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FOR

THE AMERICAN COUNCIL OF ENGINEERING COMPANIES

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

"CONSTRUCTION AND INFRATRUCTURE IN THE BUREAU OF RECLAMATION"

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Mr. Chairman and Members of the Committee, my name is H. Diane Snyer and I am testifying today on behalf of the American Council of Engineering Companies (ACEC). ACEC is the voice of America's engineering industry. Council members – numbering more than 5,500 firms throughout the country – are engaged in a wide range of engineering works that propel the nation's economy, and enhance and safeguard America's quality of life.

I am the Executive Director of ACEC New Mexico a membership organization for 48 engineering firms. The Council represents the business of engineering for over 40,000 New Mexicans employed in the engineering industry.

In addition, I am a New Mexico State Senator in the middle of my second four-year term. My district is in Albuquerque and I have the honor and privilege of representing 44,000 New Mexicans. Prior to being elected to office I served as – what has recently become a four-letter word – a lobbyist for our state chamber of commerce, small business issues, and water and wastewater regulation and infrastructure development.

Today ACEC is a large federation of 51 state and regional councils representing the great breadth of America's engineering industry. ACEC member firms employ more than 300,000 engineers, architects, land surveyors, scientists, and other specialists, responsible for more than $100 billion of private and public works annually. Member firms range in size from a single registered professional engineer to corporations employing thousands of professionals. The Council's mission is to contribute to America's prosperity and welfare by advancing the business interests of member firms.

I appreciate this opportunity to come before you today to discuss the business practices of the U.S. Bureau of Reclamation, and how that not only affects engineering firms, but the very people it is suppose to help.

Problems with the US Bureau of Reclamation

ACEC has raised concerns previously regarding the U.S. Bureau of Reclamation's (USBR) practice of offering and providing consulting engineering services to customers in direct competition with private engineering firms. What is particularly disturbing is that the USBR uses taxpayer dollars to compete directly with the private sector, and often performs engineering work in-house where the agency lacks the manpower or expertise necessary to perform the work.

One example of unfair government competition by the USBR raised by ACEC members is the Animas La Plata Water Supply Project in Colorado. Engineering firms with the capability to perform the work began to form teaming arrangements in anticipation of a RFP to design/construct the $344 million project. However, USBR convinced the tribes to allow it to do the design and construction management for this project with in-house staff. According to firms familiar with the project, USBR only contracted out approximately 5-10% of the front-end engineering work, and none of its construction management functions.

Another noteworthy example of where USBR could have more effectively utilized the private sector on behalf of their client and the taxpayer is the Indian water rights settlement with the Chippewa-Cree Tribe. Under the "Chippewa Cree Tribe of the Rocky Boy's Reservations Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999" (106-163), USBR was allocated $3 million to conduct a feasibility study to evaluate alternatives for municipal, rural, and industrial water supply for the Chippewa Cree Tribe Reservation. In addition, the report was to include a regional feasibility study to evaluate water issues, and outline how water resources can best be managed to serve the needs of Montana's citizens.

Instead of allowing the private sector to undertake the studies, however, USBR designated itself as the entity to accomplish the work. The study was supposed to identify a preferred alternative, conduct a National Environmental Policy Act (NEPA) evaluation, a cultural resources survey, and an economic evaluation. In the end, USBR completed the study late, and later determined that it was not a "true" feasibility study under the agency's own standards. USBR did not identify a preferred alternative but simply screened the options from twelve to six. No further work was performed, and since the report did not identify a preferred alterative as required under agency guidelines, the work product could not be presented to Congress to secure additional federal funding.

Since then, the State of Montana has taken the lead in doing the feasibility study. The State completed an engineering and economics report using a private engineering firm in 1 year (while USBR had over 3 years to complete their $3 million dollar study). What is particular disturbing is that USBR had proposed to obtain another $8 million from Congress to compete the another feasibility study over 3 more years, while the state believes that this work can be completed in 1-2 years at a fraction of the cost.

The last example which directly affects New Mexico (NM) is Ute Dam project. The state of New Mexico built Ute Dam and reservoir in 1950-60 as a water supply storage reservoir realizing that the limited life of the Ogallala aquifer serving the east side of New Mexico. In 1963-64, 17 eastern New Mexico communities and counties formed the Eastern NM Inter-Community Water Supply Association and developed a feasibility study to put the storage in Ute to beneficial use. The feasibility study was to be 100% privately financed and owned/operated by the Assocations'members.

The USBR did a series of studies and received federal authorization to conduct a feasibility study, and in the process spend lots of money, but not advancing the project to a

design or construction stage, however, project never got off the ground so the project went out to the private sector and a private sector firm was picked to finish the feasibility study.

In 2004, there was an attempt to secure federal funding for the Ute Dam project. However, USBR's criticized the report and concluded that the report did not conform to USBR standards. The project was immediately withdrawn and the entire process started all over again. Currently, the project has not moved beyond the feasibility study stage.

ACEC believes that the proper role for USBR should have been to oversee the work done by both the state and the private sector-- not taking the lead away from the state and the work away from qualified engineering companies.

Unfortunately, USBR does not seem to stop in competing directly with the private sector. USBR's 2004 Federal Activities Inventory Reform Act (FAIR) reveals that USBR intends to increase its water recovery/reuse program by expanding the number of technical assistance programs it offers to Tribes for water programs. In fact from 1999-2005, USBR's FAIR Act inventory reveals that it currently has 680 federal time equivalence (FTE) working in engineering functions that have been deemed commercial.

USBR should follow the example of the National Park Service (NPS) in making effective use of private sector engineering services. Since 1998, the NPS has restructured its processes for acquiring construction design and construction project supervision. While Government personnel previously provided these services, the agency now has all construction supervision and 90% of all design requirements satisfied through support contracts with private firms.

By shifting from a project-focused activity to a project management and standards activity, the NPS has experienced new successes and achievements. NPS has established more meaningful and professional associations with the design community on both a national and local level. Greater emphasis on the development of common construction specifications is helping to standardize the facilities maintenance and support function. These efforts are foundational to increasing the authority of superintendents to execute projects at the local level, within the standards and specifications developed. This transformation has simplified the funding of the entire construction program, providing for base funding of the Denver Service Center activities within established funding metrics developed to reflect significant major project components and cost drivers.

ACEC encourages USBR to follow the successful model established by the NPS, which demonstrates how federal agencies can effectively partner with the private sector to carry out successful programs on behalf of the taxpayer.

Comments on National Research Council's Report

ACEC agrees with the report of the National Research Council of the National Academies of Science "Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation" of finding inconsistencies in the areas of acquisition and contracting policies. The inconsistency in implementing acquisition policies is in how each region or water district makes

the determination what functions to keep in-house even though it is not considered an inherently governmental function. USBR needs to establish a centralized and consistent acquisition policy and procedures at USBR headquarters rather than allowing each region or water district to make-up their own policies.

ACEC agrees with the report's recommendations that the USBR's Commissioner needs to undertake a detailed analysis of how the agency should be structured for maximum efficiency in order to retain the "critical core competencies and technical leadership but increase outsourcing of much of the engineering and laboratory testing work", which would assist in "reducing the proportion of engineering service costs chargeable to the customer." What's more, the report states that many of USBR's activities are not considered inherently governmental functions as defined by the Office of Management and Budget (OMB) Policy Letter 92-1, and concludes that USBR should establish an agency-wide detailed review of functions or activities that should be contracted out to the private sector.

Response to Reclamation Action Plan for the 21st Century

ACEC believes that the action plan detailed by USBR to implement the report's recommendations is a good first step in the right, and encourages USBR to work with the private sector. However, ACEC believes that for the action plan to work, Congress needs to engage in proper oversight to make sure that USBR stays on track.

Conclusion

ACEC believes that taxpayers ultimately win when there is competition. ACEC looks forward to working with you to promote that goal.

Again, thank you for allowing me to come here today and I look forward to any questions that you have.