



February 9, 2018

Mr. Paul Holvey, Chair
House Business and Labor Committee
Oregon House of Representatives
900 Court St. NE
Salem H-277, Oregon 97301

Subject: Oregon HB 4127

The Honorable Chair Paul Holvey and Members of the House Business & Labor Committee:

My name is Stewart Osgood, P.E., and I am the President and CEO of DOWL. DOWL is a regional, mid-sized engineering company with offices throughout the western U.S., including about 30 employees in Portland and 20 in Bend.

I am writing to express my strong opposition to HB 4127, which will decimate Oregon's Qualifications-Based Selection (QBS) process. QBS has proven to be an effective procurement methodology that ensures the best use of Oregon's limited public works funds. With the new transportation funding package, effective delivery of those projects is extremely important. QBS is the right way to procure professional design firms. Each of the eight states that we practice in use QBS to effectively deliver safe and efficient infrastructure programs to their respective states.

KEY POINTS:

- **Price Based Selection** – HB 4127 is a significant change to Oregon's current procurement methodology. This goes against the policy of the American Public Works Association, the largest and most recognized association of public works professionals in America.
- **Bad for Small Business** – Bidding is a barrier to small, emerging, and minority-owned professional services businesses getting a fair opportunity in the marketplace. It fundamentally changes the way small firms work with public agencies.
- **Bad for Taxpayers** – Bidding design services has proven to be problematic on public works projects, which have life-cycles upwards of 50-100 years. Lowest-price design limits opportunities to find cost savings through innovation and new ideas. Poor or incomplete design leads to unintended conflicts during construction and costly long-term maintenance and operations.
- **Agency / Design Firm Partnership** – QBS, not bidding, creates a positive partnership between the owner and the designer. This allows for the best project outcomes for Oregon taxpayers.
- **Education is the Key** – We endorse an ongoing educational effort with state and local governments and pledge to work with proponents of HB 4127 to find solutions to their concerns prior to the 2019 session.

While procurement of design professionals by state and local agencies is not well known or understood except by the procurement professionals and businesses who strive to do public works projects in the industry, HB 4127 is a solution in search of a problem. This poorly

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conceived procurement methodology will create many unintended consequences and cost taxpayers in expensive change orders and litigation.

This issue is too complicated for the short timeframes of the February 2018 session. The collective expertise of public and private companies, institutions, and trade organizations should be used to craft solutions for the 2019 session that work for Oregon's taxpayers, Oregon's public work projects, and for the many design professionals who are committed to quality projects that are on time and on budget.

In the course of my 30 years in the business, I have seen a number of state's revisit the issue of QBS, and in all cases they have arrived back at the tried and true approach used by successful states and jurisdictions all over the country. Price is part of the selection process under QBS and do not let anyone convince you otherwise. In a typical QBS process, after the agencies have evaluated proposals and selected the most qualified firm, they scope the project and generate separate estimates of what the project should cost to complete. The agencies and the design professionals then negotiate the final price for the agreed upon services. If they are unable to reach an agreement, the agency is free to move to the second-ranked firm and commence negotiations with them. This process works and does not need clarification or modification as is proposed in HB 4127.

I offer my assistance to better help you understand the importance of this issue. Please contact me at your convenience at 425-949-2110 or sosgood@dowl.com to discuss this further.

Sincerely,
DOWL



Stewart Osgood, P.E.
President and CEO
DOWL