

# Government Affairs

## Congress May Take Public Work Away from Private Firms

*Hearings begin June 28, so contact your representative—right now!*

There is legislation before the U.S. House of Representatives that would effectively take all federal public-sector design work away from private firms. Every architect needs to voice his or her opinion to Congress now. (Get contact information from the reference box on the right of the screen.)

The AIA believes that the Truthfulness, Responsibility, and Accountability in Contracting (TRAC) Act is bad law. Under the guise of “saving money,” it would block the federal government from hiring private-sector architects. This measure would curtail any further use of private-sector services and resources by federal agencies as well as put a hold on currently contracted activities.

Architects need to persuade their congressional representatives to oppose the TRAC Act (H.R. 721)—and time is of the essence. On **June 28**, the House Subcommittee on Technology and Procurement Policy will hold a hearing on Outsourcing and Privatization where the TRAC Act will be reviewed and discussed.

This legislation would severely reduce work for architects by freezing all federal government contracts. The federal government currently outsources \$2 billion a year in A/E services, which will disappear if the TRAC Act passes. Additionally, the

General Accounting Office estimates that there is a \$4 billion backlog of needed repair and alteration work on federal buildings. Thus, not only would H.R. 721 cripple many private sector firms that supply these valuable services, it would make it impossible for federal agencies to complete needed repairs to ensure the modernization and safety of federal facilities.

### What you can do

Visit <http://www.aia.org/Gov/federal/legissues/tracletter.asp> to obtain a sample letter urging Congress to oppose the TRAC Act. Use this letter as a model (or you can copy it directly onto your firm's stationery) and email the message to your congressional delegation, as well as to Rep. Tom Davis (R-Va.), chair of the subcommittee dealing with the TRAC Act. Congressman Davis' email is [tom.davis@mail.house.gov](mailto:tom.davis@mail.house.gov). To find the email addresses for your congressional delegation—by name or by ZIP code—visit <http://www.house.gov/house/MemberWWW.html> or call Scott Young, (202) 626-7404. (Please copy your letters and emails to AIA Government Affairs at [govaff@aia.org](mailto:govaff@aia.org) or 1735 New York Avenue, NW, Washington, DC 20006-5292.)

### Background on TRAC

The TRAC Act would freeze the award of any further government contracts and is designed to “in-source,” or return work to government employees. This initiative would prevent any further use of private-sector resources by federal agencies, as well as put a hold on currently contracted activities to determine if they could be done more cost effectively by the public sector.

On February 14, Representative Albert Wynn (D-Md.) reintroduced the TRAC Act, H.R. 721. The legislation is similar, but not identical, to the version Wynn sponsored last session (H.R. 3766). H.R. 721 has managed to attract an alarming 158 cosponsors. The AIA considers the TRAC Act a threat to the architectural profession and will continue to oppose this bill in its current form.

Since 1966, it has been the federal government's policy to use the services of the private sector. Consequently, the federal government has relied on commercial interests to supply the products and services the government needs (OMB Circular No. A-76). Under this current policy, a comparison is made between the cost of contracting out to the private sector and the cost of in-house performance.

#### Altering public/private balance

The TRAC Act would alter the balance of the current public/private partnership. This initiative resulted from the questionable assumption that the federal government's reliance upon the private marketplace has resulted in increased costs, lack of oversight, and public distrust.

The TRAC Act specifically would prohibit any federal agency from making a decision “to privatize, outsource, contract out, or contract for the performance of a function currently performed by such agency

or to conduct a study to convert the performance of the function to the performance by a contractor.” An agency could apply for permission to contract out, but must first conduct a laborious public/private competition. If a private contract would prevent “extraordinary economic harm” and save the government “at least 10 percent,” it may be awarded to the private sector. In addition, even if a private entity meets this high savings threshold, it will not receive the contract if it would conflict with an established collective bargaining agreement between the agency and a federal labor organization.

Also of concern is the provision mandating that existing contracts be reviewed. If for two consecutive years the actual cost of the private contract exceeds the projected costs when the contract was awarded, the agency shall either conduct a new public/private competition or revoke the contract entirely and convert the function to performance by the federal agency.

#### How this legislation affects the design professions

If passed, the TRAC Act would severely reduce government contract work for architects and engineers. Federal agencies manage and coordinate the design process but look to the specialized expertise of private sector architects and engineers to perform the actual design work. Recently, the General Accounting Office (GAO) estimated there is a \$4 billion backlog in “repair and alteration work that need[s] to be completed at federal buildings.” Thus, not only would the TRAC Act cripple many private sector firms that supply these valuable services, it would make it impossible for federal agencies to complete needed repairs to ensure the modernization and safety of federal facilities.