

# APTAC Body of Knowledge Competency Guide

## D. Specialized Knowledge

### D.13 Architecture-Engineering (A-E)

#### Description

#### Background:

Architect-Engineer (A-E) contracts are covered by the Brooks Architect Engineer Act; PL 92-582, as amended; 40 USC 1101-1104 (App. A). It stipulates that the Federal Government select engineering and architecture firms based upon their competency, qualifications and experience rather than by price. The law is a federal law that applies to federal architecture and engineering contracts.

The Brooks Act requires:

- 1) the public announcement of requirements for A-E services,
- 2) selection of the most highly qualified firms based on demonstrated compensation and professional qualifications, and
- 3) the negotiation of a fair and reasonable price.

#### Definition:

FAR 2.101 defines A-E services; FAR 36.102 defines an A-E contract; and FAR 36.401-4 covers the implementation of the A-E contracting procedures. In brief, a contract is an A-E contract if:

- The scope includes work that requires professional engineering or architectural judgment and/or analysis or requires professional surveying and mapping services, and is associated with real property, and
- The A-E services are a substantial or dominant portion of the contract:
  - *Substantial* means a considerable percentage of the work, but not necessarily a majority by hours or dollars
  - *Dominant* means the primary purpose of the work, although not necessarily the majority of hours or dollars, or the largest component of work

Service	NAICS	SB Size Standard
Architectural	541310	\$7.5 M
Landscape Architectural	541320	\$7.5 M
Engineering	541330	\$15 M
Geophysical Surveying & Mapping	541360	\$15 M
Surveying & Mapping	541370	\$15 M
Interior Design	541410	\$7.5 M
Environmental Consulting	541620	\$15 M

Note: Design-build is considered a construction contract – not an A-E contract – since the A-E services are NOT the principal part of a design-build contract.

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Individuals performing architecture, engineering, landscape architecture or surveying and mapping on federal contracts must be licensed in the state/jurisdiction where the work is being performed, if the state has such a licensing law. For example, a landscape architect who is licensed in Colorado but is performing landscape architecture services on a federal contract in Arkansas must be also be licensed in Arkansas.

Requirements for registration of designers states that contracting officers shall "insert the clause at 52.236-25, Requirements for Registration of Designers, in architect-engineer contracts". That clause reads, "Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work."

#### **Public Announcement:**

All A-E services expected to exceed \$25,000 shall be publicized (synopsized) on the FedBizOps website with a response period of at least 30 calendar days. A-E Services will posted in FBO under PSC Code is C – Architect and Engineering Services – Construction

For A-E services, **a synopsis serves as the solicitation**. The synopsis will describe the contract, project and required services, selection criteria, and submission instructions. The relative order of importance of all selection criteria must be clearly stated.

The selection evaluation factors shall include the following, which are divided into primary and secondary factors:

- Primary factors are: 1) Professional Qualifications; 2) Specialized Experience and Technical Competence; 3) Capacity; 4) Past Performance; 5) Location in the general geographical area of the project and knowledge of the locality of the project.
- Secondary factors are: 1) SB and SDB participation; 2) Geographic Proximity; and 3) Volume of DoD contract awards. The secondary factors will only be used by the Selection Board as a "tie breaker".

#### **SF 330:**

A-E firms respond to the synopsis using the SF 330, Architect-Engineer Qualifications, Parts I and II.

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- (1) SF 330, Part I—Contract-Specific Qualifications, may be used when the contract amount is expected to be at or below the simplified acquisition threshold, if the contracting officer determines that its use is appropriate.
- (2) SF 330, Part II—General Qualifications, to obtain information from an architect-engineer firm about its general professional qualifications.

The SF 330 must be signed and dated.

#### **Selection:**

Selection may be conducted by a Pre-selection Board and Selection Board or by the Selection Board only.

#### **Pre-selection Board:**

If a large number of firms respond to a synopsis, a Pre-selection Board may be used to determine which firms are highly qualified and have a reasonable chance of being considered as most highly qualified by the Selection Board. Basically, they “weed out” those firms that do not have a chance of being considered. Pre-selection Boards do not consider secondary selection criteria.

#### **Selection Board:**

Typically, only a Selection Board is used and they conduct the functions described above. Each board member personally evaluates the SF 330 of each and every firm. Evaluations are done independently by each board member. Then they meet a consensus of at least three (3) firms considered to be most highly qualified, in order of preference.

Boards use any qualitative method (adjectives or color codes) to evaluate and compare the qualifications of each firm relevant to each selection criterion – not to each other.

The Selection Board is not authorized to make selections; they only make “recommendations” to the Selection Approval Authority (SSA). The SSA authority lies with the Division or Center Commander, who in turn, may re-delegate that authority to appropriate officials.

#### **Discussions/Interviews:**

The Selection Board holds discussions (not negotiations) with at least three of the most highly qualified firms regarding concepts and the relative use of alternative methods of furnishing the required services. The same method is used for each interview (telephone, video teleconference, or in person). For very significant projects, oral presentations by those firms may be requested by the Selection Board. Firms are given sufficient advance notice of interviews and/or presentations.

All firms will be asked similar questions about their experience, capabilities, capacity, organization, management, quality control procedures, and approach for the project. The

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information obtained during the interviews may, or may not; change the final ranking of the most highly qualified firms. If so, ranking is reworked and changes documented in the selection report.

The final selection decision shall be made by the Source Selection Authority, who is the agency head or a designated selection authority.

The SSA reviews the recommendations of the evaluation board and makes the final selection. This final selection is a list, in order of preference, of the firms considered most highly qualified by the Selection Board. If the firm listed as the “most preferred” by the SSA is not the firm recommended as the most highly qualified by the evaluation board, the SSA shall provide a written explanation of the reason for the preference. All firms on the final selection list are considered “selected firms”.

#### **Notifications**

All selected firms are notified of their selection within 10 calendar days after approval of the selection. The notification tells the firm if it is: 1) the highest ranked; 2) among the most highly qualified firms, but not the highest ranked; or 3) not among the most highly qualified firms. The notification also informs each firm that it can request a debriefing. Within 10 calendar days after contract award, the remaining most highly qualified firms are notified.

#### **Debriefings**

Debriefings are conducted in accordance with FAR, Part 15.5.

#### **Negotiation:**

Final selection by the SSA authorizes the Contracting Officer to begin negotiations.

Negotiations are conducted in accordance with FAR, Part 15 and begin with the most preferred firm in the final selection. The selected firm is sent a Request for Price Proposal (RFPP). The solicitation includes a Scope of Work (SOW), which includes:

- 1) the general responsibilities of the A&E firm;
- 2) project description, including estimated construction cost (if relevant);
- 3) Scope of A&E services;
- 4) schedule and deliverables;
- 5) reviews and conferences;
- 6) technical criteria;
- 7) administrative instructions; and
- 8) general provisions.

A pre-proposal conference may be held to discuss and resolve questions concerning the contract requirements, SOW and RFPP instructions.

Either at the pre-proposal conference or during negotiations, the Government will discuss:

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- 1) the performance evaluation process; (see page 5 for further discussion);
- 2) liability for Government costs resulting from the design errors or deficiencies;
- 3) design within funding limitations (when applicable);
- 4) registration of designers (when applicable);
- 5) payments; and
- 6) subcontractors, outside associates, and consultants,
- 7) subcontracting plan and reporting (if A-E firm is a large business and the contract award exceeds \$650,000)

Because selection of firms is based upon qualifications, the extent of any subcontracting is an important negotiation topic. The clause prescribed at 44.204(b), Subcontractors and Outside

Associates and Consultants (Architect-Engineer Services) (see 52.244-4), limits a firm's subcontracting to firms agreed upon during negotiations. The prime A/E cannot change any subcontractor that was identified during selection and negotiation without the prior written consent of the Contracting Officer.

#### **Contract Types:**

A&E services may be awarded as Firm Fixed Price, Cost-Reimbursement, Labor-Hour, Indefinite Delivery (most common) and Letter. A&E services may also be procured using purchase orders and the Government purchase card for acquisitions that do not exceed the simplified acquisition threshold.

#### **Contract Award:**

A-E contracts are awarded using SF 252 "Architect-Engineer Contract", which follows the Uniform Contract Form in FAR Part 15.204-1.

#### **Performance Evaluations (FAR 42.1502):**

Performance evaluations are an important part of A&E contracting as the evaluations are kept in a database for six (6) years from the evaluation date and are retrieved by future Evaluation Boards as part of the evaluation of an offeror's past performance.

The evaluations are prepared electronically using the Architect-Engineer Contract Administration Support System (ACASS). An evaluation is required for each project specific contract and each task order over \$30,000.

Interim evaluations are required:

- At least annually for project-specific contract or task order with a performance period over 18 months.
- Project deferred more than three (3) months
- Unsatisfactory performance

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Final evaluations are required:

- After completion of design and again after completion of construction

Final evaluations replace interim evaluations. The “Remarks” section notes significant events, accomplishments, problems, resolutions which occurred during life of the contract.

#### References:

Brooks Architect Engineer Act; PL 92-582, as amended; 40 USC 1101-1104 (App. A)

FAR 15

FAR 36.6

DFARS 236.6

Defense PGI 236.602

AFARS 5136.6

EP 715-1-4

EP 715-1-7 (replaces EFARS 36.6)