



# **QBS**

## **Selecting Design Consultants for the Last Frontier**

AIA – Alaska Convention  
November 2013



## Presenters

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Many thanks to the AIA Trust and its Professional Liability Insurance Program providers, Victor O. Schinnerer & Company, Inc. and the CNA Insurance Companies for grant funds that supported the Alaska AIA's development and distribution of this program.

# Learning Objectives

1. Understand the basic components of **Q**ualifications **B**ased **S**election including the specific advantages of QBS over selection systems that use price as an evaluation factor.
2. Discuss specific examples of QBS vs. low bid design consultant selection, with pros & cons.
3. Discuss how alternative procurement/contracting is affected by QBS.
4. Understand Alaska statutes related to QBS, and public procurement policies that are currently used to obtain the services of design professionals.
5. Work with APDC to develop and participate in strategies for improving QBS in Alaska.

# Program Overview

1

- What is QBS & Why is it Important?

2

- Using QBS for Alternative Procurement models

3

- QBS Challenges in Alaska



1

What is QBS & Why is it Important?

- QBS uses *EXPERTISE* as the basis of selecting professional design services (architects, engineers, and affiliated services).
- The selection decision does not include fees, hourly rates, or “bids” of *ANY* kind.





# Brief History of QBS

- Prior to 1939, gov't employees produced construction documents for public projects.
- 1939 Public Law 76-43 directed federal agencies to contract with private firms.
- Architectural licensing emerged in early 20<sup>th</sup> century. By 1950's, licensing was required in every state. Debates about design expertise, innovation, responsiveness, and cost grew between gov't staff versus consultants.
- Professional Fee scales (introduced by national AIA), were widely used by public clients in 1970's. Contributed to anti-trust violations; no longer supported by AIA.
- **1972 Brooks Act: Federal Government contracts were negotiated based on competency and qualifications for the type of service needed, for fair and reasonable price.**
- "Mini-Brooks Acts" in many states since 1972. Alaska adopted its QBS law in 1978.

# Fundamentals of QBS

**1.** QBS is a *competitive solicitation for services* where evaluation is based on demonstrated competence and qualification.





# Services vs. Commodities



**Professional Service:** occupations in the tertiary [service] sector of the economy requiring special training in the arts or sciences. *(wikipedia.com)*

Service sector: The basic characteristic of this sector is the production of services instead of end products. *(wikipedia.com)*

*Compensation for Professional Services varies with expertise, time needed to complete the needed task; high degree of human input.*

**Commodity:** A basic good used in commerce that is interchangeable with other commodities of the same type. *(investopedia.com)*

*Compensation for Commodities is based on the cost of manufacturing and transporting the item to market; low degree of human input.*

# Clear Distinction

Professional Service	Commodity
Community Recreation Plan	Replacement signage in a police station
Concept design and preliminary cost estimate for a new school	Office supplies
Design and construction documents for a university dorm	Furniture for an existing library
Development of a financial investment model	Public Works vehicles and equipment
Interior design illustrations for a new City Hall	Heating fuel
Landscape designs for park renovations	Construction trailer

# Not So Clear...

## Service or Commodity??

Public procurement staff is typically well trained in purchasing commodities, but often do not understand the unique attributes of services.

Advertising program in community sports facilities

Parking concession

Café to operate in community transit center

Multiple coffee stands at an airport

Convention Center Catering

Seasonal tourist kiosks

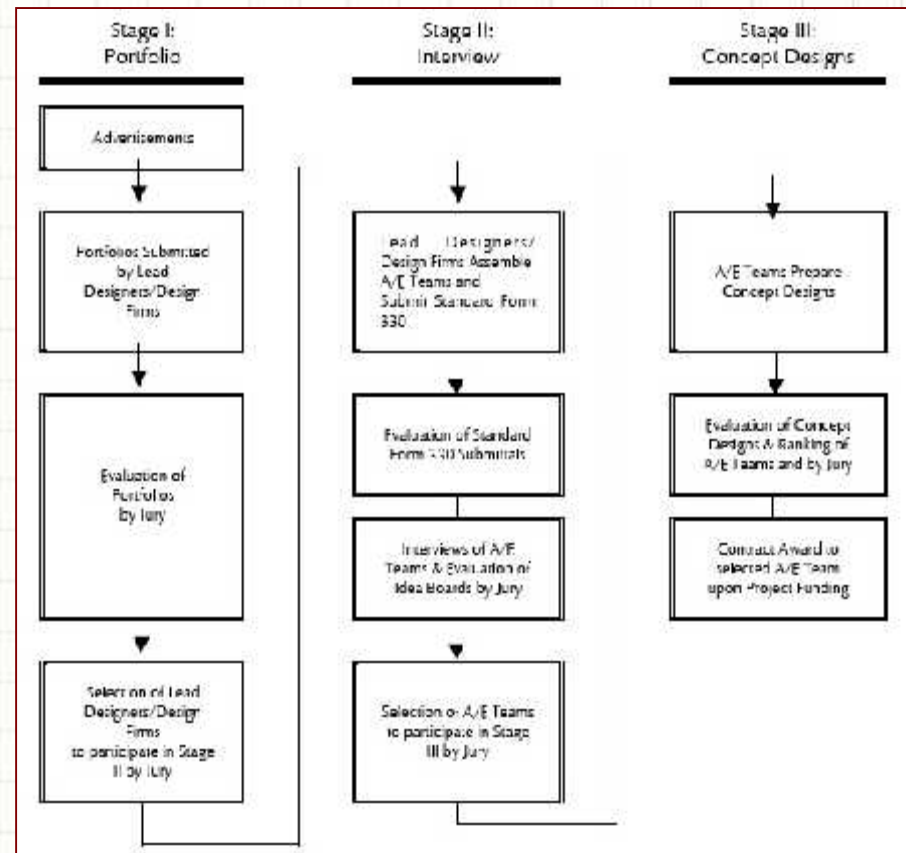


# Fundamentals of QBS

2. Requires a *knowledgeable Owner* (entity that oversees the Solicitation for Proposals and the Selection Process).

# Knowledgeable Owner

- Many variables in a good QBS process; Owner must decide what is best for the specific project.
- Define the Solicitation Process: 1, 2 or 3-step? Oral interviews required or at the discretion of the Selection Committee?
- Can use staff that are trained in QBS procurement, or use consultant Advisor/ Procurement Specialist to develop the agency's QBS process and help oversee it.





# Knowledgeable Owner


- Proposal Solicitation should reflect an appropriate level of preparation time for consultants to respond.
- Solicitation should require appropriate levels of expertise that are relevant to the specific project. Balance the need of expertise with allowing new firms into the process.
- The evaluation criteria are logical and clear; they are weighted to reflect the importance of specific skills and experience.
- The Owner/Agency's goals of rigor and fairness are reflected in the solicitation, while respecting consultants' needs to minimize time and effort into a proposal with no guarantee of contract outcome.

# Fundamentals of QBS

**3.** Requires a *knowledgeable Evaluation Committee.*



# Evaluation Committee Basics

- Evaluation Committee must be qualified in QBS & understand the services of design consultants.
  - Committee's authority to select must be empowered. Keep the politics in check.
  - Committee may need anonymity to be effective. Be cautious of supervisor-subordinate relationships.
  - Committee membership needs to be balanced with expertise that reflects the project's needs.
- 





## **Advantages of QBS**

- Provides a fair & competitive selection method.
- Results in the most economical project cost.
- Most responsive to Owner's needs
- Owner maintains control through design.
- Encourages innovation.



## **Disadvantages of QBS**

- High level of knowledge from Owner to execute.
- High level of knowledge from Proposers to participate.
- May take more time to execute.



## Traditional QBS Process

- Owner issues Request for Proposals (RFP).
- Consultants respond with written proposals.
- Evaluation committee reviews; may include oral interview.
- Evaluation committee scores proposals and selects best *qualified* proposer.
- Contract negotiations begin. If agreement cannot be reached, negotiations begin with second best proposer.

2

## QBS and Alternative Procurement

LOI DS DB CMC  
RFB CMR  
RFP MGC  
RFT PDB  
RFQ IPD

# Typical Alternative Procurement Options (vs. Design-Bid-Build)

## TEAM PROCUREMENT:

DIRECT SOLICITATION (DS)

*DISADVANTAGED BUSINESS ENTERPRISE (DBE)\**

*(\*DBE plan usually required by DB proposals)*

LETTER OF INTEREST (LOI)

REQUEST FOR BIDS (RFB)

REQUEST FOR TENDER (RFT)

REQUEST FOR QUALIFICATIONS (RFQ)

REQUEST FOR PROPOSALS (RFP)

## TYPES OF ALTERNATIVE PROCUREMENT:

DESIGN-BUILD (DB)

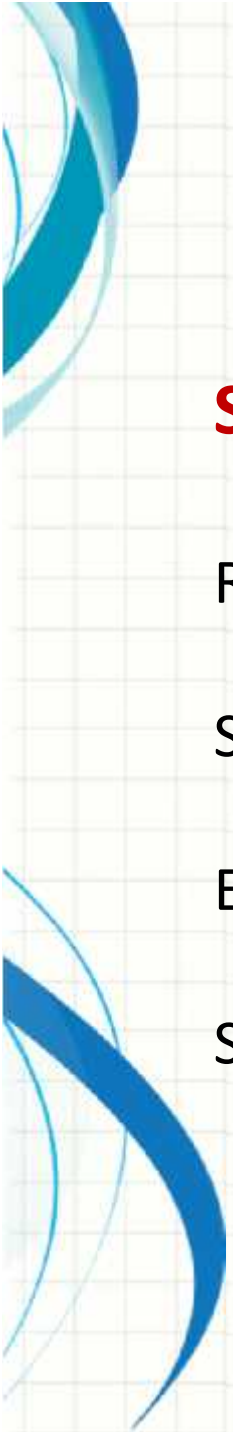
CONSTRUCTION MANAGER AS CONSTRUCTOR (CM-C)

CONSTRUCTION MANAGEMENT AT RISK (CM-R)

MANAGING GENERAL CONTRACTOR (MGC)

PROGRESSIVE DESIGN-BUILD (PDB)

INTEGRATED PROJECT DELIVERY (IPD)



# Design-Build 2-Step Team Procurement

## Step 1

Request for Qualifications

Statement of Qualifications

Evaluate

Shortlist

## Step 2

Request for Proposals

Proposal & Interview

Evaluate

Select Design-Build Team

Award Contract

# Types of Qualifications Based Selection Contracting


- Selection based on Demonstrated Competence & Qualifications.
- Excludes Fees, Price, Work-hours, etc.

## **Design-Build (DB)**

Owner contracts with one entity for design & construction. Can be one step selection process, or two step, with first step narrowing teams down by qualifications, & second step evaluating success of team's design in meeting building program requirements.

## **Construction Manager at Risk (CM-R)**

Owner contracts directly with designer & builder. Designer-builder selection. Full preconstruction services from start of design.



**Progressive Design-Build** Owner selects designer & builder. Design to 30%, 60%, 90%, 100%, with Target Price, established by cost estimates and value engineering at 30%, & cost estimates and constructability review at 60%, and cost estimates at 90%. Bid & submit Guaranteed Maximum Price (GMP) for approval. Construct & accept.

**Integrated Project Delivery (IPD)** Owner, primary design consultants, & contractor execute a single contract. Collaborative design (uses BIM).

# Advantages & Disadvantages of Alternative Procurement

## Advantages:

1. Fixed Project Budget
2. Negotiation of Changes between all parties
3. Schedule Control – Earlier Project Completion & Occupancy
4. Innovative Means & Methods.

## Disadvantages:

1. Constant adjustments to design.
2. Design tradeoffs will occur throughout process.
3. Tendency to discard use/maintenance options to save money.
4. A weak criteria document may result in less quality than desired to save money (or increase contractor profit).



# Do's and Don't's For Alternative Procurement

## **OWNER:**

### **DO:**

- \*Include narratives describing project scope, preliminary concept or site studies, required preconstruction & postconstruction activities.
- \*Define AHJ (authority having jurisdiction) for code review.
- \*Define project goals & selection criteria for project team.
- \*Define design criteria including material quality, energy use (insulation values), in design-build.

### **DON'T:**

- \*Restrict additions to scope of work for usability or constructability if within project budget.
- \*Restrict early project completion dates, if possible.
- \*Don't negotiate fees/prices prior to selection of project team.  
Teams to be ranked before negotiations begin.

# Design-Build Evaluating Qualifications

## Usual Pt. Allocation

- |   |       |
|---|-------|
| 1. State or Local Preference  | Low   |
| 2. Location – Proximity of Team to Project Site/Owner                             | Low   |
| 3. Project Experience – Project Team, A/E, Contractor                             | High  |
| 4. Restatement of Scope of Work   | High  |
| 5. Project Management   | High  |
| 6. Concept Design/ Schematic Design (if required)                                 | High  |
| 7. References   | Low   |
| 8. Project Cost/ Cost Plus<br>(fixed in D/B unless deductions or add-ins offered) | ----- |

# D/B QBS Selection on the Last Frontier

## PROJECT TEAM:

### Project Experience

- Generic (same type of project, same size, same client)
- Similar geographic/climatic location
- Logistics and phased construction

### Scope of Work

- Clear understanding of extent of work, subcontracts, restrictions

### Project Management

- Experienced supervision & prior team experience
- Clear communications & fast dispute resolution procedures

### Pre-design vs. Concept Design/ Schematic Design (if required)

- Adhere to goals & functions shown in pre-design
- Demonstrate original solutions, cost savings, applicability to location



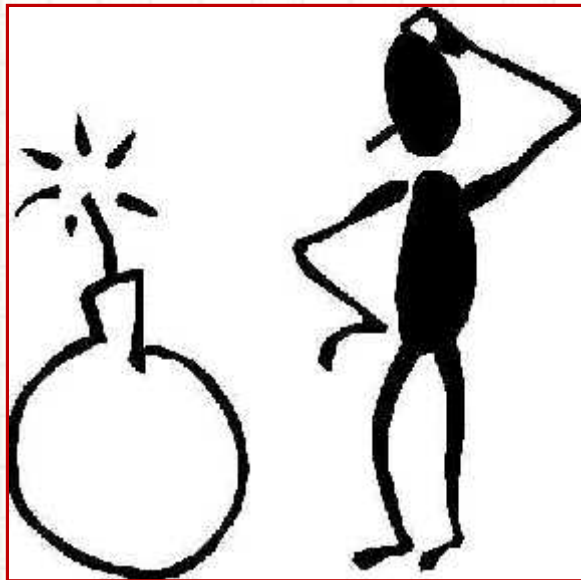
# Who Uses QBS?

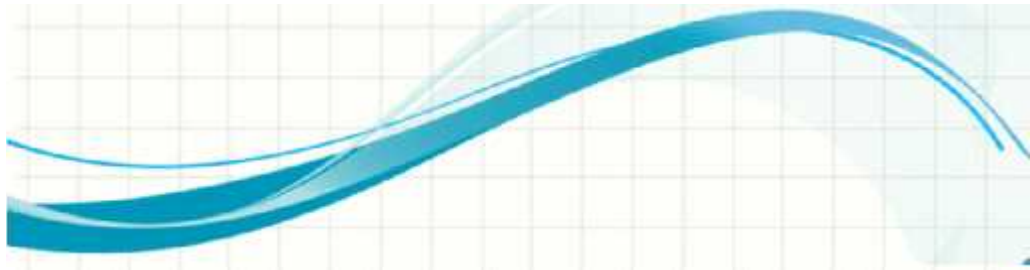
## 48 States With QBS Laws



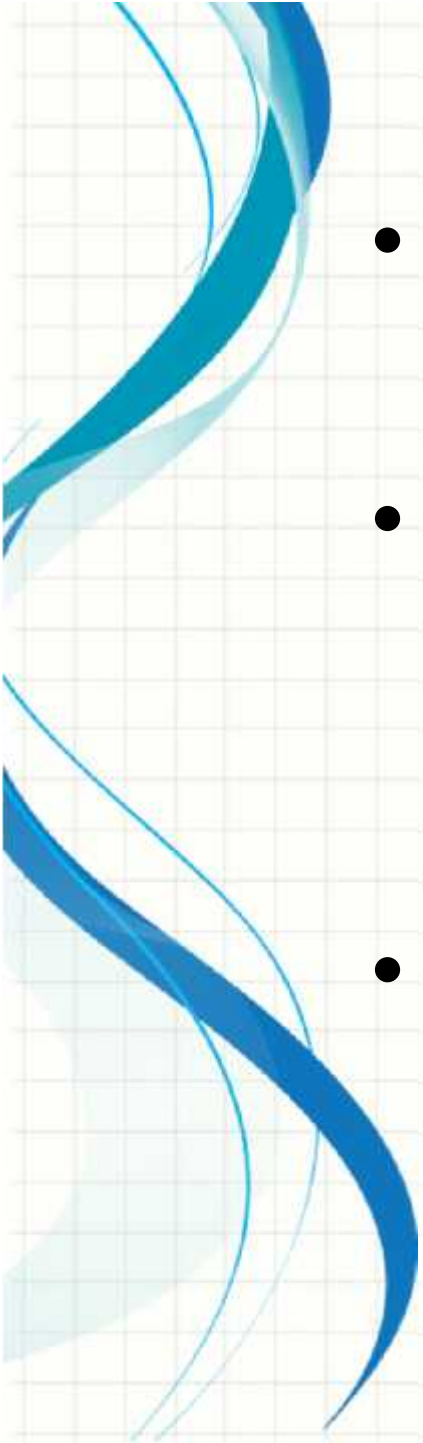
States without QBS: South Dakota, Vermont

If so many states use QBS,  
then what is the problem?





- Lack of understanding in public projects causes QBS to not be used, or to be inappropriately modified.
- (Mis)Perception that QBS costs more causing some states to modify or eliminate QBS.
- Some state adoptions of QBS are not required to “trickle down” to all government agencies in the state.
- Lack of awareness and understanding the benefits of QBS causes it not to be used in private projects.

- 
- Procurement Officers don't understand that purchasing services is different than purchasing commodities.
  - A/E services often get lumped into Construction in the minds of Owners. They don't see the design process as distinct from construction. Most construction is low-bid, so logically, so is A/E selection.
  - Owners don't understand the value of a good design process, and therefore, they don't understand the VALUE of Architects – what we bring to the project.



## **Education: The Carrot**

Meet with agency procurement officials, offer QBS short courses to public employees, speak at conferences, provide sample QBS documents and draft policies. **Teach people to do the right thing.**

## **Advocacy: The Stick**

Meet with elected officials, draft legislation, testify at committee hearings. **Change the Law.**





3

- QBS Challenges in Alaska



# Public Agency Requirements For QBS

Federal Government

Brooks Act of 1972 (Public Law 92-582)

State of Alaska Statutes

TITLE 36 PUBLIC CONTRACTS

Article 03. COMPETITIVE SEALED PROPOSALS

Section 36.30.270. Architectural, engineering, and land surveying contracts.

State of Alaska Regulations

12 AAC 320-390 Competitive Sealed Proposals for Architect, Engineer, or Land Surveyor Services (DOTPF)

4 AAC 31.065 Selection of Designers and Construction Managers (DEED)



## Public Agency Requirements for QBS

### **Municipality of Anchorage**

7.20.060 Competitive sealed proposals; negotiated procurement

### **Fairbanks North Star Borough**

16.55.010 Architectural and engineering services

### **City and Borough of Juneau**

53.50.050 Contract Amounts

53.50.090 Exceptions to competitive sealed bidding and submission of quotations

### **Kenai Peninsula Borough**

5.28.250 Proposals for professional services or where bidding not practicable

### **Matanuska Susitna Borough**

3.08.260 Competitive Sealed Proposals; Negotiated Procurement

3.08.300 Professional Services



# Shall vs. May

**Some laws/ statutes state that professional services 'shall' be acquired using QBS.**

– **Federal Government**

Sec.902. The Congress hereby **declares it to be the policy** of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

– **State of Alaska**

Notwithstanding conflicting provisions of AS 36.30.100-36.30.260, a procurement officer **shall** negotiate a contract for an agency with the most qualified and suitable firm or person of demonstrated competence for architectural, engineering, or land surveying services.

– **Alaska State Department of Education and Early Development**

If a school district determines that it is necessary to engage the services of a private consultant to design or provide construction management for an educational facility with money provided under AS\_14.11.011 - AS 14.11.020 , or for a project approved for reimbursement of costs under AS\_14.11.100 , and the estimated cost of the contract is more than \$50,000, the selection of the consultant **shall** be accomplished by soliciting written proposals by advertising in a newspaper of general circulation at least 21 days before the proposals are due. The contract shall be awarded to the most qualified offeror, after evaluating the proposals submitted.



# Shall vs. May

- **Municipality of Anchorage**

When the source selection is for architectural and/or engineering services, (herein A/E services) a qualifications-based selection process shall be used. Price will not be a factor in the selection of the architect or engineer during the evaluation process.

- **Fairbanks North Star Borough**

It is the policy of this borough to publicly announce all requirements for architectural and engineering services and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices.

- **Matanuska Susitna Borough**

Except as authorized by MSB 3.08.280 and 3.08.290, professional services shall be procured in accordance with the terms of this section.



# Shall vs. May

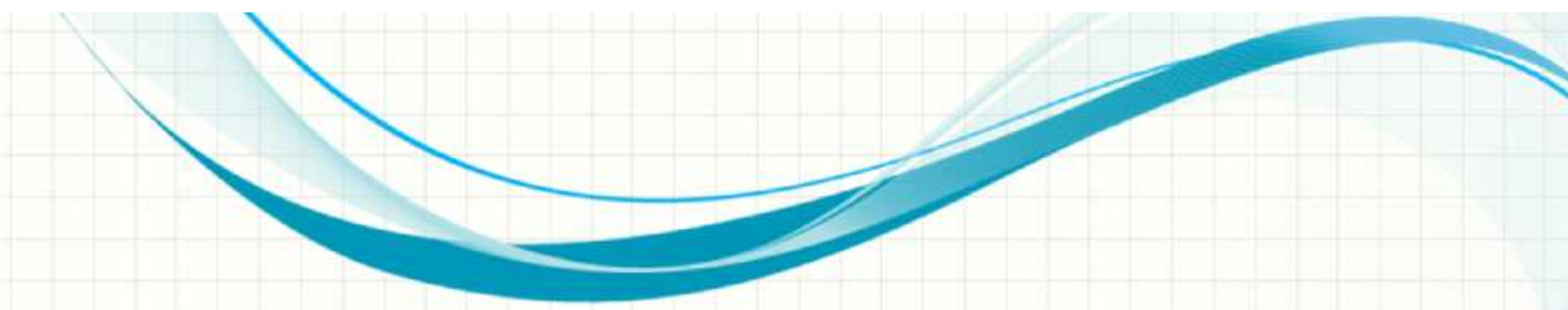
## Some ordinances say that professional services ‘may’ be acquired using QBS

- City and Borough of Juneau

To contracts involving the obtaining of professional or specialized services such as those rendered by architects, attorneys, engineers, and others requiring advanced training and the exercise of independent judgment and discretion. Except as authorized in writing by the purchasing officer, such services shall be obtained by competitive proposal.


- Kenai Peninsula Borough

If the mayor determines that use of competitive bidding is not practicable or if the procurement is for professional services, the borough **may** procure supplies, services, professional services, or construction by competitive sealed proposals under this section.



**What are we, the collective design professionals, trying to do to improve QBS in Alaska?**





# Alaska Professional Design Council

- American Institute of Architects, Alaska Chapter
- American Society of Civil Engineers, Alaska Section
- Alaska Society of Professional Engineers (NSPE)
- American Society of Professional Land Surveyors
- American Council of Engineering Companies
- American Society of Interior Designers
- American Society of Landscape Architects
- Structural Engineers Association of Alaska

The slide features a background with a light gray grid pattern. On the left side, there are several curved, overlapping bands in shades of blue and teal, creating a sense of motion or flow. The main title 'APDC Committees' is positioned in the upper right quadrant in a large, bold, red font.

# APDC Committees

- **Qualifications Based Selection Committee**
  - Standing Committee for over 25 years
  - Chaired for many years by Tom Livingston, FAIA
  - Subsequently by Sam Combs, AIA, and Colin Maynard, PE
  - Now chaired by Janet Matheson, AIA
  - Primary function has been to send letters
    - Public Agencies using fee or billing rates in RFP's
    - Assist Legislative Liaison Committee with QBS Bills
- **Legislative Liaison Committee**
  - Inform Legislature regarding QBS and QBS bills
  - Got State of Alaska to adopt current QBS in 1978



# APDC Strategies for Improving QBS Use in Alaska

**Use Minute Man approach** – report good and bad; letter writing.  
APDC has been doing this for over 20 years, with limited success

**Get agencies & communities** who are using QBS to stand up for it.

**Communicate with Mayors** and others in the Alaska Municipal League (AML) to see the importance of bringing QBS education to their members.

**Get bill in front of state legislature to require QBS.**

Last bill required projects using State capital projects money to use QBS;  
AML opposition killed it

# What you can do to help



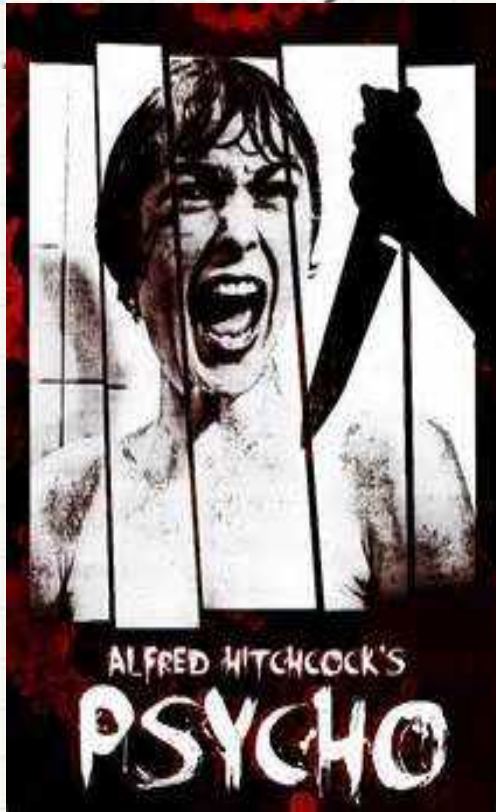


**Notify the AIA and APDC Leadership whenever you see an RFP that requires fees or rate schedules as part of the evaluation.**

Angie Monteleone, APDC Executive Director  
amonteleone@apdc-ak.com

**Don't propose on project RFP's that require fees and inform the agency that this is the reason that you are not proposing.**

**Provide graphics assistance** to prepare a Why QBS? brochure to accompany letters to Public Agencies



**Provide AIA and APDC QBS  
Committee examples of fee based  
RFPs that have resulted in projects  
going bad due to unqualified  
consultants or inadequate fees.**

**We need horror stories!!!**



# Resources

**Educate yourself on the details of QBS.**

- AIA State Government Network
- AIA Governmental Affairs Staff
- Other state AIA Chapters, eg AIA Florida You Tubes, AIA Wisconsin QBS manual
- Cross-Discipline Support: Working with allies
  - ACEC: [acec.org/advocacy/committees](http://acec.org/advocacy/committees)
  - APWA: [http://www2.apwa.net/documents/advocacy/qualifications based selection.pdf](http://www2.apwa.net/documents/advocacy/qualifications%20based%20selection.pdf)