

The Brooks Act:

Federal Government Selection of Architects and Engineers

Public Law 92-582
92nd Congress, H.R. 12807
October 27, 1972

An Act

To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX - SELECTION OF ARCHITECTS AND ENGINEERS "DEFINITIONS

"Sec.901. As used in this title

"(1) The term 'firm' means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

"(2) The term 'agency head' means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

"(3) The term "architectural and engineering services" means -

1. professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;
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. such 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.

"POLICY

"Sec.902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

"REQUESTS FOR DATA ON ARCHITECTURAL AND ENGINEERING SERVICES

"Sec.903. In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

"NEGOTIATIONS OF CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

"Sec.904. (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

"(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

"(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached."

Design Estimate Application of the 6 % Fee Limitation					
Service	Included	Excluded	Service	Included	Excluded
Studies, Investigations, and Surveys:			Design Development		
Feasibility Studies, Prospectus Development Studies including Functional and Economic Studies and Analysis		X	Preliminary Working Drawings, Design Calculations, Engineering Models, Life Safety, Cost Estimates	X	
Environmental impact assessments, statements, and supporting data		X	Interior space design (permanent partitions/walls)	X	
Environmental (asbestos, hazardous waste, etc...) investigations, studies, reports, permits		X	Value Engineering – VE Consultant		X
Historic Preservation Studies		X	Interior space design, space layout drawings, drapes, free standing partitions, FF&E		X
Traffic Studies		X	Landscape Design	X	
Existing Facility Investigation		X	Changes to drawings / specifications resulting from value engineering, clarifications, unforeseen conditions	X	
Surveys – topographic/boundary/utility		X	Graphic communication services		X
Soil Borings		X	Special Energy Services		X
Special Energy Analysis over & above normal calculations to design a typical HVAC System and supporting electrical and instrumentation systems		X	Construction Documents Phase		
Measured Drawings Development (verify site measurements)		X	Drawings, specifications, cost estimates (furnished by A-E)	X	
Roof Samples and reports		X	Changes to drawings / specifications resulting from value engineering, clarifications	X	
Flow gauging, model testing		X	Preparation of bid packages and amendments	X	
Services related to out-lease space		X	Critical path method / computer scheduling		X
Site Selection		X	Costs applicable to all Phases		
Pre-design programming			Travel costs (including labor and per diem)		X
Preparation of general and development criteria		X	Meetings		X
Preparation of general and feature design memoranda		X	Reproduction costs (above 1 set)		X
Master planning		X	Design / Build Services		X
Pre-design / architectural programming		X	Building Information Modeling (BIM) Services		X
Determination of program requirements		X	Postage, telephone costs		X
Concept Phase:			Secondary cost estimates		X
Concept Services including Design Alternatives	X		Art-in-Architecture Services		
Design Narratives	X		Art in Architecture Coordination		X
Review of local code, permit, and inspection requirements	X		Construction Phase		
Value Engineering – VE Consultant		X	Critical path method / computer scheduling		X
Changes to drawings / specifications resulting from value engineering, etc.	X		Site slides, photographs		X
Concept Presentations		X	Post construction contract services (review of shop drawings and sample approval), maintenance manuals		X
Display Models and Renderings		X	Compiling operating and maintenance manuals		X
Landscape Design	X		Modifications for changes to drawings / specifications resulting from value engineering, clarifications (RFI's, etc), unforeseen conditions, post construction contract award changes, etc	X	
			Record documents – "as built" drawings and marked specifications		X
			Secondary cost estimates		X
			Building Information Modeling (BIM) Services		X
			Post Occupancy Evaluation		X

Notes

- Special consultant services specifically applied to the actual preparation of drawings or specifications are considered Basic Services and are included within the 6% Statutory A-E Design Fee Limitation.
- Special consultant services NOT specifically applied to the actual preparation of working drawings or specifications of the project for which the services are required are considered outside the limits of Basic Services and are excluded from being within the 6% Statutory A-E Design Fee Limitation
- Value Engineering AE Design Team Participation is included in the 6%
- Note, the 6% limitation only applies to contracts for complete design services and do not apply to AE contracts for the preparation of performance specification or bridging documents for design build contracts.

ARCHITECT-ENGINEER COST ESTIMATE (Basic Services (See Instructions))										
PROJECT PROPERTIES					ARCHITECT ENGINEER					
PROJECT DESCRIPTION .					FIRM NAME 0					
					ADDRESS					
FACILITY NAME .			BUILDING NUMB 0							
CITY .			STATE .							
PROJECT NUMBER .					TELEPHONE 0					
BASE ESTIMATED COST OF CONSTRUCTION (DESIGN-TO-COST LIMIT) .										
CURRENT ECC (DESIGN-TO-COST LIMIT) .										
SUMMARY COST BY PROJECT PHASE (Dollar Value)										
COST ELEMENTS	PRE-DESIGN		DESIGN CONCEPTS		CONSTRUCTION DOCUMENTS		POST-CONSTRUCTION CONTRACT SERVICES		SUBTOTAL	
	BASIC SERVICE	EXCLUDED SERVICE	BASIC SERVICE	EXCLUDED SERVICE	BASIC SERVICE	EXCLUDED SERVICE	BASIC SERVICE	EXCLUDED SERVICE	BASIC SERVICE	EXCLUDED SERVICE
DIRECT SALARY COSTS		\$ -							\$ -	\$ -
CONSULTANTS		\$ -							\$ -	\$ -
OTHER DIRECT COSTS		\$ -							\$ -	\$ -
OVERHEAD POOL TITLES										\$ -
TOTAL COST TO A-E		\$ -							\$ -	\$ -
PROFIT \$										
TOTAL COST TO GOVERNMENT		\$ -							\$ -	\$ -
REMARKS							BASIC SERVICES FEE / DESIGN-TO COST LIMIT		#VALUE!	%
							Total: \$			
PREPARED BY (Signature)					APPROVED BY (Signature)					Date

ARCHITECT-ENGINEER COST ESTIMATE Basic Included Services (See Instructions)									
ARCHITECT-ENGINEER NAME AND ADDRESS					PROJECT DESCRIPTION				
FIRM			FACILITY NAME			BUILDING NO.			
ADDRESS					PROJECT NO.	CITY	STATE		
CITY		STATE	ZIP CODE	DESIGN PHASE		COMPLETION IN WEEKS			
TELEPHONE	FAX	WEBSITE		Estimated Cost of Construction (Design to cost limit)					
A. DIRECT SALARY COSTS - Basic Services									
SPECIALTIES		JOB TITLES	MAN-HOURS	RATES \$	AMOUNTS \$	TOTALS			
PROJECT MANAGEMENT AND COORDINATION					\$ -				
					\$ -				
					\$ -	\$ -			
ARCHITECTURAL No. of Dwgs. ()					\$ -				
					\$ -				
					\$ -	\$ -			
STRUCTURAL No. of Dwgs. ()					\$ -				
					\$ -				
					\$ -	\$ -			
MECHANICAL No. of Dwgs. ()					\$ -				
					\$ -				
					\$ -	\$ -			
ELECTRICAL No. of Dwgs. ()					\$ -				
					\$ -				
					\$ -	\$ -			
FIRE PROTECTION No. of Dwgs. ()					\$ -				
					\$ -				
					\$ -	\$ -			
COST ESTIMATES					\$ -				
					\$ -				
					\$ -	\$ -			
OTHER					\$ -				
					\$ -				
					\$ -	\$ -			
TOTAL DRAWINGS		TOTAL MAN-HOURS		TOTAL SALARIES A		\$ -			
B. CONSULTANTS (Attach estimate as necessary) - Basic Services					AMOUNTS \$				
1.									
2.									
3.									
4.									
5.									
					TOTAL SALARIES B \$ -				
C. OTHER DIRECT COSTS (Attach estimate as necessary) - Basic Services					AMOUNTS \$				
1.									
2.									
3.									
4.									
5.									
					TOTAL OTHER DIRECT COSTS C \$ -				
D. OVERHEAD POOLS									
TITLES			RATES %	BASES \$	ITEMS				
1.			%						
2.			%						
3.			%						
PREPARED BY (Signature)			DATE	E	TOTAL COST TO ARCHITECT - ENGINEER - Basic Services			A - D	\$ -
				F	PROFIT %	%	E	\$ -	
APPROVED BY (Signature)			DATE	G	TOTAL COST TO GOVERNMENT Basic Services			E + F	\$ -
				H	% of ECC (Design-to-Cost-Limit) - Basic Services			G	#VALUE! %

ARCHITECT-ENGINEER COST ESTIMATE									
Excluded Services (See Instructions)									
ARCHITECT-ENGINEER NAME AND ADDRESS					PROJECT DESCRIPTION				
FIRM 0			FACILITY NAME			BUILDING NO.			
ADDRESS 0					PROJECT NO.		CITY		STATE
CITY 0		STATE 0	ZIP CODE 0		DESIGN PHASE		COMPLETION IN WEEKS		
TELEPHONE 0		FAX 0	WEBSITE 0		Estimated Cost of Construction (Design to cost limit)				
A. DIRECT SALARY COSTS - Excluded Services									
SPECIALTIES PROJECT MANAGEMENT AND COORDINATION		JOB TITLES		MAN-HOURS	RATES \$	AMOUNTS \$		TOTALS	
						\$ -			
ARCHITECTURAL No. of Dwgs. ()						\$ -			
						\$ -			
STRUCTURAL No. of Dwgs. ()						\$ -			
						\$ -			
MECHANICAL No. of Dwgs. ()						\$ -			
						\$ -			
ELECTRICAL No. of Dwgs. ()						\$ -			
						\$ -			
CIVIL & LANDSCAPE No. of Dwgs. ()						\$ -			
						\$ -			
COST ESTIMATES						\$ -			
						\$ -			
OTHER						\$ -			
						\$ -			
TOTAL DRAWINGS			TOTAL MAN-HOURS		TOTAL SALARIES A		\$ -		
B. CONSULTANTS (Attach estimate as necessary) - Excluded Services									
						AMOUNTS \$			
1.									
2.									
3.									
4.									
5.									
						TOTAL SALARIES B		\$ -	
C. OTHER DIRECT COSTS (Attach estimate as necessary) - Excluded Services									
						AMOUNTS \$			
1.	Lodging (\$129/night)								
2.	Milage (.535 per mile) or Car Rental								
3.	Airfare								
4.	M&I (Meals & Incidentals) (\$54/day or \$40.50/travel day)								
5.	Printing and Shipping								
						TOTAL OTHER DIRECT COSTS C		\$ -	
D. OVERHEAD POOLS									
TITLES			RATES %		BASES \$		ITEMS		
1.			%				\$ -		
2.			%				\$ -		
3.			%				\$ -		
PREPARED BY (Signature)			DATE	E	TOTAL COST TO ARCHITECT - ENGINEER - Excluded Services		A - D	\$ -	
				F	PROFIT %		%	E	\$ -
APPROVED BY (Signature)			DATE	G	TOTAL COST TO GOVERNMENT Excluded Services		E + F	\$ -	

 COST OR PRICING
DATA REFERENCE