

Qualifications-Based Selection and Local Agencies/Charter Cities



Qualifications-Based Selection (QBS) is a competitive procurement process that requires a public agency to hire design professionals (engineers, land surveyors, architects, etc.) based on their qualifications and competence.

QBS Statute

Federal Law Called "Brooks Act"
Signed into law in October of 1972

CA Law titled "Little Brooks Act"
State law requires local governments to use QBS

Requirement to Use Federal Fund
State and local agencies must use QBS or risk losing funds

Charter Cities Named in Statute
Government Code explicitly lists charter cities among entities required to use QBS

Are Local Agencies & Charter Cities Required to Utilize QBS?

In 1972, Congress adopted, and the President signed into law, the Brooks Architect-Engineers Act (Public Law 92-582). The Brooks Act mandated the use of the QBS procurement method for the contracting of design professional services. Subsequent federal policies applied and expanded QBS requirements for state and local transportation agencies receiving federal funding.

Similar to federal statute, California law requires all government agencies—both state and local—to comply with QBS. Government Code 4525 and its following sections state: "Notwithstanding any other provision of law, selection by a state and local agency head for professional services ... shall be on the basis of demonstrated competence and on the

professional qualifications necessary for the satisfactory performance of the services required." "Local agency head" is defined in the preceding section to include the "head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district."

California Legislative Counsel opinions confirm that local agencies are granted flexibility in the minor and technical specifics of their procurement processes, as long as they adhere to the greater QBS structure. Additionally, in a second opinion specifically speaking to QBS statute's applicability to charter cities, Legislative Counsel analyzed code language and related court cases. They advise that all local governments, including charter cities, must comply with the Little Brooks Act.