

January 24, 2006

The Brooks A&E Act

National Oceanic & Atmospheric Administration
Acquisition & Grants Office

HYDROGRAPHIC SERVICES REVIEW PANEL



noaa

Acquisition of Surveying and Mapping

A&E - Statute and Regulation

Methodology

Government – Industry Relations

The 2005 Review

Common Ground



A&E - Statute and Regulation

Unique acquisition procedure – Subpart 36.6 of the FAR

Selection based on qualifications

Price negotiated after selection

Mandated by statute – Brooks Architect-Engineers Act of 1972

Significant amendments in 1988

Public Works Act of 1939 – Changes from World War II buildup

Comptroller General Report of 1967



Brooks Architect Engineers Act

40 U.S.C. §1101

Definitions of A&E Services

- (A) professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;
- (B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and
- (C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, 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 operation and maintenance manuals, and other related services.

Brooks Architect Engineers Act

Federal Acquisition Regulation Subpart 2.1

Definitions of A&E Services

1. Professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide those services;
2. Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and
3. Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, 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 operation and maintenance manuals, and other related services.



Brooks Architect Engineers Act

Federal Acquisition Regulation Subpart 36.6

Implementation Definitions of A&E Services

1. Professional services of an architectural or engineering nature, as defined by 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 or 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.



Methodology

- Acquisition of A&E takes 240 – 360 days
- Pricing is by analysis
- Acquisition of non A&E takes 60 – 120 days
- Pricing is by competition
- Quality is unchanged between A&E and Non A&E

How Did we Get Here?

- 1789 Constitution, Article 8
- 1795 Purveyor of Public Affairs Act
- 1861 Civil Sundry Appropriations Act
- 1947 Armed Services Procurement Act
- 1949 Federal Property & Admin. Services Act
- 1974 Office of Federal Procurement Policy Act
- 1985 Competition in Contracting Act
- 1994 Federal Acquisition Streamlining Act
- 1996 Federal Acquisition Reform Act (Clinger-Cohen)



Federal Acquisition System

- The vision for the Federal Acquisition System is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives.
- All participants in the System are responsible for making acquisition decisions that deliver the best value product or service to the customer. Best value must be viewed from a broad perspective and is achieved by balancing the many competing interests in the System. The result is a system which works better and costs less.



Federal Acquisition System Goals

- Satisfy the customer in terms of cost, quality, and timeliness of the delivered product or service by
 - Maximizing the use of commercial products and services;
 - Using contractors who have a track record of successful past performance or who demonstrate a current superior capability to perform; and
 - Promoting competition
- Minimize administrative operating costs;
- Conduct business with integrity, fairness, and openness;
- Fulfill public policy objectives

Government – Industry Relations Have Improved

Industries that do business with the federal Government moved beyond adversarial relations with the passage of the Competition in Contracting Act in 1984.

They embraced business partnerships with the passage of the Federal Acquisition Streamlining Act of 1994.

COFPAES

- Council on Federal Procurement of Architectural & Engineering Services
- Proponent of Brooks A&E Act and Maintenance of FAR Subpart 36.6

□ Member Organizations:

- . AIA
- . ACSM
- . ASCE
- . NSPE
- . MAPPS

□ Formed in 1960s

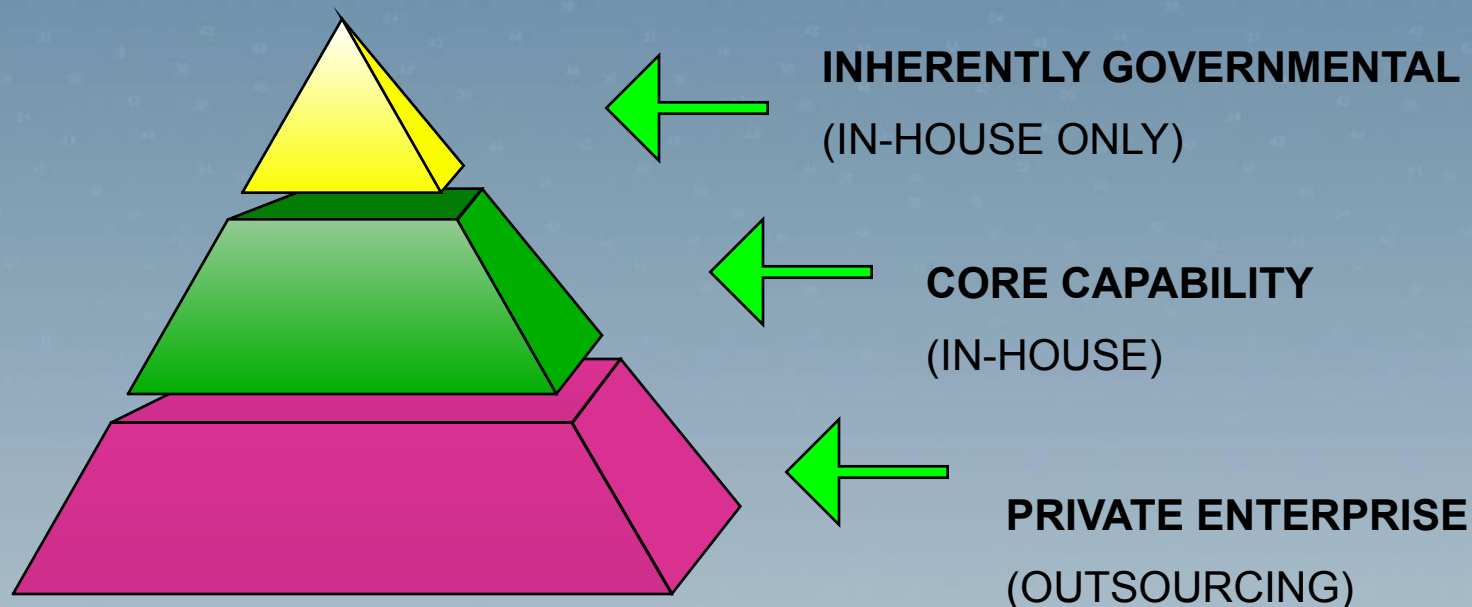


The 2005 Review of A&E

- Conducted by the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council
 - 52 Responses to Federal Register Notice
 - Conclusion reached to make no change to regulations
 - Issues addressed:
 - Credentialing
 - Safety
 - State law
 - Legislative history

Common Ground - Balancing Public and Private Interests

The Key to Effective Government is Core Capability



SOME FUNCTIONS- POLICY DETERMINATION, DECISION MAKING, JUDICIAL REVIEW - ARE INHERENTLY GOVERNMENTAL FUNCTIONS THAT MUST BE PERFORMED BY GOVERNMENT PERSONNEL. FOR AN INCREASING PORTION OF THE REST, THE GOVERNMENT TURNS TO PRIVATE SOURCES, ACQUIRING MORE THAN \$300 BILLION IN PRODUCTS AND SERVICES FROM INDUSTRY LAST YEAR. CORE CAPABILITY IS INCREASINGLY THE KEY TO CONTRACT MANAGEMENT AND EFFECTIVE GOVERNMENT.