

Selected Shorts Video Series



Video #3

A&E Consultant Contract:

Difference Between Local Preference and Local Presence

Do you know the difference between local preference and local presence?

Preference does not assess qualifications and discriminates against out of the area firms. Presence allows any firm to establish an office location in the area to better serve the project.

The intent of a competitive negotiation/qualifications based selection (Brooks Act) process is to develop a wide pool of potential service providers to assess qualifications for the advertised work or task, and selection must be based on qualifications. Therefore, the use of in-State preference as a criterion is prohibited (as specified in 23 CFR 172.7(a)(1)(iii)(C)). Through public advertisement, in-State and out-of-State firms must be given a fair opportunity to be considered for award of a FAHP funded engineering and design related services contract (as specified in 23 CFR 172.7(a)(1)). ([See Competitive Negotiation Question & Answer No. 6](#))

A nominal local office criterion of no more than ten (10) percent of the total evaluation criterion may be used. This criterion cannot be based on political boundaries and should be used on a project-by-project basis for projects where a need has been established for a consultant to provide a local presence (office). If a firm currently outside the local area indicates that, as part of its proposal, it will satisfy that criterion in some manner, such as establishing a local project office, that commitment should be considered to have satisfied the local presence criterion. The intent is to only apply this evaluation criterion on projects where a local presence will add value to the quality and efficiency of the project provided that application of this criterion leaves an appropriate number of qualified firms, given the nature and size of the project, available to compete for the services.

To maintain the integrity of a competitive negotiation/qualifications based selection procurement, the total of all allowable non-technical evaluation criterion (including local presence and/or Disadvantaged Business Enterprise (DBE) participation) should not exceed ten (10) percent of the total evaluation criteria. ([See DBE Considerations Question and Answer No. 2](#) regarding DBE participation as an evaluation criterion).

Local Assistance Consultant Selection and Procurement Webpage

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