

**METRO**  
**2019 LEGISLATIVE ISSUE IDENTIFICATION**

---

**Department:** FRS/GAPD

**Date:** 3 August 2018

**Person completing form:** Randy Tucker

**Phone:** x1512

**ISSUE:** Qualification-Based Selection (QBS)

**BACKGROUND:** Qualification-based selection is a procurement process for the selection of firms providing certain professional services for public projects. Under QBS, the public agency posts a Request for Qualifications (RFQ) or Request for Proposals (RFP) and selects a firm, and only after that does the agency negotiate a price for the service with the selected firm (as well as schedule, budget, etc). If no agreement can be reached, the agency can move to the next qualified firm and begin negotiating again.

Prior to 2012, QBS requirements only applied to state agencies and to local governments who received state funding for projects that exceeded \$900,000. Covered services included architectural, engineering and land surveying “and related services.” However, the 2011 Legislature extended the QBS requirement to local projects exceeding \$100,000 irrespective of whether they included state funding. HB 3316 also added transportation planning and photogrammetric mapping to the list of services for which QBS was required.

The problem with QBS as currently prescribed is that it removes price as a factor that can be considered at the appropriate point of the process when selecting certain types of contractors, thereby undermining the ability of public agencies to get the best value for public dollars. Separating the selection of contractors from discussions of cost can also lead to delays in contracting. While it is important to hire qualified contractors for public projects, and factors other than price are also important in selecting providers of professional services, there are other ways to ensure quality work that use both public time and public dollars more efficiently.

The League of Oregon Cities and the City of Hillsboro have taken the lead on developing legislation that offers an alternative to the current statutory QBS process. Under this proposal, a contracting agency could either use the current process or opt instead for a process whereby it selects a handful of qualified contractors who then submit pricing information. This would allow the public agency to consider price before selecting a contractor rather than after.

**RECOMMENDATION:** Support legislation providing an alternative approach to the current statutory QBS requirements.

**LEGISLATIVE HISTORY:** The current requirements were enacted in HB 3316 (2011). Metro joined with a coalition of local governments in the short 2018 session to support HB 4127, which would have created an optional alternative to the current QBS requirements. HB 4127

did not pass but legislators are expected to revisit the issue in 2019; an interim work group is currently hashing out details.

**OTHER INTERESTED PARTIES:** Local governments broadly support this legislation. The primary opposition is likely to come from the American Council of Engineering Companies (ACEC), which supported the 2011 legislation and opposed HB 4127.

**IMPACT IF PROPOSED ACTION OCCURS:** Metro would have more flexibility in its process for selecting key contractors on larger projects and would be able to more efficiently deploy public dollars to complete those projects. Because we coordinate a consortium of public agencies who jointly contract for photogrammetry services, this would be especially helpful to Metro.