



Qualifications-Based Selection at 50: Why It Matters

By John Boling

Why is it that when it comes to procurement for public buildings, despite our collective experience that lowest price almost guarantees future problems, the siren song of “faster and cheaper” works so well?

While “everyone wants a bargain” is a plausible answer, it falls apart when scrutinized. Politicians, bureaucrats, procurement officials, and construction departments fall for the next big thing in public sector procurement for a variety of reasons, with “x will speed up the process” being one of the more common. Simply put, everyone is looking for the “easy” button.

I understand. Procurement for design and construction projects is complex, and qualifications-based selection (QBS) is a process that can take time to do properly. Unfortunately, time is something the public sector does not have enough of, and delays, while nobody likes them, can be very problematic for the public sector.

Apparently, these people need to read *An Analysis of Issues Pertaining to Qualifications-Based Selection*, by Paul S. Chinowski, PhD, and Gordon A. Kingsley, PhD, where the authors demonstrated that QBS saves time and money, results in better overall projects and more highly satisfied owners, encourages innovation, and

more! Listen to Tom Gernetzke, F-IIBEC, RBEC, RRC, RWC, REWC, and owner of Building Envelope Professionals Group, who said, “Over my career, I’ve seen many jobs where the low bid won the job and the building owners paid more than twice for the same job.”

PRICE VERSUS QUALITY

“The rule for federal procurement of architecture-engineering design services was ‘low bid’ until Congress passed the Brooks Act on October 27, 1972, and qualifications-based selection (QBS) became the exception to that rule,” said John Palatiello, administrator, Council on Federal Procurement of Architectural & Engineering Services (COFPAES). “So, QBS for A&E [architecture and engineering] design and related services was cool long before ‘best value’ and ‘past performance’ became the tenet of federal procurement. The Brooks Act was enacted to ensure that quality and competence was invested in A&E services, so the integrity of buildings, facilities and other government activities dependent on designs, drawings, surveys, and other related services could be relied upon during construction, operation, and maintenance over the life of such structures, as well as other programs and activities that are dependent on such services.”

In the years after Congress passed the Brooks Act, 46 states passed their own version of the law,

often referred to as mini—Brooks Act provisions. Additionally, the American Bar Association Public Contract Law Section has endorsed and incorporated QBS for engineering and architectural services into both the ABA State Model Procurement Code and the ABA Model Procurement Ordinance for Local Governments.

While there are people and groups who will criticize QBS, the fact remains that no alternative procurement process that consistently serves and protects the taxpayers and public, respectively, has proven superior.

“Over the past two years, IIBEC has fought state legislative efforts to undermine QBS in Illinois, Ohio, Oklahoma, and California,” said IIBEC Executive Vice President and Chief Executive Officer Brian Pallasch. “We have also worked to strengthen its use in California and at the federal level. After I came on board with IIBEC, publicly declaring our support for QBS was the first policy statement the Board of Directors approved. Going forward, we will continue to fight the ‘faster, cheaper’ siren song wherever it is heard.”

Added Scott Hinesley, F-IIBEC, RRC, PE, and president of REI Engineers, “QBS allows REI Engineers to procure work by showcasing our technical abilities without having to compromise quality and public welfare by arbitrarily reducing services to cut cost.”

It is important to note that the IIBEC policy statement regarding support for QBS (<https://iibec.org/qualifications-based-selection-of-building-enclosure-consultant-services>) also notes that preserving the health, safety, and welfare of the public is a moral, ethical, and legal requirement for a procurement agency, as well as for building enclosure consultant professionals.

The amount of money included in both the bipartisan Infrastructure Investment and Jobs Act and the recently passed reconciliation bill for hard infrastructure totals hundreds of billions of dollars nationwide. If you are interested in QBS, now may be the time to get acquainted with it. IIBEC will be watching and working with our allies to make sure that QBS is implemented on all publicly funded projects with a design component.

I hope that answers the question as to why the 50th anniversary of the Brooks Act matters. Happy Birthday, QBS!

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QUALIFICATIONS-BASED SELECTION (QBS)

QBS allows public procurement officials greater latitude in selecting a building enclosure consultant (BEC) by recognizing both objective and subjective criteria. The QBS process has three basic steps:

1. The owner evaluates and selects the BEC based on demonstrated qualifications and experience in the required types of professional services without considering a fee.
2. The owner and the BEC confer to determine and/or review the scope of work, including contract scheduling.
3. A fee for professional services is negotiated based on the mutually developed scope of services. In the event that a mutual agreement on scope of services and fee is not achieved, the owner may negotiate with the next most-qualified professional. Thus, cost is addressed at the appropriate time after the scope of services has been fully defined.

special interest

How to Ask about Mental Health

When it comes to employees' mental health, when is the best time to first approach the topic with your potential employer? The answer: during the interview process.

"What you [the job candidate] want to hear is that the organization has a proactive, empathetic approach to mental health issues," wrote Barbara Mitchell for the American Society of Association Executives (ASAE). "You want to find out that they have compre-

hensive mental health plans, which include coverage for inpatient and outpatient therapy as well as for telemedicine and virtual therapy programs."

An employee assistance program (EAP) accessible by employees and their families also can be important. "An EAP is one of the most valuable, complimentary resources an organization can provide," Mitchell wrote.

Source: ASAE

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