



Key Points

- *QBS ensures that public structures are designed and built by the most qualified, licensed professionals to safeguard public health and safety.*
- *QBS helps ensure that smaller design firms have a level playing field on which to compete for government contracts, thus helping emerging talent gain a foothold in the marketplace.*
- *Recent years have seen an alarming increase in the number of instances of federal agencies bypassing QBS and hiring architects and engineers based on price.*
- *Federal oversight of QBS violations has been lacking in recent years, placing increased importance on Congressional oversight.*

Federal Procurement of Architectural and Engineering Services

AIA Position

The AIA strongly supports qualifications-based selection (QBS) of architects and engineers in procurement for federal projects, as required by the Brooks Act. The AIA believes that QBS ensures that the federal government receives the highest quality design services at a fair price and gives smaller firms a more level playing field in federal procurement. The AIA believes that Congress must play an active role in defending the Brooks Act from efforts by some federal agencies to circumvent and abuse it.

Explanation and Justification

Under the Brooks Act (Public Law 92-582), architects and engineers (A/E)s are selected for design contracts on the basis of demonstrated competence and qualification *before* reasonable and fair fees are negotiated.

However, some federal agencies have attempted to circumvent the Brooks Act by using procurement systems in ways that force A/E)s to offer proposals where price is a factor. Worse, there is little or no enforcement of the Brooks Act by key federal offices, including GSA and the Office of Federal Procurement Policy.

Some of the ways that federal agencies have violated the Brooks Act include:

- *Placing A/E services on GSA schedules.* GSA schedules have allowed federal agencies to procure A/E services based on price. Although the AIA and allied A/E organizations have raised this issue with GSA for several years, GSA refuses to remove A/E services from these schedules.
- *Bundling of design work into larger contracts.* Bundling design services with a range of tasks, including construction and operations, places A/E firms, especially smaller firms, at a competitive disadvantage with big companies that can fulfill the entire contract at a lower cost. Bundling also helps agencies bypass QBS for A/E work.
- *Allowing design-build lead contractors to hire A/E)s as subcontractors based on price.* Although the AIA supports the appropriate use of alternative project delivery systems, including design-build, it believes that all A/E work must be procured, at the prime or subcontract level, via QBS.
- *Abusing IDIQ contracts.* Indefinite delivery/indefinite quantity contracts can be useful tools to help agencies with ongoing or occasional design projects. However, some agencies have used IDIQs to bypass QBS by issuing RFPs to select IDIQ contract holders without publicizing them, and asking the contractors to supply a price. This underhanded system prevents any oversight, as the only parties that are aware of the Brooks Act violation are contractors who risk losing business if they report it.