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**MEETING AGENDA**

**AGC– U.S. Army Corps of Engineers (USACE)**  
**Construction, Contracting and Safety Meeting**

**3:00 PM – 5:00 PM**

**Welcome and Introductions**

Matt K. McCaulley  
*Chair, AGC Corps of Engineers Committee—Military Construction*

Tim J. Orr  
*Chair, AGC Corps of Engineers Committee—Civil Works*

**USACE Construction, Contracting and Safety**

Dr. Christine Altendorf  
*Chief of Engineering and Construction*

Mark G. Atkins  
*Chief, Safety and Occupational Health*

Kay Riplinger-Baltz  
*Acting Director, Office of Small Business*

Jill Stiglich  
*Director, Contracting*

Drew White  
*Chief of Construction*

*Additional USACE Personnel*

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**AGC Questions for USACE Safety Program**

**SAFETY**

- AGC and its members firmly believe that construction employees are the most important asset the industry has. Ensuring the safety of those workers is of utmost importance. As such, sound and reasonable safety policies must be in place to protect workers and ensure the job can be completed in a safe, efficient,

and timely manner. To that point, AGC and USACE spent significant time during the most recent Safety and Health Requirements Manual (EM 385-1-1) revision collectively reviewing each provision of the manual and discussing the pros and cons of various provisions and suggested reforms.

- AGC appreciates our partnership with USACE and looks forward to continued opportunities to discuss concerns for earnest consideration before USACE finalizes new safety policies, as was done during the latest EM 385-1-1 revision. Are there any new policies or EM 385-1-1 revisions that you are considering? If so, what additional planned outreach to AGC/industry is planned?

### **General Safety Questions**

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Open questions from the floor?

### **AGC Questions for Construction & Contracting Programs**

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#### **AGC'S RECOMMENDATIONS**

- In 2019, AGC's Federal Division formally briefed USACE leadership on [AGC's recommendations to USACE Headquarters](#). The document represents many months of collaboration among AGC member contractors, most having multi-generational history of working with USACE. AGC Appreciates USACE Headquarters taking these recommendations under consideration and acting on many of them.
  - The expanded Joint Risk Register (JRR) pilot program seeks to drive proactive and collaborative risk management through the use of a "living" risk register. Please provide an update on the Joint Risk Register program.
  - Team Partnering pilot encourages the entire project delivery team, including contractors and USACE, to routinely assess the team's partnering relationships and response times. This is accomplished by setting agreed-upon performance and communications goals at project kick-off that are then monitored and discussed during follow-on facilitated partnering sessions. Please provide an update on the Team Partnering pilot.
  - AGC often reports on the difficulties contractors face with requests for equitable adjustments (REAs) process. AGC requests an update as to how USACE is trying to address change order/REA approval delays. What efforts has USACE Headquarters undertaken to bridge the gap?

### **USACE RESPONSE TO COVID-19**

- The U.S. Army Corps of Engineers and contractors have undertaken efforts to support FEMA, State, and local authorities to respond to the COVID-19 outbreak. Among these efforts is assisting other agencies in assessing and potential sites for suitability as alternate care facilities and to rapidly engage contractors to prepare them for medical use. USACE and contractors have worked together to meet the challenges of rapid execution of these critical facilities.
  - Please describe the procurement method used and how contractors were selected.
  - What lessons were learned from the rapid execution of Alternate Care Facilities? How will these lessons be applied in the future?
  - What Class Deviations were issued? Will any of these be considered to be made permanent?

### **CONTRACTOR CYBER SECURITY REQUIREMENTS**

- On Jan. 31, the Office of the Undersecretary of Defense for Acquisition and Sustainment (OSD) released the final version of the Cybersecurity Maturity Model Certification (CMMC). The Department of Defense (DOD) will begin including the final CMMC model as “go/no go” in all solicitations in a phased in approach beginning in the fall. AGC has communicated the difficulty many contractors have had implementing these new cybersecurity requirements and the challenges that the new model brings.
  - How is USACE implementing these requirements? Will USACE provide guidance as to what information contractors will be liable for protecting?
  - How will these requirements be addressed in the new 3.0 RMS System? Will the requirements be expanded to Civil Works?

### **COVERED TELECOMMUNICATIONS BAN**

- Section 889(a)(1)(B) prohibits agencies, including USACE, from entering into a contract (or extending or renewing a contract) with an entity that uses any equipment, system, or service that uses covered telecommunications equipment anywhere in the supply chain. AGC has communicated the difficulty both agencies and contractors will have in ensuring the complete ban on this telecommunication equipment.

- How does USACE plan to implement these requirements? Will USACE provide guidance as to what information contractors will be liable for protecting?

### **CQM COURSES**

- AGC understands that USACE is offering a 90 reprieve on training from the time that CQM training is restarted. With even more experience with on-line meetings and training AGC members request that USACE move the CQM training on-line.
  - What is the status of USACE's initiative to hold construction quality management courses online?

### **PROMPT PAYMENT**

- Cash flow is critical to every construction business. Ensuring timely payment for work performed is necessary for federal contractors and subcontractors to maintain mission readiness and ongoing operations. In response to the COVID-19 impacts on industry, there has been efforts by agencies and lawmakers to accelerate payment. Noteworthy examples include NAVFAC's Memorandum on March 20, 2020 immediately reducing withholds/retentions, and HEROES Act (H.R. 6800) requiring contracting officers pay prime contractors within 15 days from invoice submission.
  - AGC members report payments for work performed have not been a priority since as early as Fall 2019. While not preferred, contractors have had to raise the issue to command levels to get action. This puts unnecessary hardship on our relationships and partnership. Is USACE HQ aware of the increased delay of payments to contractor in some Divisions?
  - Are there any initiatives to expediate payment to contractors, particularly since the COVID-19 pandemic?

### **USE AND FUNDING OF MATOC/IDIQ CONTRACTS**

- In recent years, AGC members have seen an increase in the use of Multiple Award Task Order Contracting/ indefinite delivery/indefinite quantity (MATOC/IDIQ) contracts.
  - What are the reasons and various trends on MATOC/IDIQ use within USACE (MilCon/civil works)?
  - How are districts determining whether to deliver projects under MATOCs or full and open, individual contract competition? Are there USACE guidelines?

- Contractors report problems with MATOC/IDIQ contracts and USACE underfunding of those contracts resulting in unreimbursed standby or mobilization/demobilization costs to the contractor to keep labor and equipment productive.
  - How is USACE working to ensure that it is effectively using/funding MATOCs/IDIQs?
  - How does the USACE foresee use of MATOC/IDIQ contracts for the recent Disaster Aid Supplemental that was recently enacted into law?
  - How does the USACE foresee use of MATOC/IDIQ contracts should Congress pass a comprehensive infrastructure package?
  - How can industry support regional index?

### **ELECTRONIC SUBMISSION OF PRICE & TECHNICAL PROPOSALS**

- At least two districts within USACE—Savannah and Fort Worth—have instituted electronic acceptance of price and technical proposals from contractors.
  - Have other districts begun using this system?
  - Has USACE HQ provided districts with any information concerning electronic bidding? If not, is guidance under consideration? Has any guidance been issued in response to COVID-19?

### **USACE Questions for AGC**

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USACE may provide questions for contractors concerning field issues or policy reforms under consideration.

### **General Questions**

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Open questions from the floor.

### **AGC Questions for Small Business Program**

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### **SMALL BUSINESS CONTRACTING: SOURCES SOUGHT**

- AGC represents over 27,000 construction contracting and related service/supply companies throughout the nation, about 80 percent of which are small businesses of 20 or fewer employees. However, even as an association that advocates for small business opportunities, AGC does not support federal agencies restricting competition for small businesses on projects small businesses cannot objectively perform. As it stands, a general construction contractor meets the small business threshold if its annual gross revenues are at or below \$36.5 million.

**AGC-USACE**  
**Construction, Contracting & Safety Meeting**  
**2020 Federal Contractors Conference**  
**Virtual**  
**June 10, 2020**

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- How does USACE conduct market research and use it to make a determination as to whether or not to set-aside projects for small businesses?
- Can any contractor—small or non-small business—reply to a source sought market survey seeking information concerning a small business set-aside determination? Is this the best time in the process for contractors to inform USACE of it concerns regarding specific projects?

**USACE Questions for AGC**

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