

# Qualifications-Based Selection (QBS) Process Guidance and Frequently Asked Questions

## QBS Guidance

On June 10, 2014, President Obama signed into law the Water Resources Reform and Development Act of 2014 (WRRDA). Among its provisions are amendments to the Federal Water Pollution and Control Act. Among its provisions are amendments to the Federal Water Pollution Control Act (FWPCA), which includes the administration of the Clean Water State Revolving Fund (SRF) program. Per Section 602(b)(14) of FWPCA, beginning October 1, 2014, all contracts, including new solicitations, significant contractual amendments, and contract renewals must now publicly announce the solicitation for architectural and engineering services and negotiate contracts for those services using a QBS process. This is in place for all SRF projects receiving assistance in fiscal year 2016 and beyond. Drinking Water Revolving Fund projects are excluded from this requirement.

### Selecting an Architectural/Engineering Design Firm

1. The applicant issues a request for qualifications based on a scope of work.
2. Statements of qualifications that are based on established, publicly available criteria are evaluated.
3. The statements of qualifications are evaluated, and a short-list of qualified firms is determined.
4. Discussions are conducted **with no fewer than three firms**, and the firms are ranked according to qualifications.

### Negotiating a Contract

5. The applicant selects the most qualified (highest-ranked) firm and negotiations begin.
6. If the proposal fee is acceptable (contract pricing is determined to be fair and reasonable based on the scope, complexity, professional nature, and estimated value of services), the contract is awarded.
7. If an agreement cannot be reached with the top-ranked firm, those negotiations are ended and negotiations begin with the next-most-qualified firm.

## Frequently Asked Questions

### **Q: What qualifies as architectural/engineering services?**

**A:** Services include program management, construction management, feasibility studies, preliminary engineering, SRF project plan development and planning, project design, project engineering, surveying, mapping and all architectural related services.

### **Q: Where should an applicant announce the Request for Qualifications (RFQ)?**

**A:** An applicant should publish its announcement on publicly available bidding websites, newspapers, or related infrastructure publications. Additionally, an applicant can choose to send email or written solicitations to select firms. **At least one announcement** must be issued on a venue available to the public.

### **Q: How long should the RFQ be advertised?**

**A:** It is up to the applicant. (Recommend 30 days or a time sufficient to demonstrate good effort was made if less than three firms respond.)

**Q: What criteria are used to evaluate submitted qualification statements?**

**A:** Evaluation and ranking criteria of the qualification statements should be identified in the solicitation. Criteria should be based on demonstrated competence and qualification for the type of services required. An applicant can include, but is not limited to, past performance, specialized experiences, and technical competence in the desired work.

**Q: Can cost be used to evaluate the qualification statements submitted?**

**A:** No. selection must be based on demonstrated competence and qualification only. An applicant should “short list” a minimum of three firms to consider, compare, and hold discussions with.

**Q: What if fewer than three firms respond to the RFQ?**

**A:** The applicant must be able to document its efforts to publicly advertise and/or directly solicit participation. The applicant should document its efforts on the QBS Certification Form for the Procurement of Architectural and Engineering Services submitted with the SRF Part III Application.

**Q: When do contract negotiations take place?**

**A:** Contract negotiations should be conducted after the most highly qualified firm is selected. Negotiations should determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, and value of services to be rendered. In the event a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification. The applicant can end negotiations, then proceed to negotiate with the next most qualified firm.

**Q: How is compliance with the QBS process documented?**

**A:** The applicant is required to submit the *QBS Certification Form for the Procurement of Architectural and Engineering Services* with the Part III Application along with its advertisement and list of firms that responded.

**Q: Does Michigan have a required QBS process?**

**A:** No, thus to meet the WRRDA requirement, Michigan will rely on the federal statute, The Brooks Act.

**Q: Are interviews required?**

**A:** No, the federal statute states “conduct discussions with a minimum of three firms.”

**Q: Is there a time when the QBS process is not required?**

**A:** An applicant can elect to pay for architectural/engineering services from its own resources. The costs cannot be included in the SRF loan if the QBS process was not used to procure architectural/engineering services.

**Q: Is there a sole source provision in the legislation?**

**A:** No, all architectural/engineering services must be procured using a QBS process if the service will be included in the SRF loan.

**Q: Does the QBS process have to be used separately for the plan, design, and construction?**

**A:** It is up to the applicant. To be efficient, it is acceptable to do an RFQ that includes planning, design, and construction.

**Q: Where can I find additional information?**

**A:** Additional information regarding the QBS process can be found in *the State Revolving Fund (SRF) Procurement of Architectural and Engineering Services Memo to Applicants and Consultants* dated September 16, 2014. The memo can be found on the Revolving Loan Section website [http://www.michigan.gov/documents/deq/deq-ess-mfs-SRFamendprocuraengmemo\\_468646\\_7.pdf?20150127102157](http://www.michigan.gov/documents/deq/deq-ess-mfs-SRFamendprocuraengmemo_468646_7.pdf?20150127102157) and in the Design Phase Guidance document.