



Statement of

THE DESIGN-BUILD INSTITUTE OF AMERICA

Regarding

Building America: Challenges for Small Construction Contractors

Before the

Subcommittee on Contracting and Workforce
Committee on Small Business
U.S. House of Representatives
2360 Rayburn House Office Building

May 23, 2013

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INTRODUCTION

Chairman Hanna, Ranking Member Meng, and members of the committee, thank you for holding this hearing examining barriers to the maximum practicable utilization of small business construction and architecture and engineering contractors. Further, thank you for the opportunity for the Design-Build Institute of America to submit this testimony.

The Design-Build Institute of America (DBIA) is an institute of leaders in the design and construction industry utilizing design-build and integrated project delivery methods to achieve high performance projects. DBIA promotes the value of design-build project delivery and teaches the effective integration of design and construction services to ensure success for owners and design and construction practitioners.

DESIGN-BUILD

Design-build is an integrated approach that delivers design and construction services under one contract with a single point of responsibility. Owners select design-build to achieve best value while meeting schedule, cost and quality goals. Best value ensures competitive proposals from industry that considers many factors as opposed to simply awarding contracts to the cheapest offer.

Design-build provides benefits for both owners and practitioners. Owners experience faster delivery, cost savings and better quality than other contracting methods. Dealing with a single entity decreases owners' administrative burden and allows them to focus on the project, rather than managing separate contracts. The approach also reduces their risk and results in fewer delays, disputes, claims and subsequent litigation for all parties involved.

Practitioners reap benefits since an integrated team is fully and equally committed to controlling costs. Like owners, the design-builder benefits from a decreased administrative burden because the communication between designers and builders is streamlined.

When DBIA was founded 20 years ago design-build authority for government agencies and municipalities was very limited. In fact, at the state level design-build authority for government projects was only authorized in two states. Today, design build is permitted in every state in some fashion, and the number of projects has doubled in the last five years. We've had similar success at the federal level with many key agencies using design-build in more than 75% of their projects, including the Army Corps of Engineers, State Department, Navy Facilities Engineering Command, and Bureau of Prisons.

DESIGN-BUILD DONE RIGHT: QUALIFICATIONS BASED SELECTION (QBS)

DBIA supports *Qualifications Based Selection* as a highly effective way of procuring a design-build services and ensuring project success, and encourages Congress to approve *Design-Build QBS* for all federal projects.

QBS is a method of selecting a design-build team for a given project in which the final criteria for selection are qualifications and demonstrated competence. Price and cost are important factors, but under QBS they are considered when they should be, during contract negotiations, not during design-build team selection. Under QBS, the focus of the project and the entire team is on quality and value. It rewards teamwork, innovation, and proactive problem solving and ultimately the tax-payer is the winner.

In other words, QBS provides a competitive environment where offerors must compete on quality, past performance, schedule, experience, etc., and not just “low bid”. Successful design-builders must be “good” and provide a competitive price to the government.

QBS exists in federal law today, also known as the Brooks Act (Public Law 92-582), but is limited to the selection of architects and engineers for federal projects. Further, full Design-Build QBS authority exists in three states, Florida, Arizona and Colorado, and several more have the authority in some way. QBS has proven to be a success on the state and federal levels, is strongly supported by architects and engineers who operate under it, and should be expanded to include design-build teams.

DBIA is actively supporting federal Design-Build QBS legislation. We will have draft legislation during this Congress, and look forward to working with the members of this committee on its passage.

DESIGN-BUILD DONE RIGHT: BEST VALUE SELECTION (BVS)

Single-Step vs. Two-Step

Federal regulation allows for the use of design-build project delivery, including both a single-step process and a two-step process. In the single-step process a request for proposals (RFP) is issued for a project. It is issued to an unlimited number of participants and any and all parties can respond with a proposal. A selection process is then used to determine the proposal that is best from both a cost and technical perspective.

In a two-step process a request for *qualifications* (RFQ) is issued first, and any and all participants then respond with a statement of qualifications. The RFQ response is a simple and inexpensive procedure where the design-build teams submit documents detailing their past performance, staff resumes, and examples of similar projects they’ve completed. Based on these statements a short list of three to five of the most qualified respondents is determined.

The RFP is then issued only to these “shortlisted” firms which then develop full proposals including cost, schedule, and technical response. (This should not be confused with Design-Build QBS discussed above.)

As part of BVS, DBIA supports stipends paid to the unsuccessful shortlisted proposers. These modest payments – usually between 0.01 percent and 0.25 percent of the project budget – help defray costs of proposal development incurred by design-build teams. Consistent with OMB Circular No. A-11 (2006), stipends enhance competition and increase value by generating market interest and encouraging design-build teams to spend the time, money, and resources to provide creative, innovative, and complete proposals.

Two-Step Is Better For Small Business

In a single-step process, all design-build teams are asked to spend time and resources creating detailed proposals immediately, as opposed to simply submitting their qualifications. Due to the high costs of this first step – often reaching hundreds of thousands of dollars or even millions – many companies decide not to apply since their chances of final selection are so low. Small businesses in particular do not have the luxury to spend limited resources to apply for a project when the chance of being chosen may be less than ten percent.

If small businesses were only required to initially provide their qualifications under the two-step process, as opposed to a full proposal under the single-step process, many more would be able to participate. This is not only good for American small businesses, it also benefits the American taxpayer, and federal government who can be sure the most qualified companies were not scared away from a project simply due to the costs and risks of applying.

Best Value Selection Recommendations

- 1) To limit the use of single-step, DBIA joins with other organizations, including the American Institute of Architects testifying here today, and recommends that Congress limit the use of single-step design-build to projects that are less than \$750,000. This threshold is based on U.S. Army Corps of Engineers guidance which was issued in August 2012. Further, it will assure that for larger more complex projects risks for all firms are held in check, thus allowing small firms a greater chance to compete in the marketplace.
- 2) We recommend Congress amend current law to encourage true short-listing of finalists in two-step design build. Under current law, agencies are required to shortlist between three and five teams. However, the law gives the agencies flexibility to increase the number of finalists if such an increase is “in the Federal Government's interest and is consistent with the purposes and objectives of the two-phase selection process.” This exception is proving to be too broad and agencies regularly “shortlist” far more than five finalists. DBIA would like to work with this committee on appropriate legislative language to address this problem.

CONCLUSION

Thank you again for the opportunity to submit this statement. We look forward to working with this committee on the issues discussed and are ready to answer any questions you may have.