



AMERICAN COUNCIL OF ENGINEERING COMPANIES

Design-Build and Other Procurement Reforms

ISSUE

The Federal government uses a number of “delivery systems” to design and construct infrastructure projects and public buildings. The traditional approach, where the agency separately hires an engineering firm to design the facility and a construction firm to build it, has been supplemented over the years by new systems, including design-build, where engineering and construction firms form teams to compete for work and take the project from concept to completion. Both the traditional form of project delivery, as well as newer mechanisms like design-build, can be very effective depending on the specifics of each project and the needs of the agency client.

Design-build has been used widely by Federal agencies to efficiently deliver projects to the public, but its use has also highlighted shortcomings that have prompted bipartisan efforts in Congress to improve the process. First, design-build competitions can be very expensive for both the teams and the agencies, particularly when the agencies evaluate the final round of short listed teams. Very often this list can be 10 or more teams. These teams must then develop extensive design concepts and cost proposals, which require substantial time and resources, while agencies devote additional time and resources on final evaluations.

Bipartisan legislation (H.R. 1666) has been introduced by Congressman Sam Graves (R-MO), and a companion bill will be introduced by Senator Rob Portman (R-OH), to improve this process, requiring agencies to reduce the list of finalists to the five strongest teams (while preserving flexibility to add more when needed). By doing so, teams that stand a good chance of winning can reconcile the expense of the competition, while the agency saves time and money by focusing on the strongest teams. Congress recently adopted this reform for DOD projects as part of the FY’15 National Defense Authorization Act, and ACEC is advocating that this approach be applied to all federal design-build projects, as well as additional reforms to put proper emphasis on the experience and qualifications of the design-build team.

The Senate bill also includes additional reforms supported by the engineering and construction industry, including limiting reverse-auctions on construction projects, increasing security for subcontractors on federal surety bonds and mandating surety protection on federal P3 projects.

KEY POINTS

- *The design-build process can be expensive for both industry and government clients, which could have the effect of reducing participation by the best engineering firms which incur much of the cost in these competitions and frequently without reimbursement.*
- *Streamlining the design-build process will benefit government agencies by limiting the second phase of competition to the strongest teams, requiring less time and resources to evaluate proposals.*
- *The Congressional Budget Office (CBO) found the changes proposed in this legislation to be revenue neutral. Through a study of former legislation, the CBO found these changes to be neutral as the Contracting Officer would review fewer participants in the second round.*

ACEC POSITION

- Co-sponsor H.R. 1666 in the House, and companion Senate legislation, to streamline the design-build process and implement other consensus procurement reforms.

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