

## **Clean Water Fund Memorandum (2021-003)**

### **Hiring of Engineering Services for Connecticut Clean Water Fund Projects**

#### **I. PURPOSE**

To provide municipal officials with a clear and consistent methodology for performing qualifications-based selection (QBS) of engineering consultants, and how to document and certify the QBS process, in order to retain eligibility on Connecticut Clean Water Fund (CWF) projects.

**Please refer to the document entitled “GUIDANCE FOR HIRING OF ENGINEERING SERVICES FOR CONNECTICUT CLEAN WATER FUND PROJECTS, MARCH 2021” for additional information on the QBS process.**

#### **II. GOVERNING STATUTES AND REGULATIONS**

QBS became required for all federal projects by the passage of the Brooks Act (Public Law 92-582) in 1972. In Connecticut, CWF projects are specifically required to use QBS, in accordance with Section 22a-482-4(i) of the Regulations of the Connecticut State Agencies (RCSA).

The federal QBS requirement became more prescriptive for all Clean Water State Revolving Funds in 2014, with the passage of the Water Resources Reform and Development Act (WRRDA, Public Law 113-121). WRRDA amended Titles I, II, V, and VI of the Federal Water Pollution Control Act. As amended, Title VI includes Section 602(b)(14), which states:

“(14) a contract to be carried out using funds directly made available by a capitalization grant under this title for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services shall be negotiated in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, United States Code, or an equivalent State qualifications-based requirement (as determined by the Governor of the State).”

All Architectural/Engineering contracts for CWF projects must comply with the procurement requirements identified in 40 U.S.C. 1101 et seq. and RCSA Section 22a-482-4(i).

In some instances, there may be conflicts between a local hiring practice (e.g., preference to local businesses) and the fair and open process that is required by the CWF. When conducting hiring for CWF projects, these CWF requirements must supersede any type of limiting local hiring practices in order to maintain CWF eligibility.

### III. PROCEDURE

QBS is a fair, objective, and legal process for selecting the services of planning, design, and construction engineering professionals who are most qualified for a particular project, based on competence and experience.

#### A. How to Perform QBS for CWF Projects

Some municipalities, which may not have as much experience with the QBS process, may require hands-on assistance. The Connecticut QBS Council (now defunct) has a written guide which is still applicable and a good resource: [“Qualifications-Based Selection of Design Professionals: A Guide for Project Owners”](#) (Connecticut QBS Council, 2006).

##### 1. The Request for Qualifications (RFQ)

For a CWF project, the public notice shall be published, posted, or distributed in a documented manner that does not exclude potentially qualified firms from responding. The RFQ shall not request any cost related information.

An RFQ should include, but not be limited to, the following:

- A description of the proposed project;
- Any special expertise required for your project;
- A statement telling the firm what you want it to do along with an approximate completion date;
- A deadline by which the town must receive the firm's statement of qualifications;
- The person in your town the firm can contact for additional information and the evaluation criteria used to select consultants for interviews;
- Place and time the statement of qualifications must be submitted;
- A description of the method for addressing questions; and
- The following Solicitation Statement:

“Any contract awarded under this request for qualifications is expected to be funded in part by the State of Connecticut, Department of Energy and Environmental Protection as funds are available under Sections 22a-478 and 22a-483 of the Connecticut General Statutes (CGS) and federal funds under the Water Quality Act of 1987 and pursuant to the requirements of Section 22a-482-4 of the Regulations of Connecticut State Agencies (RCSA), including the procurement requirements contained in RCSA Sections 22a-482-4(h), (i), and (o). The State of Connecticut will not be a party to this request for qualifications or any resulting contract.”

## 2. How to Public Notice the RFQ

The following list suggests various ways in which the public notice for an RFQ can be circulated:

- Professional engineering journals and organizations;
- Local newspapers;
- Publications which have a substantive circulation in the area;
- Posted public notices; and
- Direct written notifications to firms or persons that have previously expressed interest in or have worked for the town.

### **B. How to Document and Certify the QBS Process for CWF Projects**

Provide the CWF project engineer with a memorandum that summarizes the QBS process followed by the municipality, along with a signed copy of the attached “Qualifications-Based Selection Certification Form for Connecticut Clean Water Fund Projects”. The QBS memorandum must include the following key information:

- A copy of the public notice for the RFQ and proof of how it was advertised;
- A list of the firms who responded to the RFQ;
- A list of the members of the selection committee/board, along with their respective roles in the project;
- The short list of firms interviewed (at least 3), including dates and times of the interviews;
- A list of the selection criteria and copies of the evaluation forms for each interviewed firm which include how each firm was scored; and
- The firm selected for the CWF project.

### **C. Subsequent Phases**

If your municipality is satisfied with the qualifications of the firm which performed any or all of the planning/design work, the municipality may choose to keep the same firm for subsequent design/construction phases.

QBS does not need to be performed again for subsequent phases of a project, as long as the firm has sufficient ability to complete the remaining design/construction work.

If, in a multi-phase project, the initial contract for the preparation of construction drawings and specifications does not cover all the phases of the facility to be built, then the same firm can be selected for the design/construction work of the subsequent phases.

#### IV. DEFINITIONS

CWF: Connecticut Clean Water Fund

QBS: Qualifications-Based Selection

RCSA: Regulations of the Connecticut State Agencies

RFQ: Request for Qualifications

U.S.C.: United States Code

WRRDA: Water Resources Reform and Development Act

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Attachment: Qualifications-Based Selection Certification Form for Connecticut Clean Water Fund Projects