



To: Senate Transportation Committee
From: Brian Armstrong, PE; Kansas Professional Society of Engineers
Date: March 15, 2016
Re: Alvarez & Marsal Audit KDOT Recommendation #1

Mr. Chairman and members of the subcommittee,
Thank you for the opportunity to offer our thoughts on the recommendations in the Alvarez & Marsal audit.

The Kansas Society of Professional Engineers (KSPE) represents the individual licensed engineers across the state. For over 100 years, KSPE has worked to promote engineering by delivering professional development services, encouraging licensure, and advocating legislation and public policy for the betterment of human welfare and the industry.

Our particular interest relates to Recommendation #1 (DOT.01) in the Transportation section of the Alvarez & Marsal (A&M) audit. The audit specifically suggests the state move away from using the Qualifications Based Selection procurement process on state funded highway projects. KSPE stands strongly opposed to this recommendation.

The Qualifications Based Selection (QBS) procurement process is enshrined in federal law through the Brooks act and also Kansas' state statute. Contrary to claims in the A&M report, we are not aware of any state that does not use QBS for state highway projects. Even states without the QBS statute generally use it as a matter of practice.

The A&M audit explicitly suggests removing the QBS procurement requirement from state statute to allegedly save on upfront costs for state funded highway projects. While we are unsure what data was used to derive these projected savings, numerous studies have been published that illustrate the long term value of the QBS process. Data shows costs savings through fewer change order during construction, lower costs for preservation and sustainability, and ensuring the state gets exactly the project it wants and needs the first time.

QBS means you judge firms based on qualifications through the interview process. The state then ranks the top three (in most cases) and works with the top ranked firm to hammer out a well-defined scope of services and an appropriate fee. There are many aspects of a project that need to be addressed, such as population growth forecasting, possible future expansion, any particular design requests and even time at public stakeholder meetings. Until these questions, and many others, are fully answered, it is impossible to know the scope of a project or the appropriate fee.

If the state asks a firm to submit an estimated cost upfront, you are forcing that firm to pick the approach to take on the project and robbing the client of choice. QBS allows them to select the firm

that is the best fit, then let the client dictate the scope of work with help from the consulting engineer based on client needs, budget, and timeline.

It is important to note the state is NOT obligated to use the top ranked firm. If they cannot reach agreement on scope and fee, so the state is NOT locked into a particular firm or fee by using QBS. If the state at any time is not satisfied during negotiations, they can walk away from that firm without liability or obligation.

In addition, it is important to note the majority of highway projects receive some amount of federal funding. If federal funds are involved, then QBS, through the Federal Brooks Act, applies. If by some chance the state removed QBS in state statute, Kansas would now be operating on two separate and very different procurement processes. It would be difficult, burdensome and costly to keep track of these different systems. Candidly, Kansas does not need the additional bureaucracy.

The House Transportation Budget Subcommittee recently discussed this issue as well. We were delighted to see several organizations appear to oppose Recommendation #1 with no conferee or committee member speaking in support.

Our organization is a resource for any additional information or data we can provide you. We appreciate the opportunity to present our thoughts and urge you to protect QBS in our state statutes.

Thank you again for the opportunity to speak on this matter.

Respectfully,
Brian Armstrong, PE