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Advocacy Position Statement

Qualifications Based Selection of Professional Services Consultants

Statement of Purpose

The American Public Works Association (APWA) seeks to inform elected officials, regulators, policy-makers and decision-makers and the public at-large of its stated position on Qualifications Based Selection (QBS) of professional services consultants.

Statement of Position

APWA believes that the public interest is best served when governmental agencies select architects, engineers, and related professional services and technical consultants for projects and studies through Qualifications Based Selection (QBS) procedures as opposed to price. Basing selections on qualifications and competence, rather than price, fosters greater creativity and flexibility, and minimizes the potential for disputes and litigation. APWA has developed and published a document which better defines our position entitled, "Selection and Use of Engineers, Architects and Professional Consultants – Guidelines for Public Agencies," also known as the Red Book. Reference this publication for further information on this topic.

Background and Rationale

Since enactment of the Public Law 92-582 (the Brooks A/E Act, a summary of which can be found in Appendix C of the Red Book) in 1972, construction industry associations indicate virtually all states currently use QBS procedures. They involve public announcement of technical contract opportunities, use of a formal selection and ranking process designed to identify the most qualified firm, and contract negotiation (including fees) with that firm. Over time, inattention to the QBS concept has led to a shift to cost-based selection by certain states and localities. However, some agencies that have abandoned QBS are returning to it after experiencing problems with projects designed by firms that were selected primarily on price.

Vital differences exist between cost-based and qualifications-based acquisitions by public agencies. Cost-based acquisitions for materials, supplies, equipment, certain services (such as custodial) and construction are adaptable to a system that can reasonably provide an exact description of the service and expected outcomes, which permits vendors to offer firm prices with confidence. Cost-based acquisitions are best suited where the

service can be definitively described and the outcome can be described in terms that are not open to wide interpretation.

In contrast, creative services, such as consultant technical services, seldom lend themselves to advance precise definition. Instead, reliance must be placed on the experience, expertise, creativity and overall intellectual capacity of the people involved who will ultimately determine the success of the project design or technical study. A detailed interview is the only effective way to evaluate technical consultant's qualification related to the work at hand. After selection, the consultant's scope of services, contract and compensation can be tailored specifically to the agency's requirements. When consultant selection is based solely or primarily on price, appropriate comparison of qualifications with the scope of work needed and the fee paid rarely occurs.

Further, design fees are generally a very small part of overall project costs, regardless of the method of consultant selection. Construction and life-cycle operation, maintenance, and liability exposure-costs are far larger. While some fee savings may be identifiable in cost-based selection processes, it is not possible to predict potential adverse construction or long-term cost impacts that might result from poor quality architectural, engineering or other professional services. Only through the QBS process can agencies be confident of consistently achieving the best value for studies, planning, design, construction, operation and maintenance of publicly funded projects.

Public agencies commonly seek to obtain the best value from public infrastructure investments, especially where true value results from creative endeavor. Bidding or other cost-based selection is unlikely to produce the best creative outcomes. When bidding, any prudent consultant must often include significant contingencies because of uncertainties about the true extent of effort required, and misjudgment frequently leads to reduction in the quality or scope of the design effort. Negotiating a detailed scope of work with the highest ranked firm under QBS provides a basis for realistic fees and promotes full cooperation of the selected consultant in fulfilling the contract.

APWA has long supported quality in all public agency activities, focusing on economy, safety, efficiency, sound construction, serviceability, maintenance, and operations. QBS can reach satisfactory goals in all those areas, but price-based selection for consultant services cannot. The goal of highest quality results and lowest fees are in conflict, and history provides little basis to believe that bidding can or will actually produce lower fees than will QBS.

Mechanics of QBS Selection

QBS means that the qualifications of architect/engineer consultants are the primary determining factors in consultant selection. Agencies are normally required to give notice to potential consultants and other professional service providers regarding the available work and invite interested firms to respond. The responses are screened to determine the firms most qualified to meet the agency's needs. The screening results in a

short-list, because it is seldom practical or productive to interview all who respond. This best-qualified group is invited to appear for interview.

Interviewers may include technically qualified persons, citizens, or elected officials having a special interest on behalf of the public agency-owner. The direct presentations, questions/answers, and supporting materials of each firm become the basis for ranking the firms in order of relative qualification to successfully accomplish the desired task.

The top-rated firm is then invited for contract negotiations. Price is not ignored, but a fair and reasonable price is mutually agreed upon once details on the kinds and extent of work required of the consultant have been established through the negotiations. If agreement cannot be reached with the top firm, negotiations are terminated with that firm and the negotiations are commenced with the firm judged next-best qualified. Finally, a contract which includes a detailed scope of services, expected outcomes, price, schedule and other details is approved by the elected body authorized to execute contracts.

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