



Improving Accountability and Transparency in Public Contracting Support HB 4127

HB 4127 will provide increased transparency and accountability, better access and competition, and promote government efficiency in the procurement of certain professional services by allowing public contracting agencies to compare pricing information from qualified consultants prior to making a selection and committing public dollars.

How We Got Here

Qualification-Based Selection (QBS), found in ORS 279C.110, is a procurement process for the selection of professional services¹ for public construction projects. QBS was originally established by Congress in 1972 in the *Brooks Act* (40 USC 1101) and many states, including Oregon, have adopted their own versions in subsequent years.

Prior to 2012, QBS applied to state contracts and was only required for local contracts if a local government received state funding for any portion of the design and construction of the project, and the state funding for the project exceeded 10 percent of the value of the project for projects over \$900,000. In 2011, HB 3316 passed and was signed into law extending mandatory use of QBS to local governments.

(Continued on page 2)

¹ ORS 279C.110 applies to the procurement of engineering, architecture, photogrammetric mapping, transportation planning, and land surveying services.

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What We Are Proposing?

HB 4127 will provide a more transparent, accountable, and efficient process for purchasing professional services while preserving the current law for jurisdictions that choose to use the current system. Specifically, HB 4127 allows public contracting agencies to issue an RFQ and select up to five (5) qualified firms. After an initial qualification-based selection is made, just as it is done currently, public contracting agencies may then request pricing information prior to opening negotiations.

Policy Issues Addressed

- ✓ **Increased Transparency and Accountability** – QBS makes it difficult for public employees to be transparent or accountable to elected local leaders for the contracts they sign. Without the ability to consider pricing information prior to selecting a consultant, public employees can only say they negotiated the contract as required by law. Similarly, elected officials who are charged with ensuring public dollars are being spent efficiently and effectively cannot fairly evaluate whether a contract represents the best overall value for the community.
- ✓ **Increased Small Business Competition and Access** – Emerging small businesses are disadvantaged when competing on qualifications alone. QBS results in large and well-established firms being awarded lucrative government contracts without meaningful competition. HB 4127 increases opportunities for small businesses who are qualified for the job to compete on price.
- ✓ **Increased Efficiency in Government** – It takes about 6 – 8 weeks to negotiate a contract with a consultant. Public contracting agencies have a disincentive to move through the list of qualified firms, which can jeopardize project timelines and may result in a less favorable outcome. HB 4127 allows public contracting agencies to have more information prior to negotiating with a qualified consultant and creates a level playing field for negotiations.



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