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**MEETING AGENDA**

**AGC – International Construction Forum Meeting**

**1:00 PM – 3:00 PM**

**Welcome Remarks and Introductions**

Carole Bionda  
*Past Chair, AGC Federal and Heavy Construction Division*

**Agency Presentations**

**Department of State, Bureau of Overseas Buildings Operations Presentation**

Aziz Younes  
*Office Director, Construction Management*

George Yi  
*Division Chief, Project Coordination and Support*

Tracy Thomas  
*Managing Director, Construction, Facility, and Security Management*

**USACE Presentation**

Christopher Gatz  
*Chief, Interagency and International Services Branch*

**NAVFAC Presentation**

Herman Pablo  
*Construction Product Line Leader, Capital Improvements*

Tim Bayse  
*Senior Construction Engineer*

**AFCEC Presentation**

Col. John Balzano  
*Deputy Director, Facility Engineering*

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## **AGC Questions for Agencies**

### **2020/2021 BUDGET, APPROPRIATIONS, AND PROJECTS OUTLOOK**

- Please provide a general update on the projects affected by the 2019 appropriations bill and the FY2020 budget.
- As U.S. operations in the Middle East slow, contractors are seeing a shift in focus from the Middle East to the South Pacific. Do the agencies believe this trend will continue in the near term?

### **AGENCY RESPONSES to COVID-19 on INTERNATIONAL PROJECTS**

- Any design criteria changes?
- Have there been any REA's related to COVID-19 such as delays, etc.?

### **EMBASSY AFTER NEXT Program**

- AGC of America met with leaders of the Department of State's Bureau of Overseas Buildings Operations (OBO). AGC brought in current and prospective contractors for a two-hour meeting to address the challenges OBO and the construction industry face in building embassies. Among the topics discussed were OBO's Embassy After Next program, formal partnering, and difficult contract requirements.
  - Please explain the Embassy After Next program?
  - How will this program be different from the past Standard Embassy Design and Design Excellence programs?

### **SMALL BUSINESS REQUIREMENTS**

- FAR 17.702, statutory requirements Small Business Subcontracting Program, provides that subcontracting plans are not required "for contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas"; both FAR 52.219-8, Utilization of Small Business Concerns, and FAR 52.219-9 Small Business Subcontracting Plans, employ FAR or SBA definitions of small businesses.
  - Please confirm that for international projects, your agencies will not require the submission of Small Business Subcontracting Plans?
- Federal agencies such as NAVFAC, USACE, and GSA are now requiring Small Business Participation Plans as an evaluation factor. While these plans are different from subcontracting plans, they employ the FAR and SBA definitions of small business.
  - Would a given agency apply the small business evaluation factor on these international projects; and if so, how?

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## **AMERICAN PREFERENCE POLICY**

- AGC formed a task force in 2014 to develop a position on the “American Preference Policy” as it applies to joint ventures. AGC’s position paper was finalized in 2015 and provides guidance to agencies in drafting DFARS language that clarifies whether joint ventures (JV) between American firms and foreign firms qualify as a “United States firm” for purposes of applying the American Preference Policy to a joint venture proposal.
- In a 2008 court case, *Watts-Healy Tibbits a JV vs. The U.S. and IBC/TOA Corporation*, the court stated that “the government should clarify the policy [as it pertains to JVs]” through “guidelines for the source selection personnel” or “definitive regulation establishing some bright lines after both notice and comment as well as agency assessments of what rules or guidelines will really promote the ability of United States contractors to fairly compete in these contracts.” Such guidance or regulations have not been issued and confusion in the marketplace continues.
  - What is the agency’s position on applying the American Preference Policy to JV’s between American and non-American firms?

## **GENERAL CONTRACTOR IMPEDIMENTS WHEN PERFORMING OVERSEAS**

- What is the agency’s position on past performance qualifications? Specifically, AGC has seen an increase in solicitations that require past performance experience to be limited to work in a given country. This seems to unreasonably restrict competition, particularly when the project’s technical specification requirements mirror U.S. standards, and goes above and beyond the agency’s minimum past performance requirements.

## **OPEN DISCUSSION**

- Open questions from the floor?

## **Adjourn**