



SUMMARY OF STATE PROCUREMENT STATUTES

Alabama: In September 2001, ACEC/Alabama was able to insert QBS language into a "competitive bid bill." The recently signed state statute requires A/E services to be procured through a QBS process.

Alaska: The state awards professional service contracts to the "most qualified and suitable" firm or person. Suitability may be determined by, among other factors, the firm's proximity to the project site and its employment practices with regards to women and minorities. The state may consider price as an additional factor during the selection process when the services required are "repetitious in nature" and "definable in scope."

Arizona: State law gives public agents the authority to hire architects and engineers when necessary. It does not specify the selection process to be used. Architects may be retained by direct selection or public competition, depending on the circumstances and the procurement officer's judgment.

Arkansas: State political subdivisions evaluate firms based on their qualifications. Qualifications include: specialized experience and technical competence; capacity and capability of performing the work in question; past record of performance; and proximity to and familiarity with the project area. The subdivisions shortlist and rank the three most qualified firms, then begin contract negotiations with the best qualified. Contract prices must be "fair and reasonable."

California: State agencies adopt (by ordinance) procedures to ensure that professional services are retained on the basis of "demonstrated competence" and "qualifications." The procedures assure maximum participation by "small business firms", as defined elsewhere in the code. Contract prices must be "fair and reasonable."

Colorado: State agencies evaluate statements of qualifications and performance data submitted by interested firms. Evaluation factors include: ability of personnel; past performance; location; current and projected workloads; and willingness to employ minority contractors. Agencies shortlist and rank no fewer than three firms based on these qualifications, then begin contract negotiations with the most qualified. Contract prices must be "fair and reasonable."

Connecticut: CGS § 4b-58 - The commissioner of public works awards contracts to design professionals based on "qualifications." These qualifications are not defined in the state code. Contract negotiations with the most qualified firm must reflect a "fair and reasonable" price as determined by the commissioner. CGS § 13b-20 – The commissioner of transportation awards contracts to design professionals based on qualifications and negotiates with the highest qualified firm.

Delaware: State agencies rank prospective firms based on the following factors: expertise and reputation; capacity to meet requirements; location; demonstrated ability; and familiarity with public work. Agencies may also consider any other criteria necessary for a "quality, cost-effective project." Agencies shortlist and rank firm based on these qualifications, then begin contract negotiations with the most qualified. Contract prices must be "fair and reasonable."

Florida: The state code requires the use of design-build delivery systems on all public construction projects. A state agency evaluates bids based on several criteria, including qualifications, availability, and past work. The agency shortlists and ranks the three most competitive proposals, and begins contract negotiations with the "most qualified" design-build team. Contracts must be for "fair and reasonable" price.

Georgia: The state code regarding procurement of professional services by the State is substantially QBS, except that it allows agencies to consider other factors, including cost, in the selection process. State agencies have voluntarily moved to QBS in the past several years. The State Vertical Construction Agency (the state GSA) has adopted a strong QBS procurement policy manual that is recommended to all state agencies. The state code is silent on local government A/E procurement, except in the transportation code where it allows cities/counties to negotiate a contract with engineers. All state agency procurements - including A/E - must be advertised on the Georgia Procurement Registry, a web site administered by the state administrative agency.

Hawaii: Architectural and engineering firms interested in securing public contracts are required to submit statements of qualifications each year. Public agencies then shortlist candidates for a specific project based on these statements. Contract negotiations begin with the highest ranked firm, and proceed until a "satisfactory" contract has been signed. State law also allows State and County agencies to select architectural and engineering firms on the basis of price proposals.

Idaho: State agencies evaluate statements of qualification and performance data submitted by interested architectural and engineering firms. Agencies shortlist candidates based on their qualifications, then begin contract negotiations with the highest-ranked firm. Evaluation criteria include "competence" and "qualifications for the type of services required." The contract price must be "fair and reasonable."

Illinois: State agencies evaluate prospective firms based on the following criteria: ability of personnel; past record and experience; performance data on file; willingness to meet deadlines; and projected workload. Agencies shortlist no fewer than three firms based on these criteria, and begin contract negotiations with the highest-ranked firm. Contract prices must be "fair and reasonable."

Indiana: Public agencies select firms for professional services based on "competence" and "qualifications for the type of services to be performed." Agencies negotiate contracts for "reasonable compensation."

Iowa: The state code does not contain provisions directly related to the procurement of architectural or engineering services.

Kansas: The state encourages interested architectural and engineering firms to submit statements of qualifications and performance data each year. Agencies use these statements to shortlist no fewer than three and no more than five prospective firms for a specific project. Contract negotiations begin with the highest ranked firm. Contract prices must be "fair and reasonable." The state has a "home rule" provision that is a barrier to getting QBS to apply to local units of government.

Kentucky: Agencies evaluate firms interested in a proposed projects based on the following criteria: qualifications; ability of personnel; past record and experience; performance data on file; willingness to meet budgets; location; and projected future workload. Agencies then shortlist and rank no fewer than three firms, and begin contract negotiations with the most qualified. Contract prices must be "fair and reasonable."

Louisiana: The state engineering board selects firms for public projects based on several factors, including: professional training and experience; capacity for completion of work; past and current professional accomplishments; and past performance on public projects. The code does not specify how contract negotiations should be conducted. The QBS process applies to state agency design services contracts where the anticipated construction budget is \$500,000 or more. Under that amount, the Facility, Planning & Control Dept. is at liberty to make the award of contract without the necessity of going to the Engineers Selection Board.

Maine: The Bureau of General Services maintains a list of architects and engineers who have expressed an interest in providing services to the state. The Bureau oversees the selection of architects and engineers, and requires that selection be based on "professional competency" and "qualifications for the type of services contemplated." Contracts must be negotiated for a "fair and reasonable" price.

Maryland: The General Professional Services Selection Board must approve any request for architectural or engineering services. The Board may only approve such a request if it concludes that the services cannot be provided by a state agency. The Board evaluates candidates based on their qualifications, then begins negotiations with the "most qualified" firm. All contracts must be for "fair and reasonable" prices.

Massachusetts: The designer selection board evaluates architectural and engineering firms interested in securing public contracts based on several factors, including: prior similar experience; past performance on public and private projects; and financial stability. The board ranks at least three firms based on these criteria and forwards the list to the Commissioner. The Commissioner begins contract negotiations with the highest-ranked firm. Contracts must be for "fair and reasonable" prices.

Michigan: The Department of Management provides for the selection and employment of architects and engineers subject to the rules of the Department of Civil Service.

Minnesota: The designer selection board solicits proposals from architectural and engineering firms, then evaluates them based on criteria established for each project. The board must consider a firm's past performance on public projects. The board notifies the Commissioner of its selection, the Commissioner then begins contract negotiations. Contracts must be for "fair and reasonable" prices.

Mississippi: The state code does not contain provisions directly related to the procurement of architectural or engineering services. However, Engineering Registration Law in the state encourages the professional engineer to seek professional employment on the basis of qualifications and competence for proper accomplishment of the work.

Missouri: The state negotiates contracts for professional architectural and engineering services on the basis of "demonstrated competence" and "qualifications for the type of services required." All contracts must be for "fair and reasonable" prices.

Montana: Agencies evaluate architectural and engineering firms based on criteria established for each project. The following criteria must always be considered: qualifications of personnel; capability to meet deadlines; location; present and expected future workloads; and experience. Agencies negotiate contracts with the most qualified firms, with the caveat that prices must be "fair and reasonable."

Nebraska: Agencies evaluate firms based on statements of qualifications and performance data submitted for specific projects. Agencies use the following factors to evaluate firms: ability of personnel; past performance; willingness to meet deadlines; location; and projected workloads. Agencies shortlist no fewer than three firms based on the above criteria and require presentations regarding qualifications, approach to the project, and ability to furnish the services required. Agencies then rank the three finalists and begin contract negotiations with the most qualified firm.

Nevada: The state selects architects and engineers on the basis of "competence" and "qualifications for the type of services to be performed." The state may terminate negotiations with a chosen firm if the two sides cannot agree on a "fair and reasonable" price.

New Hampshire: State agencies publish requests for qualifications and requests for proposals, then evaluate prospective firms based on the specific project needs. Agencies shortlist a minimum of three finalists and begin negotiations with the highest-ranked firm. Contracts must be for "fair and reasonable" prices.

New Jersey: State departments and agencies shall follow the procedures in P.L. 1997, Chapter 399, approved January 19, 1998, known as Qualifications-Based Selection (QBS) of design professionals. Local government agencies and private clients are also strongly urged to follow these procedures.

New Mexico: A state selection committee evaluates statements of qualifications and performance data from at least three firms. The committee must, at a minimum, consider: specialized design competence; capacity to perform the work; past record of performance; and familiarity with the project area. The selection committee ranks firms based on these criteria then begins negotiations with the most qualified firm.

New York: State departments evaluate architectural and engineering firms on the basis of "demonstrated competence" and "qualification for the type of professional services required." Departments select and rank a minimum of three firms, and begin contract negotiations with the most qualified. All contracts must be for a "fair and reasonable" price.

North Carolina: State agencies evaluate and select professional service firms on the basis of "demonstrated competence" and "qualification for the type of services required". Contracts are then negotiated with the most qualified firms at "fair and reasonable prices".

North Dakota: An engineering services selection committee evaluates firms based on the following criteria: past performance; ability of personnel; willingness to meet deadlines location; and related experience. The committee selects the three most qualified firms and ranks them in priority order. The governing body of the agency requesting the project then negotiates a contract with the highest-ranked firm. Contract prices must be "fair and reasonable."

Ohio: Public authorities (including state and local agencies, boards, and commissioners) are required to evaluate professional service firms based on their statements of qualifications, then select and rank no fewer than the three most qualified firms. Agencies then negotiate contracts with the most qualified firm. Contract prices must be "fair and reasonable." A 1991 court decision permits a public authority to request prices from short-listed firms if two or more firms are found to be "equally most qualified." Because the Ohio Constitution gives chartered or "Home Rule" cities great latitude to depart from general state law, there is legal uncertainty regarding whether the statute could be enforced against these cities.

Oregon: Public agencies evaluate professional consultants based on the following criteria: specialized experience; resources available to perform the work; record of past

performance; availability to the project locale; and proposed project management techniques. Agencies shortlist and rank finalists, then begin contract negotiations with the selected candidates for a "fair and reasonable" price.

Oklahoma: The Office of Public Affairs maintains a comprehensive file for all consultants interested in providing architectural or engineering services to the state. The Office notifies all firms included in the file whenever a state agency intends to secure consulting services. Interested firms submit a letter to the Office indicating that they would like to be considered for the project. The Director of Public Affairs forwards this information to the agency responsible for the project. The agency then evaluates candidates based on several factors, including: specialized experience; capacity to finish the work; and past performance. The agency ranks the firms based on these criteria, then begins contract negotiations with the most qualified.

Pennsylvania: A selection committee reviews the work, experience and qualifications of architects and engineers seeking contracts with the state. The committee evaluates prospective firms "on the basis of merit", giving special consideration to the following factors: particular capability to perform the design services being considered; geographic proximity to the project site; and available manpower to perform the work. The committee shortlists and ranks the firms, then begins contract negotiations with the most qualified.

Rhode Island: Public agencies evaluate statements of qualifications and performance data submitted by interested firms. Agencies shortlist and rank no more than three firms on the basis of "professional and technical qualifications." Agencies then begin negotiations with the most qualified firm. Contract prices must be "fair and reasonable."

South Carolina: State law requires architectural and engineering firms interested in securing contracts with a state agency to submit standard questionnaire forms to the selection committees. The selection committee evaluates prospective firms and interviews the five considered most qualified for the project. Those five are then ranked according to several factors, including: past performance, ability of personnel; willingness to meet deadlines; location; creative insight; and related experience on similar projects. The agency's governing body then begins contract negotiations with the most qualified firm. Contracts must be for "fair and reasonable" prices.

South Dakota: The state code does not contain provisions directly related to the procurement of architectural or engineering services.

Tennessee: Public agencies assign relative weights to the following categories when evaluating architectural and engineering firms for public contracts: qualifications; experience; technical approach; and cost. The code does not discuss contract negotiation procedures.

Texas: The state negotiates contracts for professional services on the basis of "demonstrated competence" and "qualifications to perform the services." Contract prices must be "fair and reasonable."

Utah: The State Building Board serves as the selection committee for architectural and engineering service contracts under its authority. The state Policy Board establishes selection committees for professional service contracts not under the Building Board's authority: The state requires the use of design-build delivery systems, but has instructed selection committees to separately evaluate the engineers' qualifications as part of the selection process.

Vermont: The state code does not contain provisions directly related to the procurement of architectural or engineering services.

Virginia: Public agencies publish requests for proposals which contain the evaluation factors to be used for each project. Agencies evaluate prospective firms based on those factors, then select and rank a minimum of two firms for further consideration. Contract negotiations then begin with the most qualified firm. Contract prices must be "fair and reasonable. "

Washington: State agencies shall negotiate a contract with the firm deemed most qualified at a price that is "fair and reasonable".

West Virginia: An agency selection committee evaluates statements of qualifications and performance data submitted by interested firms. The committee shortlists and ranks the three firms considered best qualified to perform the work. Contract negotiations then begin with the most qualified firm. Contract prices must be "fair and reasonable.

Wisconsin: The state code does not contain provisions directly related to the procurement of architectural and engineering services.

Wyoming: An agency procurement representative evaluates statements of qualifications and performance data submitted by firms interested in securing the public contract. The representative evaluates the firms based on several factors, including: ability of personnel; past performance; willingness to meet deadlines; location; and projected future workloads. The representative shortlists and ranks no fewer than three firms. The ranking is based on approach to the project and price. Then contract negotiations begin with the selected firm.