

Qualifications-Based Selection (QBS) Law

The following is Missouri Law (RSMo Section 8.285 to 8.291) regarding the procurement of professional design services and its purpose to insure that the State and its political subdivisions receive the most competent professional services available, based on demonstrated qualifications for the type of services required. Federal law reflects the same procedure and ACEC/MO recommends this procedure to any potential user of design services.

8.285. Policy on contracts for architectural engineering, land surveying services. -- It shall be the policy of the state of Missouri and political subdivisions of the state of Missouri to negotiate contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices.

8.287. Definitions. -- As used in sections 8.285 to 8.291 unless the context specifically requires otherwise:

(1) **"Agency"** means each agency of the state and each agency of a political subdivision thereof authorized to contract for architectural, engineering and land surveying services;

(2) **"Architectural services"** means any service as defined in section 327.091, RSMo;

(3) **"Engineering services"** means any service as defined in section 327.181, RSMo;

(4) **"Firm"** means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide said services;

(5) **"Land surveying services"** means any service as defined in section 327.272, RSMo;

(6) **"Project"** means any capitol improvement project or any study, plan, survey or program activity of a state agency or political subdivision thereof, including development of new or existing programs.

8.289. Agencies using services to be furnished statement of firm's qualifications and performance data. -- Present provisions of law notwithstanding, in the procurement of architectural, engineering or land surveying services, each agency which utilizes architectural, engineering or land surveying services shall encourage firms engaged in the lawful practice of their professions to annually submit a statement of qualifications and performance data to the agency. Whenever a project requiring architectural, engineering or land surveying services is proposed for an agency of the state or political subdivision thereof, the agency shall evaluate current statements of qualifications and performance data of firms on file together with those that may be submit-

ted by other firms regarding the proposed project. In evaluating the qualifications of each firm the agency shall use the following criteria:

(1) The specialized experience and technical competence of the firm with respect to the type of services required;

(2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;

(3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;

(4) The firm's proximity to and familiarity with the area in which the project is located.

8.291. Negotiation for contract. --

1. The agency shall list three highly qualified firms. The agency shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.

2. For a basis for negotiations the agency shall prepare a written description of the scope of the proposed services.

3. If the agency is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The agency shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The agency shall then undertake negotiations with the third qualified firm.

4. If the agency is unable to negotiate a contract with any of the selected firms, the agency shall re-evaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of sections 8.285 to 8.291.

5. The provisions of sections 8.285 to 8.291 shall not apply to any political subdivision which adopts a **qualification-based selection** procedure **commensurate with state policy** for the procurement of architectural, engineering and land surveying services.