

NSPE Position Statement No. 07-1779 – Project Delivery Methods in the Public Sector

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NSPE Contact: Committee on Policy and Advocacy

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Position Statement: NSPE recognizes that more than one project delivery system may meet an owner's project requirements. Factors such as safety, function, time from conception to completion, capital and life-cycle costs, environmental quality, and appearance may each play a role in the owner's decision. Accordingly, NSPE acknowledges the role these factors play and NSPE neither advocates nor opposes a particular project delivery system. NSPE believes that regardless of the project delivery method selected, qualifications of the professional engineer must play a significant role in the selection process.

Background: Federal, state and local regulations offer a variety of ways the public sector may contract for a project. Design-bid-build is the traditional approach but there are many alternative project delivery methods available to the public sector including design-build, construction management as agent or at risk, and public private partnerships.

1. **Qualifications-Based Selection-** Historically, professional engineers have been selected based upon professional qualifications, experience, background and other qualitative factors in accordance with the qualifications-based selection procedures outlined in the federal Brooks Act and state design professional selection statutes and laws. NSPE believes that qualifications-based selection should be utilized for all design professional services procured for public sector contracts, whether as a prime professional or as a sub-consultant. This is often accomplished using a multi-step process which allows owners to select a project team on the basis of qualifications emphasizing team collaboration and schedule as well as competence, experience and creativity.
2. **Relationship with the owner –** In a traditional approach, professional engineers are retained directly by the owner of the facility. Alternative project delivery methods have placed two or more steps between the professional engineer and facility owner, eroding the direct relationship and

accountability between the engineer and facility owner. This strains the ability of the parties to communicate and can have important consequences for a project while creating ethical dilemmas for the professional engineer. NSPE believes that in order to protect the relationship between the owner and the professional engineer, alternative delivery methods should employ the use of a professional engineer to assist the facility owner with the development of initial project scope as well as the selection of the most appropriate project delivery system to assist the owner throughout the project delivery process. This professional engineer may be retained through qualifications-based selection or be on staff.

3. Intellectual property – The procurement phase of an alternative delivery project often requires significant effort by the proposing team to demonstrate what is to be built at the guaranteed maximum price for the project. Often in alternative delivery projects, and typically in design-build projects, professional engineers are required to prepare documents “at risk”. Despite lack of compensation for the documents, unsuccessful professional engineers’ intellectual property is sometimes inappropriately incorporated into the final project by the owner and successful teams. NSPE believes that all professional engineers should be compensated for the use of their intellectual property.