

***Your Source for Selection Process Information***

**QBSColorado**

**Q**ualifications **B**ased **S**election

**We are here to help with:**

- \* Procuring architectural/engineering services
- \* Establishing evaluation criteria
- \* Soliciting qualifications statements
- \* Developing the short list
- \* Interviewing
- \* Defining the project
- \* Post selection process

**Our Mission:**

The mission of QBS Colorado is to promote quality and value in professional consultant services for a client. We believe that a professional and collaborative relationship between a client and a professional consultant is paramount to ensuring team spirit, proactive communication, quality services, and outcomes that are a testament to the organization and the stakeholders it serves.

QBS best serves the interest of the client who seeks best value and recognizes the long term impacts of professional consultant services to minimize lifecycle costs for their operational, maintenance, and construction budgets.

**QBSColorado**

800 Grant Street, Suite 100 \* Denver, CO 80203

P: 303.832.2200 \* F: 303.832.0400

qbs@qbscolorado.org \* www.qbscolorado.org

# In The Best Interest

## QBSColorado Promotes Quality, Value In Professional Design Services For Municipal Construction Projects

Public works projects improve the infrastructure of life by delivering three primary objectives: function, permanence and character. These goals are each a product of design, though they seldom exist in equal proportion. A wastewater treatment plant doesn't have to be pretty, but it sure better function reliably for many decades. Other facilities depend more on unique designs that create community landmarks, provide a sense of identification and instill local pride while functionally serving the public.

While a structure's aesthetics are spawned from vision and inspiration, its function and permanence requires incorporation of demonstrated mechanical principles. Just as architects understand their designs must first be buildable, engineers understand their functional designs should complement the surrounding environment.

Understanding that desirable qualities of public facilities must work in harmony, US Congress passed the Brooks Act in 1972 to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering and related services for the government. The Act declares Federal Government policy to be "to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices." The procurement process is commonly referred to as "Qualifications-Based Selection," or simply, QBS.

QBS is a competitive contract procurement process whereby consulting firms submit qualifications to a procuring entity – owner – who evaluates and selects the most qualified firm, then negotiates the project scope of work, schedule, budget and consultant fee. While costs are not considered when making the initial selection of the best or most appropriate provider of the professional services required, they are discussed with the selected firm and negotiated before contracting.

Many states have adopted their own versions of the Brooks Act, commonly referred to as "Little" or "Mini" Brooks Acts. Projects funded by State of Colorado are required to use QBS under its "mini-Brooks" Bill CRS 24-30-1401 et. seq., 1988. Local governments across the State have followed suit and adopted similar legal resolutions – or non-legal precedents – that allow them to make contracting decisions based on QBS principles. Price will be taken into consideration under QBS, but not for the purposes of determining the most suitable and qualified

provider.

"QBS is accepted protocol that allows public owners to govern procurements for which price is not the determining factor in selection," explains Carl Hole, AIA, a principal with Denver-based RNL and 2012 Chairman of QBSColorado. "We believe that a professional and constructive relationship between the government client and design professional is paramount to a project's success. By nature, design professionals desire to find the best, most economic and creative solutions to achieve the long-term goals of a project, and QBS allows this. The client, in return, is able to tap the full scope of services consultants offer."

*Price is taken into consideration under QBS, but not for the purposes of the public owner's determination of the most suitable and qualified provider of construction services.*

QBS was developed because public owners lacked procurement tools for services for which price competition made no sense. Services simply cannot be fairly priced before negotiations have taken place. Further, lowest cost is widely recognized as the poorest criterion for service selection when quality and professional creativity are sought. Whereas private owners can procure services based upon what they desire, public owners, under political scrutiny, have been too often bound to the presumed objectivity of selections based on lowest price. Such situations have often led to unintended consequences – including poor service and quality, excessive and expensive change orders and, eventually, litigation over disputes.

Adapting to political reality, known abuses, tight budgets, and increasing expectations on the part of taxpayers for quality with integrity, the public owner has developed selection procedures consciously intended to enhance the probability of value while guarding against unfairness and abuse.

Crucial to QBS is the methodology and documentation the public owner uses to ensure competition without consideration of price. An essential element is the use of a selection committee, comprising a number of knowledgeable people of unquestioned integrity, to make the evaluations. The selection committee is charged by the

owner with fairly evaluating the qualifications and, often, the ideas for project execution offered by competing firms.

Typically under QBS, the owner publicly advertises a project and describes it in significant detail in a "Request for Qualifications." The RFQ should contain explicit selection criteria so that firms can judge their likelihood of being selected. The owner invites firms to submit their qualifications for evaluation by the selection committee, which must then rank-order the firms using the published selection criteria in making their evaluations.

Commonly, the initial evaluation of qualifications submittals will lead to a shortlist of three to five firms that the selection committee judges to be well qualified to perform the work. Through a "Request for Proposal," these short-listed firms may be invited to submit – often in person – more detailed ideas about the specific project at hand along with a fee proposal.

Ultimately, the selection committee will provide the owner with a final rank-ordering of the short-listed firms. The owner then invites the top-ranked firm to enter into negotiations to establish compensation and other contractual terms. If negotiations are not successful and the parties cannot agree to a contract, the owner would dismiss the top-ranked firm and invite the second-ranked firm to negotiate, and so on until a contract is concluded.

"QBS creates partnerships," Hole continues. "Common goals are determined from the free flow of ideas expressed during the collaborative process. Creativity is fostered – or it might be more accurate to say that it's not stifled."

The nation's first law governing procurement of A/E

selection was enacted in 1939 – prior to that, government employees designed public projects. The 1939 law, in fact, directed Federal government agencies to contract with private firms. A/E contracts were negotiated and fees were limited to 6 percent of estimated construction cost. Needless to say, many agencies found creative ways to exceed the 6 percent limit.

*The main advantage of a QBS system is that the design professional and the client are working in a collaborative, sustainable spirit to maximize the quality, value, cost effectiveness and usefulness of the final product.*

A 1967 government report revealed a muddled and complex Federal A/E procurement process that needed standardization. The report suggested that Congress clarify whether A/E services were subject to price competition. In April 1967, the Controller General of the United States issued a report to Congress entitled, *A Government-Wide Review of the Administration of Certain Statutory and Regulatory Requirements Relating to Architect/Engineering Fees*. The report criticized Federal construction agencies for paying fees in excess of the statutory limitation of 6 percent of the estimated construction cost; exposed that the Federal government was not utilizing price competition in contracting for architectural and engineering services as required by law; and provided the motivation for the formation of one of the most durable and effective coalitions in Washington – the Council on Federal Procurement of Architectural and Engineering Services.

*Continued on page 12*



QBSColorado 2012 Directors, from left, Linda Waterhouse, AIA; Carl Hole, AIA; Ben Wilking, AIA; Ed Kammerer, AIA; Benny Siljensberg, PE; Dave DiFulvio, PE; Dan Akin, PE; Ceila Rethamel, PE and Coordinator Sue Bertram. Not pictured: Wyatt Popp, PE and Colin Haggerty, PE.



## QBS Methodology Has Proven Itself For Fountain Utilities

Founded in 1859 and incorporated in 1903, City of Fountain is one of the oldest incorporated municipalities in the Pikes Peak region. With nearly 26,000 residents, the City is a full-service municipality with its own electric and water utilities. Both utilities – the Electrical Transmission and Distribution Utility serving approximately 16,000 customers and the Water Utility serving around 7400 – are operated as Municipal Enterprises. Because most professional designs for larger projects are performed by private engineering firms, procurement standards adopted by the City require Fountain Utilities to obtain professional services competitively. To satisfy this procurement standard, the department has adopted the QBS methodology.

“In 2007,” explains Fountain Utilities Water Resources Engineer Michael Fink, PE, “the Water Utility advertised for professional engineering design services and six firms submitted their Statement of Qualifications. Over the following two years, we assigned design projects to each of these six firms and were very satisfied with the results. In 2009, we expanded the procurement process to include services for Professional Land Surveying and for Soils/Testing/Geotechnical Engineering. We received and reviewed 26 SOQs for Design Engineers, 13 SOQs for Land Surveyors and 11 SOQs for Soils Engineering firms.”

Fountain Utilities assigned Task Order Contracts to two Land Surveying firms and two Soils/ Geotechnical firms, respectively. These four firms have responded to assigned tasks for line-and-grade surveys, easement description preparation and ALTA surveys, as well as for construction testing, soils investigation and Phase 1 Environmental Investigation, over the past several years. In addition to providing these services to the two Utilities, other divisions of the City have utilized these firms for

similar services.

“We specifically chose professional design firms with different areas of specialization for the types of projects we anticipated in the 2009 Capital Improvements Plan,” continues Fink. “We pre-qualified 10 design engineering firms – some of which were large, multi-disciplinary firms while others were smaller local firms. This year, we are finishing the assignments of unique projects to each of these 10 firms.”

Fink anticipates that Fountain Utilities will request Statements of Qualifications from professional firms again in 2013 to “refresh” consultant listings.

“Fountain Utilities will certainly continue using the Qualifications Based Selection methodology in our next procurement for professional services,” he concludes. “The process has proven to yield partnerships that serve the best interests of the City and our residents.”

City of Fountain Utilities was recipient of the 2009 QBS Colorado Award for its continued dedication to the QBS process. The QBSColorado awards program recognizes public and private entities that make exemplary use of the QBS selection process at State and local levels. ●



Michael Fink, right, receives the 2009 QBSColorado award on behalf of Fountain Utilities from Dave Krenek, left, and Rick Coldsnow.



Fountain Utilities' Bandley Road Water Main Project to connect City of Fountain and Security Water District water systems was completed in 2011. Construction cost was awarded at \$805,000 and final construction amount paid at \$724,000. The project was designed, bid and constructed within seven months and included a trenchless crossing of Fountain Creek, installation of a metering and pressure control structure to connect the two water systems, and installation of 3850 L.F. of 12-inch-diameter water main. Frazee Construction of Colorado Springs was the General Contractor and Obering, Wurth & Associates of Colorado Springs the Design Engineer. Not only was the engineer chosen using QBS methodology, the construction

contract was awarded on the combined basis of Bid Price and Qualifications. The contractors bid on 65% documentation and participated in the final design and permit preparation before confirming their Contract Amount.

COFPAES was organized in anticipation of the results of the GAO research summarized in the 1967 report. Then, as now, the major organizations representing design professionals realized that a common effort was needed to educate Congress and the public on the design professions and the need to place the emphasis on quality and competence by procuring professional services through a qualifications-based selection process. In 1966, four organizations – American Society of Civil Engineers, American Consulting Engineers Council, Professional Engineers in Private Practice division of National Society of Professional Engineers and American Institute of Architects formed COFPAES. Later, the Planning and Design Division of American Road and Transportation Builders Association, American Congress on Surveying and Mapping, and American Society of Landscape Architects became active members in COFPAES.

Because in the GAO report the controller general asked Congress to clarify whether Federal A/E selection was subject to existing procurement laws requiring price competition, the first COFPAES project was to provide Congress with an understanding of the nature of the design professions. With the combined strength of the COFPAES organizations, a recognition of the professionalism of architectural and engineering services finally was signed into law in October of 1972 (Public Law 92-582, the Brooks Act.)

But the enactment and defense of the Brooks Act is not the only reason for the continued existence of COFPAES. The goal of the coalition always has been the promotion of sound A/E procurement practices. Through the years, COFPAES has provided the stimulus for

advancements and has served as an informal sounding board for new developments in Federal procurement procedures, policies and regulations.

In addition, COFPAES has organized courses for private sector design professionals and Federal, state and municipal procurement personnel, sponsored conferences on Federal programs and procedures and published guides to contracting with the Federal government. COFPAES also works with construction-related Federal agencies to conduct an annual Federal Programs Conference which offers information to design professionals on funding levels and new project starts, provides opportunities for design professionals to meet agency officials and share information on their common needs and problems, and serves as a forum for Federal officials to exchange ideas and concerns with their peers in government service.

Since its inception in 1966, COFPAES has provided the design community with a common voice on the narrow focus of Federal procurement law and regulations. COFPAES continues to serve the American public as a well-known and respected forum for the consideration of policy and operational changes in the selection procedures of design professionals. Because of its emphasis on professionalism in the procurement process, COFPAES assists the Federal government in assuring that the design of projects to satisfy the building and infrastructure needs of the nation is conducted in an efficient and quality manner.

“QBS Colorado was established by multiple professional organizations as a way to raise awareness around qualifications based selection,” concludes Hole. “Our primary goal is to help public owners be successful with their public works projects. Implementing a QBS process for procuring professional design services for those projects is the first step.” ●



**SAVE THE DATE!**

**APWA**  
**MANAGEMENT +**  
**CONFERENCE**

Join us for the 2013 Management+ Conference  
May 2 & 3, 2013  
Doubletree Hotel  
(Formerly Red Lion Hotel)  
4040 Quebec Street, Denver, Colorado 80216

Conference & Registration Information will be available February 2013  
<http://colorado.apwa.net/>

**APWA**  
COLORADO CHAPTER