



THE AMERICAN INSTITUTE OF ARCHITECTS

STATEMENT OF
HELENE COMBS DREILING, FAIA
2013 FIRST VICE PRESIDENT

*“Procurement Issues and Solutions for
Federal Design-Build Construction”*

United States House of Representatives
Committee on Small Business

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Introduction

Chairman Hanna, Ranking Member Meng, and members of the Committee, I am Helene Combs Dreiling, FAIA, Executive Director of the Virginia Center for Architecture and the 2013 First Vice President of the American Institute of Architects (AIA). I want to thank you for the opportunity to testify today on behalf of the AIA and its more than 81,000 members.

Federal Design Build Construction

The current economic crisis has affected every American, but, as this Committee knows all too well, it has hit small businesses and the design and construction industry particularly hard. Architects are, by and large, small business people; 95 percent of U.S. architecture firms employ 50 or fewer people.¹ In fact, the vast majority practice in one or two person firms. The recession has accelerated this trend as medium sized firms have been purchased by large firms, and some architects, having been laid off by their firms, have begun their own businesses.

The health of the architectural profession matters greatly to the overall state of the economy. Architects are the starting point for the design and construction industry, which accounts for one in nine dollars of U.S. gross domestic product.

Architects are job catalysts – they are the first workers to be involved in the construction process when they develop designs for homes, offices, retail spaces, hospitals, educational institutions, government buildings, and more. Hiring an architect leads to employment in other construction-related fields, from engineers and manufacturers, to steel and electrical contractors. In fact, there is one architectural service worker for every 34 construction industry workers in this country,² creating over \$1 trillion in economic activity in 2008.³ A study by the George Mason University Center for Regional Analysis found that every \$1 million invested in design and construction creates 28.5 new full-time jobs.⁴

¹ http://info.aia.org/aiarchitect/thisweek09/1009/1009b_firmsurvey.cfm

² U.S. Department of Labor

³ www.census.gov/const/C30/total.pdf

⁴ www.naiop.org/foundation/contdev.pdf

Recently there has been good news on the unemployment front for the construction industry, but the recovery seems to be fragile at best. The most recent job numbers show that the construction industry lost 6,000 jobs last month⁵ even when the unemployment rate dropped. Because of a lack of financing in the private market since the start of the economic crisis in 2008, public sector work has literally been a lifeline for many small design firms. Government procurement, including at the federal level, has helped to keep the doors open at numerous firms across the nation. However, small firms are losing some of the contracts available because larger firms are “bottom feeding.” They are going after projects they never would have even considered several years ago just to pay their bills. In addition, clients are also negotiating fees downward, using the threat that they can always find someone to do the project for a greatly reduced price.

These factors, coupled with smaller construction budgets at federal agencies, have severely intensified the competition for federal contracts. This struggle has given the federal government undue strength in the negotiations and has enabled them to demand more from candidates. Although competition helps ensure that the taxpayer receives good value, there is a difference between getting a fair deal for the government and a procurement process that forces architects, engineers, contractors, subcontractors and suppliers to spend more money for a smaller chance of getting the job. The taxpayer does not win when government contracting leaves small businesses in difficult economic straits.

Design Build Construction

Federal agencies are able to use a number of different project delivery methods to design and construct buildings, including design-bid-build, design-build, and joint ventures, among others. These methodologies allow agencies the flexibility to choose the right method for a specific project. According to a survey by the AIA Large Firm Roundtable, almost 66 percent of all domestic buildings from 2007 through July 2011 were built using the design-build method.⁶

When agencies choose design-build, they post a solicitation on Fed Biz Ops. Interested teams, typically comprised of an architect, engineer, contractor and subcontractors, submit their qualifications to the pre-selection board. In this first step, the board will review the teams’

⁵ <http://money.cnn.com/2013/05/03/news/economy/construction-jobs/index.html> (last visited on May 16, 2013)

⁶ AIA Large Firm Roundtable, *Competition Survey Results*, May 31, 2012 at 9.

qualifications, which include past performance, resumes of key personnel, and examples of relevant projects, to create a short list for the second step in the competition.

At this point, the short-listed teams develop a more in-depth proposal based on the programmatic requirements within the solicitation. In order to develop an accurate cost, teams must complete approximately 80 percent of the design work in advance. The design work is considerable, as each team must determine space needs; mechanical, electrical, HVAC and other systems; building supplies and materials; and the cost of construction. Without this information, there is simply no way to determine a final price. This design work takes a considerable amount of time from the large group of professionals on each team, which places enormous economic burdens on each design-build team on the short list.

Design-Build Competition Issues

Another procurement issue small design firms face is the financial burden of the federal design-build construction process on architects. On average, the federal design build fee is approximately \$1.5 million⁷. The rewards are high for these projects, but the cost to enter the federal market is increasingly prohibitive for small firms.

When teams are shortlisted in two-step design-build, an architecture firm spends a median of \$260,000 to compete for a design-build project, by making plans, models and other materials.⁸ In almost 87 percent of federal design-build competitions, there are no stipends provided to the architectural firm.⁹ The firm must hope that they win, with their team, to make up the costs they expend in competing for the job.

The costs of competing for these projects are sizable because of the large amount of effort that goes into preparing a bid. As stated above, 80 percent of the design work must be completed in order to develop an accurate price. The amount of work required from an architect is large; but engineers, contractors and subcontractors also must put forth considerable effort to determine a price.

7 Ibid at 9.

8 Ibid at 9.

9 Ibid at 12.

When teams decide whether to compete for a design-build project, they weigh the costs of competing with the odds of winning. Agencies have taken advantage of their purchasing power during the recession to expand the number of short-listed teams. In the past, agencies would typically shortlist three teams for a design build project. Now, there are reports that some agencies are shortlisting as many as eight-to-10 teams. In these cases, the odds of being selected drop significantly, even as the cost to compete continues to rise. This is an especially difficult situation for small firms, which are less able to absorb the costs of competitions than larger firms. Due to the current economic climate, small and medium firms face the Hobson's choice of "betting it all" on a contract they may not get, or self-selecting out of the federal design-build market.

Unfortunately, federal law enables agencies to create ever-longer short lists. Under current law, agencies are required to short list between three and five teams. However, the law states that contracting officers have the flexibility to increase the number of finalists if increasing the number is "in the Federal Government's interest and is consistent with the purposes and objectives of the two-phase selection process."¹⁰ This exception is so broad that agencies use it without giving it a second thought.

Therefore, we ask the Committee to look at tightening the statute so that all firms can accurately determine the risks and rewards of participating in this market.

One-Step vs. Two-Step Design Build

Although many agencies employ the two-step design-build process outlined above, some agencies use a one-step design-build process. In a one-step process, agencies eliminate the pre-selection step and open the solicitation to all respondents. This allows for the government to review as many responses as they receive without reviewing the qualifications of the bidders prior to receiving a bid.

This concept sounds attractive, but when a contracting officer receives 30, 40, or 50 responses, this selection method becomes an inefficient use of limited federal government time and resources. Moreover, one-step selection allows for teams that do not have experience, effective

10 11 USC §3309(d)

past performance, or accurate bids to participate in the process. Contracting with teams that do not have the qualifications for the specialized work that is required on government projects frequently creates problems in the execution of the project. This leads to higher costs and longer delivery time which is not in the best interest of the government. In addition, inexperienced or under-qualified teams could become legally obligated to fulfill contractual promises they simply cannot meet—or a mistake in a bid will cause them devastating liability.

That is why we respectfully ask that the Committee consider limiting 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. By limiting single step procurement to these projects, there will be less risk for teams who want to pursue this work, and it will allow for more small businesses to participate in the process. This limit allows smaller firms to gain valuable experience and exposure to the federal construction process, while also limiting federal agencies' burdens in reviewing a large number of proposals.

In conclusion, I would like to thank Chairman Hanna, Ranking Member Meng, and members of the Subcommittee for giving me the opportunity to testify before you today. The AIA commends you for your commitment to addressing the challenges that small businesses face in this economy and your leadership in advancing legislation that helps small businesses drive the recovery. The challenges that we as small businesspeople face are serious, but so is our commitment to play a leading role in rebuilding our country.
