

ACEC Oregon

AMERICAN COUNCIL OF ENGINEERING COMPANIES OF OREGON

Vote YES for Senate Bill 644

Clarify Direct Appointment under \$100,000 in fees

Passed from Senate Business Committee 5-0, 1 absent

Problem:

During rulemaking on HB 3316 that passed unanimously in 2011, an interpretation by DOJ allows state and local governments the option to price bid design services for projects under \$100,000 in design fees. This was not the intent of HB 3316.

Discussion:

The goal of HB 3316 was to clarify Qualification Based Selection (QBS) procedures when state or local governments procure design professionals for engineering, architecture, land surveying and other professional services. For projects under \$100,000 in design fees, amendments allowed (1) a QBS process or (2) a direct appointment process. But not (3) a price bidding option. However, when promulgating rules, the Department of Justice interpreted the language in HB 3316 to not limit the procurement process to only QBS or direct appointment but also to allow bidding or other options. This was not the intent of HB 3316. SB 644 will add certainty and clarity to ORS 279C.110 in regards to direct appointment.

QBS is the preferred and proven methodology for government agencies to procure design services from professional engineers, architects, land surveyors and other similar professional services. The federal government has required QBS for years. It is endorsed by the American Public Works Association, the American Bar Association, AGC, and many other construction related organizations.

Solution:

SB 644 will clarify language in ORS 279C.110 (1) (8) (a) to ensure the procurement of design professionals does not allow bidding or price shopping for public projects with an estimated design fee of up to \$100,000. Instead, state and local governments will choose either (1) a Qualification Based Selection (QBS) process as outlined in current law in section 1 of the bill or (2) a direct appointment process. Projects with design fees above \$100,000 will not be impacted by SB 644 as QBS is required on all projects above \$100,000 in estimated fees.

ACEC Oregon and our partners in Oregon's design community are committed to an ongoing educational effort to ensure the proper implementation of SB 644 and the QBS and direct appointment processes.