

HB 2769 -1, -3 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 2/25, 3/11

WHAT THE MEASURE DOES:

Modifies Qualifications-Based Selection (QBS) procurement process to allow local government contracting agencies to consider pricing proposals of three top-ranked consultants when soliciting architectural, engineering, land surveying, photogrammetric mapping, or transportation planning services. Requires the local contracting agency to state in solicitation documents what factors will be used to evaluate proposals, including pricing information. Limits weight given to price proposal at 15 percent. Establishes rights to protest a state or local contracting agency's use of Qualifications-Based Selection. Applies to contracts advertised on or after January 1, 2020. Takes effect 91st day after adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 In the pricing proposal, changes from mandatory to permissive the inclusion of a description of tasks and list of individual or labor classification that will perform tasks, together with hourly rate of individuals and labor classifications, and list of expected expenses. Clarifies that contracting agency and selected consultant are to mutually discuss, refine, and finalize scope of services and rates, hours, and maximum compensation level for services.

No revenue impact.

Minimal fiscal impact.

-3 Establishes that right to protest contents of contracting agency's solicitation documents and agency's selection of consultant in accordance with model rules adopted by Attorney General or, if agency opts to adopt its own rules, the agency's protest procedures.

BACKGROUND:

State and local governments use Qualifications-Based Selection (QBS) to procure architectural, engineering, land surveying, photogrammetric mapping, or transportation planning services. QBS requires contracting agencies to make selections on the basis of each consultant's qualifications for the type of professional service required. QBS allows a contracting agency to ask for or use pricing policies and proposals, or other pricing information, to determine consultant compensation only after a candidate is selected. If negotiations over compensation do not reach a level that is reasonable and fair to the contracting agency, the contracting agency can then select the second most qualified consultant, and request pricing information; and so on, one at a time, in descending order. Direct appointment is allowed if the estimated cost of services for the project does not exceed \$100,000.

A proposal to allow consideration of pricing information in QBS was discussed in 2018 (House Bill 4127). A work group met throughout the interim to develop the policy changes contained in this measure.

House Bill 2769 allows a local government contracting agency to select up to three of the most qualified firms that have responded to a request for qualifications and then request pricing policies and other pricing information from those firms prior to making a selection.