

# ARCHITECT-ENGINEER (A&E) SELECTION PROCESS

# The Brooks Act

- ▶ The Brooks Act: Federal Government Selection of Architects and Engineers Public Law 92-582 92nd Congress, H.R. 12807 October 27, 1972 An Act To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

- ▶ "TITLE IX - SELECTION OF ARCHITECTS AND ENGINEERS "DEFINITIONS  
"Sec.901
- ▶ "(3) The term "architectural and engineering services" means - 1. professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph; 2. professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and 3. such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations,

- ▶ surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operation and maintenance manuals, and other related services.
- ▶ "POLICY "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.

# 19.803 Selecting Acquisitions for the 8(a) Program

- ▶ Through their cooperative efforts, the SBA and an agency match the agency's requirements with the capabilities of 8(a) concerns to establish a basis for the agency to contract with the SBA under the program. Selection is initiated in one of three ways-
- ▶ The SBA advises an agency contracting activity through a search letter of an 8(a) firm's capabilities and asks the agency to identify acquisitions to support the firm's business plans.

- ▶ (b) The SBA identifies a specific requirement for a particular 8(a) firm or firms and asks the agency contracting activity to offer the acquisition to the 8(a) Program for the firm(s).
- ▶ (c) Agencies may also review other proposed acquisitions for the purpose of identifying requirements which may be offered to the SBA. Where agencies independently, or through the self-marketing efforts of an 8(a) firm, identify a requirement for the 8(a) Program, they may offer on behalf of a specific 8(a) firm, for the 8(a) Program in general, or for 8(a) competition

# FAR 36.6 – Architect-Engineer Services

- ▶ (a) Agencies shall evaluate each potential contractor in terms of its-
  - (1) Professional qualifications necessary for satisfactory performance of required services;
  - (2) Specialized experience and technical competence in the type of work required, including, where appropriate, experience in energy conservation, pollution prevention, waste reduction, and the use of recovered materials;
  - (3) Capacity to accomplish the work in the required time;
  - (4) Past performance on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules;
  - (5) Location in the general geographical area of the project and knowledge of the locality of the project; provided, that application of this criterion leaves an appropriate number of qualified firms, given the nature and size of the project; and
  - (6) Acceptability under other appropriate evaluation criteria.

# 36.603 Collecting Data on and Appraising Firms' Qualifications

- ▶ (a) *Establishing offices.* Agencies shall maintain offices or permanent evaluation boards, or arrange to use the offices or boards of other agencies, to receive and maintain data on firms wishing to be considered for Government contracts. Each office or board shall be assigned a jurisdiction by its parent agency, making it responsible for a geographical region or area, or a specialized type of construction.
- ▶ (b) *Qualifications data.* To be considered for architect-engineer contracts, a firm must file with the appropriate office or board the [Standard Form 330](#), "Architect-Engineer Qualifications," Part II, and when applicable, [SF 330](#), Part I.
- ▶ (c) *Data files and the classification of firms.* Under the direction of the parent agency, offices or permanent evaluation boards shall maintain an architect-engineer qualifications data file. These offices or boards shall review the [SF 330](#) filed, and shall classify each firm with respect to-
  - (1) Location;
  - (2) Specialized experience;
  - (3) Professional capabilities; and
  - (4) Capacity, with respect to the scope of work that can be undertaken. A firm's ability 36.606 Negotiations.



- ▶ a) Unless otherwise specified by the selection authority, the final selection authorizes the contracting officer to begin negotiations. Negotiations shall be conducted in accordance with [Part 15](#) of this chapter, beginning with the most preferred firm in the final selection (see [15.404-4\(c\)\(4\)\(i\)](#) on fee limitation).
- ▶ (b) The contracting officer should ordinarily request a proposal from the firm, ensuring that the solicitation does not inadvertently preclude the firm from proposing the use of modern design methods.
- ▶ (c) The contracting officer shall inform the firm that no construction contract may be awarded to the firm that designed the project, except as provided in [36.209](#).
- ▶ (d) During negotiations, the contracting officer should seek advance agreement (see [31.109](#)) on any charges for computer-assisted design. When the firm's proposal does not cover appropriate modern and cost-effective design methods (e.g., computer-assisted design), the contracting officer should discuss this topic with the firm.

- ▶ (e) Because selection of firms is based upon qualifications, the extent of any subcontracting is an important negotiation topic. The clause prescribed at [44.204](#)(b), Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) (see [52.244-4](#)), limits a firm's subcontracting to firms agreed upon during negotiations.
- ▶ **36.604 Performance evaluation.**  
See [42.1502](#)(f) for the requirements for preparing past performance evaluations for architect-engineer contracts.

- ▶ (f) If a mutually satisfactory contract cannot be negotiated, the contracting officer shall obtain a written final proposal revision from the firm, and notify the firm that negotiations have been terminated. The contracting officer shall then initiate negotiations with the next firm on the final selection list. This procedure shall be continued until a mutually satisfactory contract has been negotiated. If negotiations fail with all selected firms, the contracting officer shall refer the matter to the selection authority who, after consulting with the contracting officer as to why a contract cannot be negotiated, may direct the evaluation board to recommend additional firms in accordance with [36.602](#).

# A&E Award Process

