

## **MEETING AGENDA**

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**AGC – US Army Corps of Engineers MILCON/Civil Works** **8:30 AM – 11:30 AM**  
**Introductions**

Shea DeLutis-Smith  
*Chair, AGC Corps of Engineers Committee—Military Construction*

Greg Ford  
*Chair, AGC Corps of Engineers Committee—Civil Works*

### **Welcoming Remarks**

**Military Construction Program & Discussion** **8:30 AM to 10:00 AM**

**Civil Works Program & Discussion** **10:15 AM to 11:30 AM**

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### **AGC Questions for USACE Military Construction Program (Domestic MILCON)**

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#### **2018/2019 BUDGET, APPROPRIATIONS, & PROJECTS OUTLOOK**

- Please provide a general update on the budget and projects for FY 2018/2019.
  - What is the breakdown of projects? By project types (barracks, medical, schools, etc.); Open versus set aside; By procurement/project delivery method (design-build, design-bid-build, so forth); By state/location.
  - There are several projects that are authorized, but do not have funds appropriated. What is the status of these projects, and when are appropriations expected?
- Is BRAC still under consideration? If so, please explain.
- How have policy/project priorities changed from the Obama to the Trump administration and how have those changes impacted USACE?
- President Obama's E.O. 13693, Planning for Federal Sustainability in the Next Decade, is currently in effect. This E.O. requires federal contractors to make an annual representation indicating if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets. How is USACE implementing this E.O.?

#### **THE MILITARY CONSTRUCTION VISION**

- Please discuss the vision for the military construction program given the change in the administration and congressional inputs. Will there remain a continued strive for

energy efficient facilities? What role will "green" construction have in the program?  
How is the Milcon program adapting to military needs and changing strategies?

#### **THE BORDER WALL EXECUTIVE ORDER & CUSTOMS & BORDER PATROL**

- On January 25, 2017, President Trump issued an executive order on border security and immigration enforcement improvements. That executive order calls for "immediate construction of a physical wall on the southern border."
- AGC is aware that USACE is in consultation with the Department of Homeland Security's Customs and Border Patrol (CBP) agency and has an existing interagency construction agreement with CBP concerning border all and fencing construction. Please explain the latest on this project?
- AGC is aware of some States and Cities passing, or in the process of passing, legislation blacklisting contractors who bid or perform work on the southern border wall. Is USACE aware of these actions? How does USACE see the potential consequences of blacklisting federal contractors on other USACE projects?

#### **REGULATORY REFORMS UNDER THE TRUMP ADMINISTRATION**

- The Trump administration has put forth a number of regulatory reform initiatives. These include executive orders establishing federal agency regulatory reduction task forces and eliminating two regulations for every new one issued. The new administration is also looking to comprehensively reorganize the executive branch. Based on these various initiatives, please explain:
- What role USACE Milcon will play in the regulatory reform initiative? Are there USACE-specific rules or DFAR/FAR rules that Milcon is seeking to eliminate (e.g., FAR rule encouragement of government mandated-project labor agreements)? How can AGC provide regulatory reduction assistance?
- Is there any discussion involving USACE Milcon or other construction agencies in regard to the reorganization of the executive branch and federal agencies?

#### **CHANGE ORDERS & PAST PERFORMANCE EVALUATIONS**

- We will speak with the USACE contracting leaders later this afternoon. However, AGC wants to ensure that you are aware of the problems contractors and projects face. The primary problems AGC hears from its members about on Corps' projects are dealing with (1) untimely execution of and payment for change orders and (2) past performance evaluations under CPARS.

#### **USACE Questions for AGC**

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USACE may provide questions for contractors on issues or policy reforms.

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2018 Federal Contractors Conference  
Pentagon City, VA  
May 3, 2018**

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**General Questions**

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Open questions from the floor?

**Break**

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Break from 10:00 AM to 10:15 AM with refreshments.

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## **AGC Questions for USACE Civil Works Program**

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### **CHANGE ORDERS & PAST PERFORMANCE EVALUATIONS**

- We will speak with the USACE contracting leaders later this afternoon. However, AGC wants to ensure that you are aware of the problems contractors and projects face. The primary problems AGC hears from its members about on Corps' projects are dealing with (1) untimely execution of and payment for change orders and (2) past performance evaluations under CPARS. AGC will take a brief moment prior to USACE HQ's presentation to explain its concerns.

### **2018/2019 BUDGET, APPROPRIATIONS, & PROJECTS OUTLOOK**

- Please provide a general update on the budget and projects for FY 2018/2019.
- How have policy/project priorities changed from the Obama to the Trump administration and how have those changes impacted USACE?

### **WRRDA 2014 & WIIN ACT 2016: POLICIES & IMPLEMENTATION**

- In 2014 and 2016, Congress passed the Water Resources Reform and Development Act (WRRDA 2014) and Water Infrastructure Improvements for the Nation Act (WIIN Act), respectively. The bills included authorizations for a host of new projects as well as a number of policy reforms. Would USACE please briefly review which authorizations in those bills that have received funding and the various policies adopted in the bills? In addition, AGC would like USACE to discuss:
  - *PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM*
    - WRRDA 2014 (Section 5014) authorized a water resources P3 pilot program. However, the Corps has not implemented guidance for the program. Please explain the program's status, problems it faces and how USACE is addressing those problems. Please explain any risk base protections for contractors, such as indemnity.
  - *FARGO-MOORHEAD P3*
    - WRRDA 2014 authorized \$1.8 billion for the Fargo-Moorhead Metropolitan Area Flood Risk Management Project. Half of the project will be delivered via a P3 through a diversion authority and the other half will be delivered via traditional government financing means by USACE. Please explain this project and its status.
  - *OTHER CORPS P3/P4 PROJECTS UNDER EVALUATION*
    - Please briefly discuss the other P3/P4 projects under Corps consideration. To AGC's knowledge those include: Illinois Waterway (IL) lock and dam improvements; Great Lakes dredging; Whittier-Narrows (CA) flood risk

- management and water storage/supply dam improvement proposal; Sabine Neches Deepening (TX/LA); and Ala Wai, (HI) flood risk management project.
- *WATER INFRASTRUCTURE FINANCE & INNOVATION AUTHORITY (WIFIA)*
  - WRRDA 2014 also authorized a \$350 million federal loan program for water resources PPPs called the Water Infrastructure Finance and Innovation Act (WIFIA). However, the Corps has not implemented guidance for this program. Please explain this program and why the Corps has not either received or requested appropriations for the program.
- *NON-FEDERAL INTEREST CONSTRUCTION RECEIVING CORPS FUNDS*
  - WRRDA 2014 and the WIIN Act include several provisions under which non-federal interests (i.e., states or municipalities) may carry out a water resources development project or separable element of the project and receive federal funding for that project. See 33 USC 2232. Please explain this process?

#### **2018 WATER RESOURCES REFORM & DEVELOPMENT ACT: POLICIES & IMPLEMENTATION**

- Congress is set to pass the 2018 Water Resources Reform & Development Act this later this year. Please provide AGC with an update of the projects USACE has requested be authorized.

#### **HARBOR MAINTENANCE**

- The WIIN Act included a provision that allows federal funding to help pay for harbor deepening up to 50 feet. Previously federal funds could not support harbor deepening beyond 45 feet. How will this help USACE further its mission? Please give an update on the progress of the deepening of these harbors.

#### **REGULATORY REFORMS UNDER THE TRUMP ADMINISTRATION**

- The Trump administration has put forth a number of regulatory reform initiatives. These include executive orders establishing federal agency regulatory reduction task forces and eliminating two regulations for every new one issued. The new administration is also looking to comprehensively reorganize the executive branch. Based on these various initiatives, please explain:
- The actions USACE is taking involving the review of the "Waters of the United States" rule following the president's recent executive order?
- What role USACE Civil Works will play in the regulatory reform initiative? Aside from WOTUS, are there USACE-specific rules the agency is seeking to eliminate (e.g., FAR

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rule encouragement of government mandated-project labor agreements)? How can AGC provide regulatory reduction assistance?

- Is there any discussion involving USACE Civil Works or other construction agencies in regards to the reorganization of the executive branch and federal agencies?
- In later 2017 USACE asked for public comment on regulatory reduction which AGC submitted. Which regulations is USACE looking at reducing or reforming?

**USACE Questions for AGC**

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USACE may provide questions for contractors on field issues or policy reforms.

**General Questions**

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Open questions from the floor?

**Adjourn**

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