



National Society of Professional Surveyors

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May 15, 2017

Maryanne C. Sellman
Office of Information Technology Category (ITC)
Federal Acquisition Service (FAS)
U.S. General Services Administration (GSA)
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Washington, DC 20405
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Dear Ms. Sellman:

The National Society of Professional Surveyors (NSPS) is a national professional society representing the more than 40,000 licensed professional surveyors in the United States, as well as within the Territories.

For many years, the Federal government has considered surveying to be a professional service of an architecture and engineering nature, with contracts for such services to be selected and awarded via the "Brooks Act", a qualifications based selection process codified in 40 USC 1101-1104 and implemented in the Federal Acquisition Regulations (FAR) in 48 CFR 36.6. Indeed, the FAR, 36.601-4(a) (4)) FAR includes the unequivocal statement that:

"Contracting officers should consider the following services to be "architect-engineer services" subject to the procedures of this subpart: 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 36.601 from registered surveyors or architects or engineers."

The matter of application of this provision of law and regulation to surveying and mapping services has also been consistently upheld by the Comptroller General (SEE Forest Service, Department of Agriculture, Request for Advance Decision, B-233987, July 14, 1989; White Shield, Inc., B-235522, September 21, 1989; and White Shield, Inc., B-235967, October 30, 1989).

NSPS is deeply concerned that many of the services in the proposed CIBORG contract fall within state laws' definition of the practice of surveying. Such laws require performance by a licensed surveyor. Moreover, the aforementioned Federal law, regulations and Comptroller General decisions require compliance with the "Brooks Act" qualifications based process (QBS). Furthermore, most states have enacted "mini-Brooks Acts" which require QBS for state (and in many cases local government) contracts for surveying services.

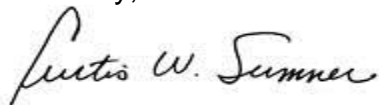
It does not appear that GSA and NGA conducted an analysis of state licensing laws regarding the practice of surveying with regard to the CIBORG proposal. The scope of work includes services defined as the practice of surveying, violates the legal requirements mentioned above, and fails to include a requirement that a licensed surveyor be in responsible charge of the work.

Several state laws and regulations governing the procurement of licensed surveying services by state and other public agencies/entities prohibit competition based on price, and require that such procurement be conducted using the Qualifications Based Selection (QBS) process . Again, we are concerned that GSA and NGA have not conducted an analysis of these state laws and regulations. No provision is included in the CIBORG proposal to facilitate how surveyors and their firms are to participate in CIBORG and its pricing request, and be in compliance with such state laws and regulations.

Given the many and serious problems with the current CIBORG proposal, NSPS respectfully urges GSA and NGA to withdraw and terminate this effort. NSPS would be pleased to work with federal agencies to develop a Brooks Act-compliant GSA schedule that promotes quality, competition, ease-of-use, and is compliant with all applicable laws and regulations.

We look forward to working with you on this important matter.

Sincerely,

A handwritten signature in cursive script that reads "Curtis W. Sumner".

Curtis W. Sumner, LS
NSPS Executive Director