



AMERICAN COUNCIL OF ENGINEERING COMPANIES

***Updated Engineering and Design
Services Q&A Policy Guidance
from FHWA***

Matt Reiffer

Vivian Moeglein

ACEC

Updated Q&A Guidance

- Issued by FHWA on July 20, 2011
- Replaced prior Q&As at:
www.fhwa.dot.gov/programadmin/172qa.cfm
- Reviewed by:
 - Multiple FHWA HQ Offices
 - FHWA Consultant Services Team
 - AASHTO
 - ACEC

Updated Q&A Guidance

Purpose:

- **Enhance understanding of Federal laws and regulations**
- **Increase compliance and consistency across all states**
- **Update guidance to reflect changes in law**
- **Clarify relationship and applicability among regulatory requirements**
- **Advance state of practice in consultant services procurement, management and administration**

Updated Q&A Guidance

Sources:

- **Federal laws and regulations**
- **Inspector General audit report and internal program review recommendations**
- **Policy guidance provided to individual states on specific questions or issues that have broad applicability**
- **Best practices from AASHTO Guides**

Updated Q&A Guidance

Topic Categories:

- 1. Competitive Negotiation / QBS Procurement**
- 2. Other Procurement Procedures**
- 3. Indirect Cost Rates and Audits**
- 4. Compensation (Payment) Methods**
- 5. Contract Negotiation**
- 6. Contract Administration**
- 7. DBE Considerations**
- 8. Conflicts of Interest**
- 9. Other Considerations**

1. QBS Procurement

- Expansion and clarification of prior Q&As
- Enhanced guidance regarding:
 - Applicability of QBS requirements
 - *A/E services directly related to construction*
 - Definition of engineering services
 - *Planning Studies?*
 - Evaluation criteria
 - Added scope
- Implications for non-federal matching funds

3. Indirect Cost Rates and Audits

- **Expansion and clarification of prior Q&As**
- **Additional guidance regarding:**
 - **Best practices from AASHTO Audit Guide**
 - **Audit requirements and cognizance**
 - **Contracting agency risk management**
 - **Acceptance and application of cognizant rates**
 - **Field and home office rates**
 - **FAR cost principles (48 CFR Part 31)**

5. Contract Negotiation

- **Brand new section of Q&As**
- **Guidance regarding:**
 - **Negotiation requirements under QBS**
 - **Application of cognizant indirect cost rates in cost estimating and negotiation**
 - **Application of actual direct salary rate –
No arbitrary caps; limitations only in accordance with FAR cost principles**
 - **No unilateral or arbitrary contract reductions**

8. Conflicts of Interest

- **Brand new section of Q&As**
- **Guidance regarding:**
 - **Conflict of interest laws and regulations**
 - **Project phases and roles and commensurate potential conflicts of interest**
 - **Consultants performing both design and construction engineering/inspection**
 - **Recommended policies and procedures to guard against conflicts of interest and potential/perceived conflicts**

Discussion

QUESTIONS?

Matt Reiffer

mreiffer@acec.org

(202) 682-4308

Vivian Moeglein

vmoeglein@acec.org

(202) 682-4369