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Qualifications Based Selection for A/E Services Oppose HB 1435 / SB 5474

BACKGROUND

The AIA/WA Council supports the competitive selection of architects and engineers for state and local government (public sector) work based on professional qualification and competence, with negotiated fees. Both, 40 USC § 541 (The Brooks Act), and RCW 39.80 (Contracts for Architectural and Engineering Services) are endorsed by the AIA/WA for the public sector procurement of architecture and engineering (A/E) services.

Under qualifications-based selection laws (QBS), the contracting agency negotiates a scope of services, including the best possible fees, after selecting the most qualified firm. If the agency is unsatisfied with the scope of services and fees negotiated, it may end negotiations with that firm and start negotiations with the next most qualified firm. Through this process, the agency maintains ultimate control over not only the scope of a project, but the fees paid to the A/E firm. It also is in this negotiation process that the true scope of a project is often determined. Fee-based selection would undermine these valuable negotiations.

In addition to the federal government, 47 of the 50 states hire architects and engineers by QBS. Moreover, the American Bar Assn Model Procurement Code for State & Local Governments and the American Public Works Assn each endorse QBS for selecting A/E services.

OPPOSE HB 1435 / SB 5474 TO SELECT ENGINEERING SERVICES BY PRICE BIDS

These bills would undermine QBS laws by allowing water-sewer districts to require fees and fee rates to be submitted for engineering projects. The fee rates would then be used for determining which firm is selected for the project. The QBS process is designed precisely for these types of projects where professional design input is critical to developing a project that must last over time and maintain reasonable construction costs.

OPPOSE SB 5384 — EXPANDING ALTERNATIVE PUBLIC WORKS PROCUREMENT

The AIA/WA supports applying the principles of QBS to all methods of A/E procurement, including alternative project delivery approaches. As alternative financing options are considered for public works projects that involve private financing, we urge policy makers to require QBS as an important component of A/E procurement.

Chapter 39.10 RCW allows limited use of design-build and general contractor as construction manager (GC/CM) procurement practices by certain public agencies. SB 5384 expands the use of design build and GC/CM to more agencies and smaller counties, cities, and other public entities.

The Joint Legislative Audit & Review Committee (JLARC) is in the middle of a study of the efficacy and efficiency of alternative procurement practices. It will complete this study in mid-2005. Until the JLARC findings can be reported, the legislature should not expand the use of alternative public works procurement procedures.

AMERICANS SUPPORT QBS FOR A/E SERVICES

In a recent nationwide poll of voters conducted December 16-22, 2004, (1,000 sample, margin of error +/- 3.1) by two respected national pollsters - The Tarrance Group, a Republican firm, and Lake Snell and Perry, a Democratic firm - it was found that only 11 percent of voters said they agreed with the viewpoint that "architects and engineers who are hired by government agencies to design and construct public buildings like schools, hospitals, airports, courthouses and prisons should always be awarded to the lowest bidder in order to save money."

On the other hand, a strong 88 percent agreed with the contrary statement, "Because public health and safety is at stake, these contracts should be awarded by selecting the best qualified architects and engineers and then negotiating the best possible fee." In the poll, every major voter group registered over 80 percent support for the QBS concept.