DBIA POSITION STATEMENT

FEDERAL, STATE & MUNICIPAL "LOWEST PRICE TECHNICALLY ACCEPTABLE" PROCUREMENT

Shaping the future, one successful collaboration at a time.

SUMMARY

DBIA believes Lowest Price Technically Acceptable (LPTA) does not provide best value to the government or the taxpayer for the acquisition of professional design-build services where technical solutions, quality, schedule, past performance and innovation are key components in the creation of the value sought by the government in the provision of the services.

BACKGROUND

Federal, state and local regulations[1] lay out a number of ways the government can contract with the private sector to provide services or goods. One such method, Lowest Price Technically Acceptable[2], was intended for use when the requirements of the contract are "clearly definable and risk of unsuccessful contract performance is minimal." LPTA is best suited for purchasing commodities or fairly simple services, but it is not an appropriate fit for procuring professional design-build services in any instance.

Historically, to protect the best interests of the public, professional design services have been procured in accordance with the Brooks Act[3] with price precluded from being a source selection evaluation factor. Accordingly, the selection process for professional design-build services in which the architect-of-record or engineer-of-record is an essential component of the offerors' team should not revert to a low-bid final source selection procedure. Using LPTA for design-build services creates risk for the government and the public in general that must be cautiously mitigated.

It is impossible for the government to expect to receive best value when applying LPTA to design-build project delivery. With LPTA, there is no ranking of proposals other than by cost/price and LPTA generally eliminates any consideration of the past performance of a potential contractor in the final source selection process (Pass/Fail). When applied to design-build project delivery, LPTA seriously impedes the collaborative culture during the proposal development and execution of the project. It is a low-bid selection that comes with the associated and well-documented myriad of problems, conflicts, delays and cost increases. Years of experience have clearly demonstrated that low initial costs rarely result in the low final cost or the best life-cycle cost/best value for the agency or the taxpayers.

Over the last 20 years, many governmental agencies have agreed with DBIA's recommendation for the utilization of best practices for procurement of design-build services as defined in the following DBIA publications:

- Design-Build Done Right®
- Design-Build Manual of Practice
- Principles of Best Value Selection Position Statement

1 *Federal Acquisition Regulation, FAR*

2 *FAR, 15.101-2*

3 *FAR, 36.6*

(cont.)

- Qualifications Based Selection Position Statement

POSITION

DBIA strongly supports and recommends the government follow the two-phase design-build selection procedure[4] or qualifications based source (QBS) selection process to achieve best value when seeking design and construction services. These processes allow contracting officers to balance quality, technical competency and the past performance of a design-build team with cost. Studies and experience[5] have shown two-phase and QBS design-build offers the government the best opportunity to meet or exceed project goals and bring a project to completion on time and with little or no adversarial disputes, claims or litigation.

Such value and quality is virtually impossible under LPTA. LPTA incentivizes the competing design- builders to merely "pass" in a pass/fail playing field. There is no incentive to strive for outcomes that measurably add value to the agency and its customers. In fact, the focus on cost in LPTA creates a strong disincentive to think creatively, maximize value within the project budget, and offer the best team (key personnel) who are motivated to think creatively on behalf of the government.

The government should cease using LPTA when contracting for design-build services, and instead fully embrace the procurement practices as defined by DBIA Design-Build Done Right® to achieve best value for the American people.

4 FAR, 36.300

5 dbia.org/impact