



**US Army Corps
of Engineers®**

ENGINEERING AND CONSTRUCTION BULLETIN

No. 2006-12

Issuing Office: CECW -CE

Issued: 01 Nov 2006

Subject: Architect-Engineer (A-E) Contracting & Brooks Act Requirements

Applicability: Directive

References:

EP 715-1-7, Architect-Engineer (A-E) Contracting,
<http://www.usace.army.mil/publications/eng-pamphlets/ep715-1-7/toc.htm>

1. Purpose of this ECB is to reinforce existing policies for following Brooks A-E Act for procuring A-E services. Several recent solicitations have been questioned by A-E industry and HQ has been asked to explain why Brooks A-E Act procedures were not used. All USACE offices are directed to comply with the policies, thus minimizing such inquiries and concerns of A-E industry groups. If the type of work falls within the definition of A-E services, Brooks A-E Act shall be followed even if the work is not required to be approved by a registered architect or engineer.
2. Memorandum CESI-P, 05 Jul 2006 issued by the Deputy Commander requires all RBCs to execute regional governance through five regional bodies. It summarizes the leadership and membership of these bodies. One of these bodies is the Regional Acquisition Strategy Board. Chiefs of Engineering at RBCs shall be members of these bodies when established and shall actively participate in development of appropriate acquisition strategies. Each RBC should have an acquisition strategy for acquiring A-E services. As part of this strategy, the Chief of Engineering or equivalent will be the determining official as to which engineering work is performed by USACE in-house and/or by an A-E firm after consideration of the present workload, competencies required and training needs as he/she provides input to this decision.
3. Once the decision is made to hire an A-E firm, the solicitation must follow the Brooks A-E Act procedures, as noted in PL 92-582 (as amended). It sets Government-wide rules concerning the selection of A-E contractors. This law defines what constitutes A-E services, states how prospective contracts are to be announced, and provides Qualification Based Selection (QBS) procedures for selecting A-E firms and negotiating A-E contracts. The law is short, succinct, and allows for an effective method of obtaining A-E services through the QBS process. FAR 36.601-4 provides implementation guidance as follows:
 - (a) Contracting officers should consider the following services to be “architect-engineer services” subject to the procedures of this subpart:

(1) Professional services of an architectural or engineering nature, as defined by applicable State law, which the State law requires to be performed or approved by a registered architect or engineer.

(2) Professional services of an architectural or engineering nature associated with design or construction of real property.

(3) Other professional services of an architectural or engineering nature or services incidental thereto (including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that logically or justifiably require performance by registered architects or engineers or their employees.

(4) Professional surveying and mapping services of an architectural or engineering nature. Surveying is considered to be an architectural and engineering service and shall be procured pursuant to section 36.601 from registered surveyors or architects and engineers. Mapping associated with the research, planning, development, design, construction, or alteration of real property is considered to be an architectural and engineering service and is to be procured pursuant to section 36.601. However, mapping services that are not connected to traditionally understood or accepted architectural and engineering activities, are not incidental to such architectural and engineering activities or have not in themselves traditionally been considered architectural and engineering services shall be procured pursuant to provisions in Parts 13, 14, and 15.

(b) Contracting officers may award contracts for architect-engineer services to any firm permitted by law to practice the professions of architecture or engineering.

4. FAR 36.601-4(a) (4) requires that surveying and mapping services associated with real property be procured in accordance with the Brooks A-E Act. Also, 33 USC 569b and 33 USC 2292 specifically require USACE to follow the Brooks Act when awarding contracts for surveying and mapping services, the later statute specifically addressing water resources projects. Hence, all USACE prime contracts for surveying, mapping or geospatial services must be awarded in accordance with the Brooks Act. EFARS 36.601-4(a) (4) (A) further defines surveying, mapping or geospatial services applicable to USACE.

5. USACE procures a significant amount of environmental services, which may include A-E services as well. Appendix H, EP 715-1-7 provides examples of common environmental projects and categorizes the segments that are typically A-E services; that are not typically A-E services; and that may be considered as A-E services. This guidance, in conjunction with Appendix G, EP 715-1-7 should be used when determining whether a particular contract for environmental services should be procured using the QBS process as established by the Brooks Act for A-E contracts.

6. The following guidance provided by FAR 36.601-3(c) shall be followed when the SOW includes both A-E services and other services: "When the contract statement of work includes both architect-engineer services and other services, the contracting officer shall follow the procedures in this subpart (Brook's Act procedures) if the statement of work, substantially or to a dominant extent, specifies performance or approval by a registered or licensed architect or engineer." Substantial means a considerable percentage of the work but not necessarily a majority of the hours or cost. Dominant means the primary purpose of the work, although not necessarily a majority of the hours or cost, or the largest component of the work.

7. Section 1427 of the Services Acquisition Reform Act of 2003 (SARA) prohibits architect-engineer services from being offered under multiple award GSA Federal Supply Schedules or under Governmentwide task and delivery order contracts unless the services are performed under the direct supervision of a professional architect or engineer licensed, registered, or certified in the State, Federal, District, or outlying area, in which the services are to be performed and are awarded using the procedures of the Brooks Architect-Engineer Act. FAR 16.505(a) (8) provides implementation guidance as follows:

(8) In accordance with section 1427(b) of Public Law 108-136, orders placed under multi-agency contracts for services that substantially or to a dominant extent specify performance of architect-engineer services, as defined in 2.101, shall—

(i) Be awarded using the procedures at Subpart 36.6; and

(ii) Require the direct supervision of a professional architect or engineer licensed, registered or certified in the State, Federal District, or outlying area, in which the services are to be performed.

8. Point of contact for this bulletin is Harry Goradia, CECW-CE, 202-761-4736



DONALD L. BASHAM, P.E.
Chief, Engineering and Construction
Directorate of Civil Works