

# ***How to Hire an Engineer/Engineering Firm***

For Public Water System or Wastewater  
System Design or Modification

State of Idaho  
Department of Environmental Quality  
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## Public Comment

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### Prepared by

Idaho Department of Environmental Quality  
Drinking Water Protection and Finance Division  
1410 N. Hilton St.  
Boise, ID 83706

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## **Abbreviations, Acronyms, and Symbols**

DEQ	Idaho Department of Environmental Quality
QBS	qualifications-based selection
PE	professional engineer
PWS	public water system
RFP	request for proposal

# 1 Introduction and Overview

This informational brochure assists communities and other entities in procuring the services of **professional engineering firms (i.e., professional engineers, PEs)** when required by the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) or the Wastewater Rules (IDAPA 58.01.16). These services may be required for planning and designing new or materially modified public water systems (PWSs) and wastewater systems, developing preliminary engineering reports for proposed projects, or developing facility plans for a system.

This brochure is not intended to provide legal advice or answer legal questions that might arise when contracting with PEs but documents steps and procedures that may be followed in procuring their services.

For public agencies and political subdivisions, legal requirements for procuring PE services are found in Idaho Code 67-2320 “Professional Service Contracts with Design Professionals, Construction Managers, and Professional Land Surveyors.” This procurement process is known as *qualifications-based selection (QBS)*.



What is QBS?

Selection Must Be Based on Qualifications, **NOT** Price.

[Idaho Code 67-2320](#)

The QBS process of Idaho Code 67-2320 is mandatory for public agencies and political subdivisions for procurement of *any* professional service contract with design professionals, including engineering services. The rules regarding the QBS process along with some important restrictions are outlined below:

- If the total professional service fee for the project is anticipated to **exceed \$50,000**, the *formal* QBS process outlined in paragraphs (a) through (j) of subsection (2) of Idaho Code 67-2320 must be followed.
- If the total professional service fee for the project is anticipated to be **less than \$50,000**, then an informal QBS process established by the public agency or political subdivision may be used in lieu of paragraphs (a) through (j) of subsection (2). This informal process should establish a method to select the person or firm based on qualifications and demonstrated competence and not based on fees. It is recommended the public agency or political subdivision document the process in writing.
- It is **illegal** for an owner to *break up* a single project into smaller projects to bypass the formal QBS process (Idaho Code 59-1026).
- It is **illegal** for an owner to request a bid for any QBS process. It is **illegal** for a PE or land surveyor to submit a bid for services in a QBS process. Because design professionals are selected based on qualifications and not cost, cost is not to be included in the request for proposal (RFP) or statement of qualifications.

- Once the formal QBS process has been used to award a professional services contract for an associated or phased project, the public agency or political subdivision may negotiate an extended or new professional services contract for the associated or phased project.

In all circumstances, the selection should be based on demonstrated competence and qualifications to perform the type of services required and not on price for services rendered.

For nonpublic entities, such as homeowner associations, private schools, churches, recreation vehicle parks, and restaurants, the procedures described are not mandatory. However, these entities may find the information useful when actively seeking professional services.

## 2 Hiring a Professional Engineer

The legal requirements in Idaho Code 54-1218 “Public Works” mandate that state agencies and subdivisions use a PE for construction of any public works<sup>1</sup> when public health or safety is involved. Therefore, a PE is required to draft plans, specifications, and estimates for constructing new PWSs or public wastewater treatment systems, or for material modification or expansion to existing public systems as described in Idaho Code 39-118 “Review of Plans.” Additionally, these plans must be approved by the Idaho Department of Environmental Quality (DEQ) prior to beginning any construction.

Remember, selecting the design professional is the most important decision in the project’s overall success.

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<sup>1</sup> Title 67, chapter 28, Idaho Code, which contains the purchasing and procurements statutes for political subdivisions of Idaho, does not contain a definition of either the term “public work” or “construction.” But there is a definition of “public works construction” contained in Idaho Code section 54-1901(2)(c)10 regarding the licensure of public works contractors.



### 3 Scope of Work

The first step in procuring professional services is to develop the scope of work needed from an engineer. Perhaps a well has stopped producing sufficient water or has become contaminated. A recent sanitary survey may have uncovered health hazards or significant deficiencies. The scope of work might involve evaluating water sources or treatment technologies for new systems or upgrading existing systems in growing communities.

Selecting an engineer should be based on experience relative to the project's complexity. If the project involves permitting from state or federal agencies, direct experience in water reuse or regulatory permitting should be sought. Project complexity can range from simply extending sewer or potable water main lines, designing community septic systems, or constructing drinking water wells to designing full-scale drinking water or wastewater treatment plants for subdivisions, municipalities, commercial facilities, or industry.

The scope of work is used to determine the estimated total professional service fee for the project. The budget fee will dictate either the *formal* QBS process (if above \$50,000 total fee) or optional *informal* QBS process (if below \$50,000 total fee). The *formal* process starts with developing an RFP; however, a detailed RFP is not typically issued for the *informal* process. A clear scope of work is a critical step in developing the RFP.

### 4 Developing an RFP

In the *formal* QBS process, an RFP is a published notification of the intent to secure professional engineering services. The completed RFP should list the scope of work and other technical requirements to be accomplished, the criteria and procedures for selection, and general information for prospective engineers.

Request general qualifications and experience of the lead engineer, current workload, references, past clients, past experience with projects of the desired type, and details of staff planned for the project from potential respondents. Responding engineers should supply a general recommendation or statement of how they would approach the problem and how they would investigate potential alternatives. Include selection criteria to let potential firms know what you will be looking for.

In the *informal* QBS process, develop a brief project description and include critical selection criteria. The description and selection criteria do not need to be published.

Firms may be contacted online; via the yellow pages; through recommendations of neighboring communities; or from notices in local newspapers, journals, and trade publications. In the *formal* QBS process, the RFP must be published according to Idaho Code 67-2320 and 67-2805(2). **Refer to the code for publishing timing, durations, and location requirements.**

In the *informal* process, public agencies and political subdivisions can select qualified firms and send the information or contact firms based on their specific method.

## 5 Selection Process

### 5.1 Ranking Respondents

For the *formal* QBS process, include the ranking criteria in the RFP. For the *informal* QBS process, DEQ recommends including the ranking criteria in the project description. Maximum points can be assigned to various criteria depending on importance. Criteria may include qualifications and experience of the lead engineer in the requested type of project, current workload, proximity to the project site, and a demonstrated capability to meet time and budget constraints.

Supplied references and past clients can be contacted and points assigned accordingly. Since the engineer must be licensed in the State of Idaho as a PE, the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors may be contacted about current standing and any past disciplinary actions.

A review panel should be selected that reflects broad perspectives of the project needs and concerns. Both technical staff and policy-level reviewers can be on the committee to achieve this goal. Reviewers then rate and award points to each respondent equal to or less than the maximum points assigned for each criteria.

One way to rank respondents is for reviewers to rank each respondent as 1st, 2nd, 3rd, and so forth. The individual rankings by all reviewers for each respondent would then be added (e.g., three 1st place votes and one 3rd place vote would add up to 6 points), and respondents would be ranked according to the lowest overall score.

It may be helpful during the selection process to formally interview the highest-ranking potential engineers. Visit their firms if you are unfamiliar with them or require additional information to make the selection. The interview results can be aggregated with the proposal score or may stand alone as the final selection criteria. Again, it is important to formally document the scoring and final decision by the selection committee.

### 5.2 Specific Questions for Potential Candidates During Interviews

- *Does the candidate possess a current State of Idaho Professional Engineer License?* The lead engineer must possess a current Idaho PE license, and business entities must have a certificate of authorization from the Idaho Board of Professional Engineers and Professional Land Surveyors to practice in Idaho. While other employees of a potential engineering firm, such as surveyors and drafters, may also be involved in the project, they must be under the direct supervision of the PE in charge of the project. If a project team is made up of a lead or primary consultant and several subconsultants, all consultants should be licensed and experienced in their area of expertise.
  - If you are unsure and would like to verify whether an engineer's license is current, check with the [Idaho Division of Professional and Occupational Licenses](#). Also check on any current disciplinary actions against the candidate that may

affect the candidate's future licensure. Contact the Board directly for this information; contact information is listed on the website.

- *Does the candidate have experience designing your type and size of system?* An engineer must not only possess a valid Idaho PE license but should have experience with your particular type of system.
- *How many years of experience does the candidate and any team members possess?* By obtaining an Idaho PE license, an engineer should already have 4 or more years of engineering experience.
- *Does the candidate have references?* Ask for and verify all references.
- *Can the candidate perform all the requested tasks, services, and duties with current employees, or will outside help be required?* The firm must be capable of performing all of the requested items. However, it may be appropriate for the firm to obtain additional expertise via subconsultants. Not having the ability to perform all needed services should not, on its own, because to remove the potential candidate from further consideration. It is recommended that to the extent practicable, all subconsultants needed to perform the scope of services should be indicated in a candidate's proposal. The whole *team* should be the subject of the QBS process to the extent possible.
- *Will the project team proposed by the candidate be able and available to perform the work for the duration of the project, and is the candidate willing to commit to that during contract negotiations?* Verify that all team members or suitable alternates will be able to complete the project in the anticipated time frame.
- *By contract, is the candidate going to act as an "agent" of the owner in performance of their services (i.e., able to bind a third party to the owner by contract)?* If so, the candidate must select any design professionals or professional surveying (not already listed in their proposal) on behalf of the owner by a QBS process.

### **5.3 Establish a List of Qualified Firms**

Using the established criteria, select the persons or firms determined to be best qualified to provide the required services, ranked in order of preference. Idaho Code § 67-2320(2)(i) allows governmental entities to create a list of prequalified persons or firms as long as the list consists of two or more listings. For each project, the governmental entity may rank and select the top-ranked listing from the prequalified list to avoid the public notice and RFP process. The list remains valid for 5 years unless the governmental entity decides cancellation would be in the public's interest (Idaho Code § 67-2320(2)(j)). Further, Idaho Code 67-2801 states that "Political subdivisions of the state shall endeavor to purchase goods and services from vendors with a significant Idaho economic presence."

### **5.4 Contract Negotiations**

Negotiate with the highest-ranked person or firm for a contract or agreement to perform the requested services at a price determined to be reasonable and fair. The scope of work may be modified if conditions have changed or new information or technologies have been discovered.

If the contract amount exceeds \$10,000, governmental agencies must publish a notice in its official newspaper with the names of the parties, the contract amount, and a one-sentence summary of the purpose of the contract (Idaho Code 59-514).

## 5.5 Failed Negotiations

In the event that a satisfactory contract or agreement cannot be negotiated, formally terminate negotiations with the current firm and undertake negotiations with the next highest-ranked person or firm. As soon as the decision is made, verbally notify the current firm that you intend to terminate negotiations and follow up with a letter detailing an exact date of termination. Give the firm an amount of time to reconsider the unresolved issues that prompted the termination notification. You may need to negotiate with the third highest-ranked firm and so on until a satisfactory contract or agreement is reached.

## 6 Additional Resources

**The Qualifications-Based Selection Facilitator Council (QBS of Idaho)** is a coalition of many design and professional service volunteers, formed to bring information about QBS to Idaho cities and counties. For additional information, see [QBS of Idaho](#).

The following entities may also be able to assist you with questions on procuring professional services:

- Association of Idaho Cities
- American Council of Engineering Companies
- Idaho Association of General Contractors (IAGC)
- Idaho Society of Professional Land Surveyors
- Idaho Society of Professional Engineers
- Society of American Military Engineers
- Small Business Administration – Boise District – for small business requirements within funding.
- Idaho APEX Accelerator – they have bid-match and can help with small business requirements