July 9, 2013

The Honorable Harold Rogers  The Honorable Nita Lowey
Chairman     Ranking Member
House Appropriations Committee  House Appropriations Committee
The Capitol H-307 1016 Longworth
Washington, DC 20515 Washington, DC 20515

Dear Chairman Rogers and Ranking Member Lowey,

On behalf of the more than 35,000 members of the National Society of Professional Engineers (NSPE), we respectfully request that the House Appropriations Committee carefully review, amend, and clarify ambiguous language concerning “the design-build project delivery method” in House Report 113-90 on H.R. 2216, the “Military Construction, Veterans Affairs, and Related Agencies Appropriations for 2014”.

The language in question, which can be found at page 21 of the Report, relates to “the design-build project delivery method” for military construction projects. This language does not address the specific project delivery methods that are defined under current law, nor does it describe the strengths or weaknesses of either of the situations under which one may be preferable over the other.

As you are aware, under federal law, the two design-build selection procedures include the two-step/two-phase process, which is preferred, and the “turn-key selection” process.

The two-step/two-phase selection process, identified at 41 U.S.C. §3309, requires that the qualifications of the design team be part of the evaluation process. This two-step process, which follows the guidance laid out in the Federal Acquisition Reform Act of 1996 (FARA) as well as the Brooks Architect-Engineers Act of 1972, is preferred by the U.S. Army Corps of Engineers and is NSPE’s preferred method for design-build procurements. NSPE believes the two step/two phase selection process ensures that competent and qualified design professionals are initially involved in procurement process so that quality-based design considerations are incorporated into the drawings, plans and specifications consistent with the interests of the public health and safety.

The other process, referred to as “turn-key selection”, is neither preferred nor does it provide the same quality considerations or efficiencies of the two-step process. The U.S. Army Corps of Engineers’ Engineering and Construction Bulletin, dated 06 August 2012, page 2, clearly states its preference for this two-phase process:

“the two-phase selection procedure is the highly preferred method of this Command for
acquiring design-build services for military construction (MILCON) projects. (emphasis added).

NSPE respectfully requests that the House Appropriations Committee report on H.R. 2216 unequivocally identify that the two-phase, Qualifications Based Selection process, as identified in FARA of 1996, be followed on all MILCON projects.

We appreciate the opportunity to provide this comment. Should you have any questions, comments or concerns regarding this issue please feel free to contact Arielle Eiser, the NSPE Manager of Government Relations at 703.684-2844 or aeiser@nspe.org.

Sincerely,

[Signature]

Dan J. Wittliff, P.E., F.NSPE
President
National Society of Professional Engineers