



DIRECTORS' POLICY MEMORANDUM

**US Army Corps
of Engineers®**

No. DPM 2020-02

Issuing Offices:
CEMP, CECW, CERD
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Issued:

Expires:

SUBJECT: Procedures for the Selection of Task Orders on Architect-Engineer Indefinite Delivery Contracts (IDCs)

CATEGORY: Directive

1. References.

- a. 40 U.S.C. Chapter 11, Selection of Architects and Engineers (Brooks Act)
- b. Federal Acquisition Regulation (FAR) Subpart 16.5, Indefinite-Delivery Contracts
- c. Federal Acquisition Regulation (FAR) Subpart 36.6, Architect-Engineer Services
- d. Engineer Pamphlet (EP) 715-1-7, Architect-Engineer Contracting in USACE, 29 February 2012

2. Purpose.

a. The purpose of this Directive is to reinforce requirements and specify procedures for the selection of an Architect-Engineer (A-E) contractor under a multiple-award task order contract (MATOC). This Directive is being issued to ensure compliance with the Brooks Act and FAR requirements.

b. This information supplements task order selection processes in the current (2012 edition) EP 715-1-7 ("the EP") until such time that the EP is updated. To the extent that any interpretation of this Directive conflicts with the EP, this Directive will take precedence. To the extent that any interpretation of this Directive conflicts with the Brooks Act and/or the FAR, the Brooks Act and/or the FAR will take precedence.

3. Applicability.

This Directive is applicable to all Headquarters USACE elements, Divisions, Districts, Centers, Laboratories and Field Operating Activities for all A-E Brooks Act selections under IDCs.

4. Definitions per this Directive.

a. Indefinite Delivery Contract (IDC) (also known as an Indefinite Delivery/Indefinite Quantity Contract) – Provides for an indefinite quantity, with stated limits, of supplies or services during a fixed period. The government places orders for individual requirements. See FAR Subpart 16.5.

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b. Single Award Task Order Contract (SATOC) – A single base contract with a specific scope that is awarded to a single A-E firm under which task orders are issued.

c. Multiple Award Task Order Contract (MATOC) – A base contract awarded to a pool of a minimum of three A-E firms issued from a single solicitation. An individual firm is selected from the pool and awarded a task order for each requirement that arises within scope of the base contract. Capacity of the contract is shared among the pool of A-E firms awarded the base contract.

5. Implementation.

Procedures specified herein shall apply to all new multiple-award A-E base contracts (and task order selections made under those base contracts) subsequent to the date of this Directive. Existing IDCs and those IDCs that have already gone through the selection phase are not affected unless otherwise noted herein. Nevertheless, it is strongly recommended that procedures that would not require a contractual change to existing IDCs be implemented immediately.

6. Base Contracts.

a. SATOCs. Districts or Centers may award SATOCs without having to justify why multiple awards are not appropriate (FAR 16.500(d)). As a result, when an A-E SATOC has been properly awarded and no other SATOC awarded by the District or Center includes the same or similar (i.e., overlapping) scope of work, Districts and Centers need not comply with the procedures required for Multiple Award IDCs as outlined below. The selection and award of SATOCs are qualifications-based per the Brooks Act (EP 715-1-7, para 2-8.e).

b. MATOCs. The selection and award of task orders under A-E MATOCs must be executed as qualifications-based contract actions, per the Brooks Act (EP 715-1-7, para 2-8.e), following the requirements of FAR 16.500(d) and Subpart 36.6.

c. Districts or Centers shall not award multiple A-E SATOCs that have the same or overlapping scopes of work from either a single or multiple synopses. This means that the breadth of each SATOC synopsis scope should be narrowed, both substantively and geographically, to ensure that only one contractor is evaluated as the most highly qualified firm to perform the entire scope of services under the awarded SATOC.

d. Selection of at Least Three Firms. When awarding MATOCs, it is necessary to select and award to at least three firms to comply with FAR 16.500(d) and Subpart 36.6. However, in the event that three firms are not part of the MATOC ordering pool, making it non-compliant with the Brooks Act and the procedure in FAR Subpart 36.6, the MATOC (base contract) will require justification and approval in accordance with FAR Subpart 6.3. Under paragraph 7a(4) below, if fewer than three firms respond to a Task Order Requirement Notice (TORN), then justification and approval under FAR Subpart 6.3 may not be required to allow the Task Order selection and award, provided that the base contract was awarded to at least three firms or an approved justification and approval for award to fewer than three firms was received.

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e. **Avoiding Overly Broad Scopes.** It is important that the scopes of work for an A-E IDC not be overly broad (e.g., all manner of A-E work that could potentially be performed within a District, or work that extends beyond a Division boundary not specific to a defined program). The use of such broad scopes makes it extremely difficult to comply with the Brooks Act and implementing regulations.

f. **Annual Updates for SF 330s.** As most A-E IDCs have extended performance periods of five (5) years or longer, the information contained in the SF 330 on file used for selection can become outdated over the term of the IDC. Per the Brooks Act, firms are encouraged to update their qualifications information on a yearly basis. A-E firms will be encouraged to amend their SF 330s to showcase relevant recently completed projects, to update the resumes, and to provide an updated SF 330 (Part II) for their team. Any changes in key personnel and subcontractors from what was approved in the SF 330 on file shall be reviewed for formal approval by the Contracting Officer as soon as practical per the procedures specified in the EP, FAR 44.204(b), and FAR 52.244-4.

7. Task Order Selection Procedures. The following selection criteria and procedures shall be used for task order selection among all future A-E MATOCs. After the requirement is received and validated, the technical lead will provide input to the Contracting Officer regarding which specific A-E contract(s) have scopes that include the specific requirement. Because it is the Contracting Officer's legal obligation to ensure that any task order issued under an IDC is within the scope of that IDC, the Contracting Officer will approve which contract or suite of contracts encompasses the required scope of services.

a. **Task Order Requirement Notice (TORN).** If a task order is to be awarded under a MATOC, the Contracting Officer shall notify all A-E firms within the MATOC pool of the task order requirement. The TORN shall include a short summary of the scope of work, selection criteria, and a Request for Supplemental Information tailored to the specific task order requirement. Enclosure 1 is a sample TORN with the supplemental information request.

- (1) Task order specific selection criteria shall be listed in order of importance and relative weight, and must include, at a minimum, the criteria required by FAR 36.602-1.
- (2) Information requested in the TORN is intended to supplement existing information and as such should focus on information required to effectively evaluate each firm relative to the specific task order requirement. For example, the TORN might indicate that each firm should submit only three relevant projects demonstrating their specialized experience to perform the task order requirement or information on personnel to be used for the project and, if not already identified in the existing SF 330, their qualifications. The expectation is that, in most cases, the information provided by the A-E firm should be fairly brief (three pages or less), and require minimal effort on the A-E firm's part. The set of questions or request for information sent to each firm must be identical. Submission of a new SF 330 is not required for each task order unless requested by the TORN.

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- (3) The TORN will include questions to each A-E firm concerning their concepts and methods for furnishing the requested services. Including this inquiry with the TORN would satisfy the requirements for discussions stated in FAR 36.602-3(c).
 - (4) The Contracting Officer should give each firm sufficient time as is necessary under the circumstances to submit the supplemental information. Typically, given the focused nature of the request, most information should be able to be provided within five days. A firm may choose not to respond or to indicate that the information on file is adequate (see paragraph 7.c. below). A firm may also request that they not be considered for the specific task order requirement (and would subsequently not be among those firms evaluated); if fewer than three firms respond to the TORN, then justification and approval under FAR Subpart 6.3 may not be required to allow the selection.
- b. Selection Board Composition. The chairperson and any board members shall have the same qualifications as stated in paragraph 3-6.b. of EP 715-1-7. The composition of the selection board should be tailored to the task order requirement, subject to the following limitations:
- (1) For task order projects with an estimated value greater than \$5.5 million, the chairperson and evaluation board members shall have the same makeup as stated in paragraph 3-6.b. of EP 715-1-7.
 - (2) For task order projects with an estimated value between the Simplified Acquisition Threshold (SAT, at the time of publication the SAT is \$250K) and \$5.5 million, the selection board may consist of as few as two evaluators, including the chairperson.
 - (3) For task order projects with an estimated value below the SAT, the selection board may consist of a single evaluator in accordance with FAR 36.602-5(b).
- c. Evaluation and Discussions (Interviews). Using the selection criteria specified in the TORN, the selection board will evaluate the SF 330s on file and responses to the Task Order Questionnaire to determine the three most highly qualified firms for the specific task order requirement.
- d. Selection Memorandum. Following the evaluation, the selection board shall prepare a selection memorandum recommending, in order of preference, at least three firms that are considered the most highly qualified to perform the work called for under the task order.
- (1) The selection memorandum must indicate the rationale for the ranking of the most highly qualified firms by the selection board against the selection criteria in sufficient detail to allow the selection authority to understand the basis for the recommendations. A detailed selection report using formal language is not necessary, but as with any procurement document, it must be sufficiently detailed to rationally support the decision.

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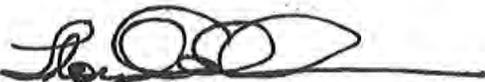
- (2) The selection report documentation need not be extensive, but it must clearly reflect a) what information was used to evaluate; and b) the results of the evaluation and any discussions against the selection criteria used for the task order.

e. Selection Decision. The task order selection authority making the selection decision shall be designated in accordance with AFARS 5136.602-4 and 5136.602-5 and USACE implementation guidance. It is recommended that the selection authority for task orders greater than \$5.5M be the Chief of the District's or Center's Engineering Division. The task order selection authority will review the recommendations prepared by the evaluation board and make the final selection decision. FAR 36.602-4 provides guidance if the selection authority does not agree with the recommendations of the selection board.

f. Notification and Debriefings. All firms who were sent a TORN will be promptly notified upon a selection decision. Unsuccessful offerors for task orders greater than \$5.5M will be given the opportunity for a debriefing in accordance with EP 715-1-7, para 3-12. Debriefings are not required for any task order award estimated to be below \$5.5M, however they will be provided upon request.

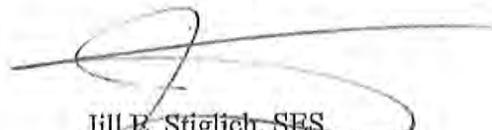
8. **Update.** EP 715-1-7 and the USACE Acquisition Instruction (UAI) will be updated to reflect these procedures.

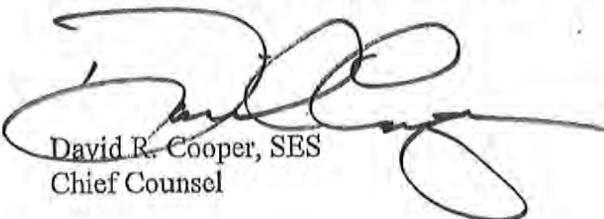
9. **Points of Contact.** The points of contact for this memorandum are: Ms. Kelly Moon, CEMP, and Mr. John Jacobson, CECT.


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