



TCEL Qualification-Based Selection (QBS) Position Statement

Background and Purpose: Historically, Qualifications-Based Selection (QBS) has been misunderstood which has resulted in different ways of doing business across different parts of the state of Texas. TCEL has observed various local public entities soliciting a bid for construction testing services. The purpose of this document is to provide a summary of what QBS is and to provide clarity on our position as Member Firms of TCEL/Geoprosessionals Serving Texas.

Professional Services Procurement Act (PSPA)

The PSPA, or Texas Government Code Chapter 2254, prohibits governmental entities, including cities, counties, school districts, state agencies and other public bodies, from selecting providers of certain professional services on the basis of competitive bidding. The PSPA applies to many professional services, including professional engineering and land surveying. The PSPA requires a governmental entity to follow the procedure set out in Texas Government Code §2254.004 when contracting for professional engineering or surveying services. This procedure, commonly known as Qualifications-Based Selection, or QBS, is a two-step process which requires the governmental entity to first select the most highly qualified provider of services and negotiate a fair fee second.

Source: pels.texas.gov

What is QBS?

QBS is a procurement process through which firms compete for work based on experience and technical expertise, rather than competing for the lowest fee bid. Under QBS, after firms are evaluated and shortlisted based on their qualifications, the top-ranked firm is selected for fee negotiations, and, ideally, a fair and reasonable fee is reached based on a detailed scope of the project. If an agreement on fee cannot be reached with the most qualified firm, negotiations commence with the second most qualified firm. Negotiations should be formally terminated before commencing negotiations with the second-most qualified firm. In most cases, the top-ranked firm is selected at a fee that fits the client's budget.

Source: [ACEC.org](https://www.acec.org)

TCEL Understanding of Construction Materials Testing (CMT) as an Engineering Service

TBPELS Policy Advisory Opinion Regarding Construction Materials Engineering (CME) provides some insight into how these CMT and CME services are viewed; however, it does leave some room for interpretation and therefore some disagreement on what is required.

TCEL firms are engineering firms and provide a variety of services including both “CMT” and “CME” services. Because both services as described by the policy advisory opinion are part of normal daily operations, there is no distinction between “CME” and “CMT” ser-

It is TCEL's opinion that both CMT and CME services are acceptance-based engineering services and therefore subject to a QBS approach to procuring both CMT and CME services.

vices including what is required to run an operation that provides these services.

A public entity employee cannot adequately provide the following:

- Direct supervision of the personnel of a private firm
- Maintenance of training and continuing education including tracking and implementation of these on an ongoing basis
- Accreditation of the engineering firm lab including daily supervision and oversight
- Supervision of laboratory activities

All of these items above are done by the private firm through the accreditation process which includes oversight from Professional Engineer(s) for that laboratory.