

# ★ ISSUE BRIEF

## Reform Procurement Laws That Hurt Competition

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### AIA POSITION

*The AIA urges Congress to update federal design-build laws to improve competition, ensure more businesses can participate, and save taxpayers money.*

The Design-Build Efficiency and Jobs Act (H.R. 1666) and the Construction Consensus Procurement Improvement Act (S. 1526) would give architecture firms better odds of winning a government contract and save federal agencies time and money.

### BACKGROUND

Design-build is a type of design and construction process where architects, engineers, and constructors team together to submit bids on design and construction. The federal government employs a two-step selection process. In the first step, agencies review the qualifications of applicant teams. In the second step, shortlisted teams develop a bid.

The cost of competing is high for architects in design-build. A firm must provide detailed plans and schematics so that the general contractor can set an accurate price estimate. In some cases firms perform up to 80 percent of the design work as part of the second stage of the competition. Architecture firms spend a median of \$260,000 to participate in design-build competitions; some firms report spending over \$1 million competing for large federal projects.

Architecture firms are reporting that in recent years the number of shortlisted firms for federal design-build projects has grown from three-to-five firms to as many as 10 or more firms on a shortlist. When facing a choice of spending a quarter of a million dollars with only a 10 percent chance of winning, many firms sit out the process, depriving the government of design talent and reducing competition. Longer shortlists also drain resources from agency contracting officers who need to review the finalists' bids.

Language included in the FY2015 National Defense Authorization Act requires military agencies to limit shortlists to five offerors on projects whose estimated costs are in excess of \$4 million, unless they get an exception from the senior contracting official within the agency. This ensures that the reasonable limit of five competitors is not surpassed unless strictly necessary, mitigating the impact of the uncompensated work performed by architecture firms as part of the competition while streamlining the selection process and saving taxpayer dollars in the process.

The Design-Build Efficiency and Jobs Act of 2015 (H.R. 1666) and the Construction Consensus Procurement Improvement Act (S. 1526) would bring parity between military and civilian procurement regarding the maximum number of firms that can be shortlisted. The bills would also take these common sense reforms a step further and apply them to all projects funded by civilian agencies.