

★ ISSUE BRIEF

Reform Procurement Laws That Block Good Design

AIA POSITION

The American Institute of Architects (AIA) urges Congress to update federal design-build laws to improve competition, ensure more businesses can participate and save taxpayers money.

BACKGROUND

Design-build is a type of design and construction process where architects, engineers, constructors, and sub-contractors team together to submit bids on design and construction. The federal government employs a two-step selection process. In the first step, agencies review the qualifications of applicant teams. In the second step of the process, short-listed teams develop a bid for a design-build project.

The cost of competing is high for architects in design-build. An architecture firm must provide detailed plans and schematics so that the general contractor can set an accurate price estimate. In some cases firms perform up to 80 percent of the design work as part of the second stage of the competition. Data shows that architecture firms spend a median of \$260,000 to participate in design-build competitions; some firms report that they have spent over \$1 million on large federal projects to compete.

Architecture firms are reporting that in recent years the average number of short-listed firms for federal design-build projects has grown. Industry best practice is to have between three and five firms on the short list. Now there are reports of as many as 10 or more firms on a short-list. When facing a choice of spending a quarter of a million dollars with only a 10-percent chance of winning, many design firms choose to sit out the process, depriving the federal government of design talent and reducing competition overall. Longer short-lists also drain resources from agency contracting officers who need to review the finalists' bids.

Current law (41 U.S.C. §3309 and 10 U.S.C. §2305a(d)) stipulates that agencies shall short-list no more than five teams, but it also allows agencies to bypass that requirement if the "agency determines ...that a specified number greater than 5 is in the Federal Government's interest and is consistent with the purposes and objectives of the two-phase selection process." Agencies routinely short-list more than five finalists.

Expansive design-build competitions have become a significant drain on limited resources, for both competing firms and federal agencies. At a time when federal agencies are facing severe budget cutbacks, policymakers need to ensure that every taxpayer dollar is spent wisely. In addition, at a time when the design and construction industry is recovering from one of the worst economic crises in a generation, federal policies should not act as a barrier to entrance into the federal marketplace.

The Design-Build Efficiency and Jobs Act of 2013 (HR 2750) would amend the current law to require agencies to shortlist no more than five teams unless they receive approval from the head of their agency, thus ensuring that design-build competitions provide more opportunities for shortlisted teams to win.

