.acec.org/pub/9E675727-0EEE-1DC9-3B51-2A94F3CFDF3B>

one percent on the design fee while adding 5 to 10 percent to the cost of construction, operation, or maintenance.”³

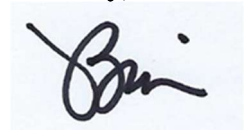
For example, professional design fees are typically less than 10% of total project costs, yet these fees can have an enormous impact on the other 90% of a building’s overall cost. Choosing the most-qualified BEC is a key component in the success of a publicly funded construction project that maximizes value to taxpayers. A well-qualified BEC, selected through the QBS process, is more likely to create independent high-quality, best-value construction project documents that encourage fair and open bidding amongst contractors, subcontractors, suppliers, and manufacturers.

More recently, this month the ACEC Research Institute released the findings of a comprehensive study that found “federal and state policies that selected engineering services based on the design team’s qualifications and experience had lower project costs and better on-time delivery verses selecting firms based on the cheapest bid.”⁴ Key findings of the report include:

- QBS saves money – projects where QBS was used to procure engineering services experienced less cost growth (3 percent) versus the national average (6 percent).
- QBS saves time – QBS projects perform better in terms of project delivery time, experiencing less schedule growth versus the national average (7 percent with QBS versus 10 percent without).
- QBS produces higher levels of client satisfaction – (89% of QBS projects receiving “high” or “very high” satisfaction ratings from project owners).
- QBS promotes innovation -- Projects incorporating QBS have a greater likelihood of producing innovative solutions.

We urge you to support a procurement process that has served the state and its taxpayers well. The QBS process is fair, transparent, and promotes open competition by qualified companies. Please support Ohio’s current, widely accepted, QBS method and not consider S. 260.

Sincerely,



Brian Pallasch, CAE
CEO/EVP

cc: Senator Sandra O'Brien
Senator Jerry Cirino
Senator Stephanie Kunze
Senator Nathan H. Manning
Senator Vernon Sykes

³ Does QBS Save Money? page 2. John M. Palatiello, COFPAES Administrator and NSPS Government Affairs Consultant. <https://www.multibriefs.com/briefs/nsps/doesqbssavemoney.pdf>

⁴ <https://program.acec.org/qbs-resources-portal>