

Excerpts from:

<https://www.acquisition.gov/far/2004-023.pdf>

**DEPARTMENT OF DEFENSE GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

48 CFR Part 36

[FAR Case 2004-023]

Federal Acquisition Regulation; Application of the Brooks Act to Mapping Services; Analysis of Comments

Background

Since enactment, Congress has expanded the definition of A-E services (Pub. L. 100-656, Pub. L. 100-679, Pub. L. 101- 574). Of specific note here, Section 403 of Pub. L. 101-574 (SBA Reauthorization and Amendments Act of 1990) required that, pursuant to Section 742 of Public Law 100-656, modifications to FAR Part 36 shall specify that “the definition of architectural and Engineering services includes surveying and mapping services to which the selection procedures of Subpart FAR 36.6 of the Federal Acquisition Regulation apply.” Some interpret this to mean that all mapping services are subject to FAR Subpart 36.6. Others interpret the phrase “to which the selection procedures of Subpart 36.6 of the Federal Acquisition Regulation apply” as a limitation modifying “mapping services.” On October 10, 1991, then OFFP Administrator issued a letter to the FAR Committee stating that “the determining factor in deciding whether mapping services should be procured through the A-E process or through normal competitive procedures is whether mapping services are associated with ‘traditionally understood or accepted architectural or engineering activities.’”

Surveying is considered to be an architectural and engineering service and shall be procured pursuant to section 36.601 from registered surveyors or architects and engineers.

II. Analysis of Comments

2. Comments that the Brooks Act applies to acquisition of some mapping services.

Most respondents (including all Government respondents) concur that the Brooks Act does not apply to acquisition of all mapping services. A few recommend that the FAR should be modified to make the Brooks Act procedures less applicable to the acquisition of mapping services. Most respondents recommend no change to the FAR. Though these respondents offer different agency, mission-specific decision criteria for using Brooks Act procedures, all Government respondents agreed the exercise of this discretion was currently available in the FAR and strongly object to any change that would reduce or remove this flexibility. Response: The Councils have determined, based on interpretation of the Brooks Act and decisions of the Comptroller General, reaffirmed by NCEES and NCARB guidance, that **the best solution is to retain FAR Part 36 without revision.**

Excerpts from

<https://www.acquisition.gov/far/current/pdf/FAR.pdf>

Subpart 36.1—General

36.102 Definitions.

“Firm” in conjunction with architect-engineer services, means any individual, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

Subpart 36.6—Architect-Engineer Services

36.601-4 Implementation.

(a) Contracting officers should consider the following services to be “architect-engineer services” subject to the procedures of this subpart:

- (1) Professional services of an architectural or engineering nature, as defined by applicable State law, which the State law requires to be performed or approved by a registered architect or engineer.
- (2) Professional services of an architectural or engineering nature associated with design or construction of real property.
- (3) Other professional services of an architectural or engineering nature or services incidental thereto (including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals and other related services) that logically or justifiably require performance by registered architects or engineers or their employees.
- (4) Professional surveying and mapping services of an architectural or engineering nature. Surveying is considered to be an architectural and engineering service and shall be procured pursuant to section 36.601 from registered surveyors or architects and engineers.