

March 9, 2012

Representative Bob Lynn
Chairman, Administrative Committee
State Capitol Building, Room 108
Juneau Alaska 99801

Re: HB 239, Quality Based Selection Hearing

Dear Representative Lynn:

It is my understanding that you had or may still have some concerns about scheduling a hearing for the Quality Based Selection bill (HB 279). I also understand the hearing is now scheduled for Tuesday morning March 12, at 8:00 AM and I would like to thank you for the opportunity to provide input on the bill. I am a professional designer and past president of the Alaska Professional Design Council, which represents Architects, Landscape Architects, Engineers, and Surveyors in our state.

As you may know, projects directly funded by the Federal Government, the State of Alaska, and most of the larger cities in Alaska require a Quality Based Selection for design services. There is good reason for this and I will get to that shortly, but the issue this bill addresses arises when the State of Alaska passes money through to non-profit organizations or other smaller communities who in turn seek to bid design services. This is a relatively small fraction of the dollars spent on public facilities and it is often done by organizations or individuals with limited experience in selecting or using design professionals. The issue is not generally one of public safety, but rather fairness in contracting and obtaining best value. If these same non-profit organizations or communities wish to hire design services using their own funds through a bid process, this bill will not hinder them. The State of Alaska, however, has already determined that quality based selection is the best means of fairly acquiring design services and this bill will provide some assurance that state funds are used wisely and fairly at the community level.

We most often bid construction projects and selection of the low bidder ensures we are paying a competitive price for the work required. For a construction project, there are often drawing sets of a hundred or more sheets and specifications of several hundred pages. Construction projects are very clearly spelled out and even then there are often change-orders as a result of misunderstandings. In recent years, even construction contractors are more frequently being selected based on their qualifications, instead of just price. By contrast, designers are selected through a "Request for Proposal" (RFP) process. An RFP is seldom longer than 20 pages and of that, the actual project description may be a page or less. As you might imagine, the ability to accurately bid design services for a public building

when the description of that building is only a page or so long is virtually impossible. As a designer, the best strategy when pursuing a bid project is to simply put in an unrealistically low bid based on a variety of assumptions or conditions that cannot be met. Once the project is awarded, the low bidder has free reign to begin requesting changes based on unforeseen circumstances. For the owner, there is little recourse but to pay for the changes because the project has not been accurately defined. The fairness issue arises because the more ethical designer, knowing what is really required to complete the work can be easily underbid by an individual or group who will seek realistic pay for the work through change orders. It has strong implications for the owner because the actual cost of design may be far higher than what is seen at a bid opening.

The Army Corps of Engineers and the State of Alaska have bid design services as part of design build projects. These projects would be exempt from the requirements of this bill, but the reason it works for the Corps of Engineers is that the RFP is often more than 1,000 pages in length and the scope of the services is very clearly delineated. Even the number of meetings is identified in these types of projects.

Cost can be included as a factor in selecting designers. The City and Borough of Juneau and other communities do this now by asking design firms to submit the hourly rates of the designers who will be working on the project. It can be argued whether or not this actually results in lower design fees for projects, but it is an acceptable comparison. Additionally, if an agency encounters difficulty in negotiating a fee with a design firm, they have the alternative of ending negotiations and entering into discussions with the next most qualified firm.

In summary, we support this bill because quality-based-selection is a fair means of hiring design expertise in most conditions. When it comes to design, qualifications and references are a far stronger indicator of a designer or firm's capability than cost. In most cases, where program and other aspects of the proposed building are not clearly defined, an award to the lowest bidder has little meaning. The negotiation process still allows checks and balances to ensure a financially responsible selection.

I am planning to be at the hearing on Tuesday Morning and I would respectfully request three minutes to address the hearing and answer any questions that may arise.

Yours Sincerely,



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