

The District currently follows the Brooks Act, also known as the Selection of Architects and Engineers statute, a federal law passed in 1972 that requires the Federal Government select engineering and architecture firms based upon their competency, qualifications and experience rather than by price. Qualifications-Based Selection (QBS) is a procurement process established by Congress as a part of the Brooks Act and further developed as a process for public agencies to use for the selection of architectural and engineering services for public infrastructure projects.

The American Council of Engineering Companies (ACEC) supports QBS, a competitive contract procurement process whereby consulting firms submit qualifications to a procuring entity (owner) who evaluates and selects the most qualified firm, and then negotiates the project scope of work, schedule, budget, and consultant fee. Crucially, under a QBS procurement, the cost of the work (price) is not considered when making the initial selection of the best or most appropriate provider of the professional services required. Fees for services will be negotiated, however, following selection and before contracting. This approach should also be tailored, adapted, and applied to alternative project delivery methods, such as design/build, public-private partnerships, etc.

ACEC supports the application of insurance requirements that are applicable and commensurate with the assessed risk. This policy is in keeping with current procurement law in the District as per OCP Policy 3002.00, #8. This includes Errors and Omissions Insurance, Liability Insurance, and all other applicable insurance per policy. ACEC supports 1) Limits on Broad form Indemnity, 2) Realistic expectations for Standard of Care regarding Warranty, Rework and Work Defects, and 3) Limits for consequential damages regarding liability.

ACEC supports flexibility in an agency's ability to allow necessary Cost of Living Adjustments (COLA) escalation. Given, increased inflation, the ability to maintain market rates for labor, materials, etc. is key. ACEC supports an agency allowing appropriate increases as needed based on rates of inflation and the Consumer Price Index (CPI) compiled by the Bureau of Labor Statistics. Currently, District contracts allow an annual increase; we support the ability to allow the office of contract and procurement to do this bi-annually or quarterly to allow better responsiveness to the market.

ACEC supports reformatting the current randomizer used to "short-list" firms for solicitations for the District Department of Transportation's Indefinite Delivery, Indefinite Quantity (ID/IQ) contracts. We recommend more program manager input and less artificial intelligence in determining which firms are allowed opportunities to pursue work under the ID/IQ. For example, a hybrid system that allows the randomizer to select two firms and the program manager being able to add two firms could be a decent compromise. ACEC supports goals and setasides for small, disadvantaged and local businesses as a means of strengthening our industry and our workforce. We believe that a strong industry includes a diverse array of companies that can attract talent and ensure that government investment results in direct benefits to the communities where work is performed.

## *We Support:*

*Ensuring consistency, fairness, and equity in agency procurement practices*

*Qualifications-Based Selection per the Brooks Act*

*Commensurate Insurance requirements appropriate for the assessed risk*

*Flexibility in contract Cost of Living Adjustments (COLA) to address market escalation*

*Reformatting the randomizer used in DDOT ID/IQ selection of "short-listed" firms*