



Federal Agencies Procurement Advocacy (FAPA) Summer Meeting Minutes

July 30-31, 2014
ACEC, Washington, DC

Attending (from sign-in sheet):

Philios Angelides, Alpha Corp. (Subcom. Chair)	Miro Kurka, Mead & Hunt (Subcom. Chair)
Carol Bell, Stanley Consultants	Laura Linn, Dewberry
Kate Berrigan, Gannett Fleming	Sean McGraw, Weston Solutions
Melissa Bertoli, WBCM	Mark McGuire, Rampart Engineering
Sharon Bland, JMT	Mike Pavlides, Pennoni (FAPA Vice Chair)
Scott Borges, Kimley Horn (AF WG Lead)	Bob Schlesinger, Baker International (FAPA Vice Chair)
Liz Burkhart, Collins Engineering (Subcom. Chair)	Stephen Scott, Mason & Hanger (USACE WG Lead)
Nicki Davis, Black & Veatch	Stacey Shepard, Jacobs
James Durkay, Dawson & Associates	Mohan Singh, AECOM
Elaina Edwards, Louis Berger	Jeff Sorenson, Mead & Hunt
John Edwards, Weston Solutions (WG Lead)	Mark Steiner, ACEC
Joan Freitag, Hanson Inc. (FAPA Chair)	Marie Ternieden, ACEC
Sandra Gitlin, STV Inc.	Alan Watt, RS and H
Steve Hall, ACEC	Deb Wittle, Prime Engineering
Chuck Harris, Jacobs	John Woods, Woods Peacock (Subcom. Chair)
James Hoffman, Summer Consultants	

Wednesday, July 30

9:00 a.m. Welcome and Introductions

Joan Freitag welcomed all Committee members, started introductions around the room, and asked for attendees to sign in on the circulated sheets. She then reviewed the distributed agenda for the 2-day meeting.

9:30 a.m. Business Meeting

Joan, Mike Pavlides, and Bob Schlesinger led discussion on planning for next year's Annual Convention (April 19-22, 2015 at the Marriott Wardman Park in Washington, D.C.). Of principal interest to the Committee leadership is to organize business and educational sessions that draw audiences and validate

the efforts of all involved in securing speakers. Also, large active audiences encourage speakers and their agencies to return.

It was suggested that the Federal Markets Conference (FMC), within the Convention, be modified from identifying work opportunities (available on the internet or through other sources) and focus more on interactive (round table type) discussions between agency and member firm leaders identifying trends and programs that facilitate long term strategic planning (Executive Forum). The key is to identify what firms will need to address in the future and how they should respond. Also raised was the potential for having all the FMC sessions on one day or presenting the FMC as a track through the Convention, as opposed to just listed events.

The consensus of the Committee is that the change in session content should be tried and the creation of a track is preferable to trying to push the FMC into one day, considering the events of the total Convention. It was noted that the usual opportunities presentations should be scheduled as webinars during the year.

Topics raised for the Executive Forums included:

1. Design-Build initiatives and implementation
2. Public-Private Projects initiatives and implementation (including divesting of assets)
3. Joint initiatives and funding streams (e.g. climate change adaptation)
4. Significant agency reorganizations
5. WRRDA implementation
6. New FAR/acquisition rules
7. Information/cyber security self-certification (EO 13636)
8. Grant programs
9. Resilience
10. Small business program changes

Committee members were asked to identify any education sessions they believe would be of wide interest to ACEC membership, as well as content for the spring Committee meeting at the Convention. Input should be provided to Joan Freitag and Mark Steiner by September 1.

10:00 a.m. Joint Military Services Meeting

Services Attendees:

- Robert M. Gill, P.E., Chief, Facility Management Division, DCS/ Logistics, Installations & Mission Support, USAF
- Betty A. Corbitt, F.E., Program Manager, Programs Integration Division, HQ USACE, Military Missions Directorate
- Clara Sullivan, Senior Procurement Analyst, Contracting Directorate , Policy Division, HQ USACE
- Andrew Temeyer, Architect, HQ USACE, Engineering & Construction Division
- Scott Wick, Chief Architect, HQ USACE
- Deepika Cheriathundam, NAVFAC HQ Capital Improvements
- Tammey Crouse, NAVFAC HQ Acquisition
- Cindy Readal, NAVFAC HQ Acquisition (Acting Director)

Miro Kurka welcomed the Services representatives and summarized that we are all here to collaborate on best business practices that result in successful work for all involved. A brief discussion of the progress made through ongoing regular meeting between USACE and ACEC took place. A summary listing of these items is contained in the attached agenda for the Joint Military Services Meeting. The following ongoing issues were then addressed:

1. Improving Acquisition Forecasts, for timeliness and accuracy

A discussion of the many reasons forecasting is difficult ensued. Examples included:

- Due to funding issues, 50% of work is done in the 4th quarter
- For smaller efforts, the component commanders control decisions
- The best information is held at the lowest levels and dissemination depends on individuals
- Combined memos from Program Management, Design, and Acquisition leadership in Headquarters might help

ACEC suggested our working with the USACE PARCs might help, as they are controlling acquisition plans. Projections are of value, even if they are subject to change. Keeping information current and regular communications is necessary.

Good examples included NAVFAC Southeast (for construction, not AE services) and USACE's Portland District. Manpower issues impact action. At USACE, 3 districts are going through mock RIFs. This does not help. The Services recognize the benefit of communicating need in a timely way, allowing better preparation by teaming firms and improved competition and performance. They will work on a joint position for improvement.

On a similar topic, the subject of long decision times on procurements is creating organizational, proposal content, and staffing problems. Some NAVFAC procurements are over 2 years old. Another issue raised is the ceiling of \$9 million on USACE IDIQ contracts is too small. No immediate relief from these problems appears imminent.

2. Consistent and low burden task order selection process for multiple-award IDIQ engineering contracts

ACEC had provided the National Guard Bureau's (NGB) process as a good example. The problem is USACE centered. NAVFAC has stopped new awards of multiple-award IDIQ contracts and the Air Force is not aware of any problems with their use. Questions were raised by ACEC members and the Services concerning use of the NGB process. It is intended as an example, not for direct application. The objective is to make the information gathering and decision making as simple as possible, making full use of existing information.

3. Appropriate use of Past Performance Questionnaires (PPQs)

All agree that PPQs are not required, especially if ACASS or other ratings already exist for a firm. In the worst case, the firm will receive a neutral rating, if no information exists and PPQs are not provided. When RFPs appear to make PPQs mandatory, ACEC should address with the issuing entity. If they are unresponsive, raise the specific issue with HQ POCs. New regulations are coming that will allow reuse of PPQs over a period of time. For now, change the Control Number and submit.

The issue of project split tasks being treated as separate projects was raised. If multiple tasks are issued to complete a single projects, they should be considered as one project for past performance purposes. The Services' representatives understood this and will consider the impacts of adopting it.

4. Arbitrary overhead and profit

NAVFAC did review the setting of ceilings that must be accepted prior to negotiations. This should not be happening, but Contracting Officers can establish fair and reasonable rates based on area experience and firm types, during negotiations. They do not have to accept audited rates and the contractor does not have to sign a contract, if doing so creates FAR or cost accounting violations. ACEC is encouraged to send in examples of arbitrary rates being required, without any negotiations taking place to understand the rationale of both parties.

5. Control of the sources sought process

Skipped due to time remaining. Part of issue 1.

6. Limit the arbitrary changing of designers on design-build contracts

USACE has ACEC's suggested wording change. NAVFAC asked for examples of the problem. Pax River and Corpus Christie were mentioned, with misinterpretation of the Fair Opportunities Act flow down creating task order bidding and designers being changed from those on the selected team. ACEC promised to send the suggested changes to the USACE Acquisition Instruction (UAI) to NAVFAC for information.

7. Relieving Federal Contractor Manpower Reporting Application (CMRA) data base requirements for A/E contracts

Not discussed due to time.

8. Transition from ACASS to CPARS

Not discussed due to time.

Mr. Gill noted that the Air Force is reorganizing to create a Centralized Installations Management Center, under the Materiel Command. Funding would pass through the Center to the Commands. Decisions on responsibility and accountability between the Center and Major Commands are still under review. The NAVFAC model is not being followed. MGEN Teresa Carter is standing the element up and will head it. It is not yet staffed. AFCEC will report to the Center.

All the Services agreed that this last quarter, already a month in, will see more obligations than the first 3 quarters combined. NAVFAC noted that full spending may not be achieved.

The next Services-ACEC meeting is scheduled for Wednesday, October 1st. Considering the pressures of the next 2 months, the Services will offer an alternate date.

The following New Issues were briefly discussed:

1. Identifying ways to implement WRRDA 2014 provisions (P3 pilots, levee liability report, etc.)

ACEC offered to work with USACE to provide information, establish best practices, and identify impacts and unintended consequences involved with establishing positions. This would recognize the Commanding Generals position on partnering with the engineering industry.

2. Providing accurate costs of constructed projects to designers to improve estimates

The industry needs actual cost feedback in order to provide reliable future estimates. The issue is keeping up with completed cost versus bid cost and changes. All agreed that the information should be available and provided. Contracting Officers and Project Managers should provide and engineering firms should ask. The Services can reinforce this, but firms should press for this public information through their individual contract relationships.

1:00 p.m. NAVFAC Renewable Energy Program; CAPT Kliem, Deputy Director

CAPT Kliem's presentation is available on the ACEC FAPA Committee webpage. He stressed that the Program is a SECNAV initiative, set up to aggressively establish safe, secure, resilient, and renewable power at stable prices. ACEC firms can help by strengthening the micro-grid backbone and providing for integrated, distributed loads. The Program strategy includes buying, booking, and building sources. These include photovoltaic, wind, hydro, geothermal, and other renewable sources. The Navy is willing to provide land and do environmental studies to enable others to generate power for the grid.

Engineers need to support and provide integrated services. ESCOs and energy savings performance contracts (ESPCs) are now dominating the Program. If nothing else, engineers need to model and evaluate ESCO proposals to assure the Navy is getting value. Other areas of needed engineering involvement are cost efficient energy storage, shifting loads effectively, and security for the micro-grid. Nuclear power is not included, since the Navy does not want to draw attention to their shipboard power.

The Navy's energy strategy is part an overall security strategy, which goes beyond individual projects. Budgets include sweep up of current unobligated funding and future projections. CAPT Kliem suggested separate meetings with CAPT Alex Stites, on Critical Infrastructure Protection, and Donna Carsonjelli, on Cyber Security/Control.

2:30 p.m. Subcommittee Discussions/Reports and Break Out Sessions (continued to 9am on the 31st)

Programs – Joan

- Someone recommended that future meeting with agencies need to focus on recommendations the Committee wishes to make and should have assigned issues with pre-identified spokespersons. Debate ensued over the benefits of this approach, over an agenda and open discussion. No decision was reached.
- Concerning the Fall Conference Committee meeting, local agencies should be invited. It was noted that June Nakamura, Les Fukuda, and Jon Nishimura were contacted for leads and assistance. Invitations have been issued to those identified. The Kona location of the ACEC Conference has inhibited participation, due to travel and budget restrictions, especially for the Navy.
- With the change in SAME director, ACEC should retry efforts to work together. This could include events, training programs, and career fairs. Miro noted a close connection with the new director and offered to initiate contact.
- Returning to the Spring Convention, the following topics were raised:
 - Exploring separate, lower pricing for the Federal Markets Conference. This may attract additional and new attendees. The logistics of maintaining 2 types of attendees at the Convention may pose a significant hurdle.
 - Having "Executive Forum" type roundtable discussions, with topic subject matter experts (4 speakers/session). Include federal local and HQ personnel. Topics suggested included:
 - P3 in federal government or financing for federal projects – Dan Tangherlini, GSA
 - Defense communities development – Ed Hecker, USACE
 - Federal A/E acquisitions process understanding, efficiency, and standardization – Dick Ginman, DPAP; PARCs; FAR Council; Chiefs of Contracting
 - Paralyzes by legal counsel – No target candidates identified

- How to partner for federal work (non-8(a) mentor protégé – SBA
Consider 2, 2.5-hour long sessions (same day if possible), hollow space for 100 people.

DOD – Miro

As well as the earlier meeting with the Services, the following items were addressed:

- In addition to previously discussed use of arbitrary overhead and profit rates, there appears to be efforts to use Service Contract Act Reporting requirements to measure negotiated person hours against actual hours spent on tasks, even for fixed price work. This may be used in future negotiations with individual offerors.
- ACEC should champion an effort to work with DOD and the Services to identify the actual process used for A/E services procurements and then get agreement on what the best practices should be. The present processes vary by location and contracting officers and in many cases has become or is considered too complicated. Need to simplify and make obviously efficient, so that all are comfortable and see the benefits of using the unique procurement process.

Civilian Agencies – Philios Angelides

- The Subcommittee has made progress on identifying internal Champions (or Leads) for each agency, based on contacts with or interest in that agency. Philios distributed the copies of the Committee developed paper on the duties for these Champions and encouraged more members to volunteer.
- It was noted that Dennis Milsten, Associate Executive Director, Office of Programs & Plans, at Veterans Affairs, would be speaker to the Committee the next day. This is furthering a growing relationship with that agency, leading to stronger relationships, expanded A/E use, and improved business practices and procurement processes. The relationship might be reinforced by members meeting at the VA during the Committee Winter meeting.
- A discussion of the State Departments, Office of Overseas Building Operations addressed the issues of one-step design-build use, requiring full proposals under sources sought announcements, and how “facilities excellence” was being implemented in the latest solicitation.
- The National Institute of Health appears open to a closer relationship with ACEC.
- Philios proposed the full Committee meet with at least one agency/year, even in their offices. There are 9 agencies being “pursued” as “partners” at this time.
- The key issue is establishing a simplified task order selection process for multiple-award task order contracts, which avoids the burdens of preparing full proposals for each task and removes cost as a selection factor. Much of the information needed for qualifications selection is available from the selection on the original contract. Standardization, short time and task sensitive input (e.g. staff available, task approach, schedule, etc.), and need for discrimination between contract holders should be addressed.

Small Business – John Woods

The Small Business Subcommittee supports all other subcommittees with regard to small business matters. Some specific issues currently of concern are:

- Substituting of proposed A/E team members on A/E or design-build contracts after award, without cause or justification. Often this is done to achieve perceived cost reduction.
- The need for agencies to structure contracts for performance by small businesses (e.g. limits scope and value so that small firms can realistically manage, finance, and/or insure anticipated work.

- Watching for violations of NAICS Code size standards, most importantly the architecture size of \$7 million.
- Monitoring and challenging set-asides for AE services for military construction or family housing projects, including IDIQs, of \$350,000+, which are not allowed by DFAR SUBPART 219.5.

Procurement – Liz Burkhart and Sean McGraw

The Procurement Subcommittee supports all other subcommittees with regard to procurement matters. Some specific issues currently of concern are:

- The Subcommittee has completed a survey on the average lengths of A/E procurements by NAVFAC, from proposal submittal to contract award. With over 200 data points, the survey appears to be statistically significant. The results are;

90 days – 11%

90 days-6 months – 20%

6-9 months – 5%

9-12 months – 33%

Over 1 year – 31%

There is no data yet for USACE or Air Force. Liz will provide the survey information to the Committee. The Procurement Subcommittee may recommend seeking a GAO study of this situation and the damage done to firms and the agency projects involved.

- Multiple Award Task Order Contract task order selection issues; Subcommittee will review the Civilian Agencies Subcommittee white paper.
- ACEC is supporting the Construction Coalition on the two-step design-build preference and justification and reporting of short lists larger than 5, reverse auction prohibition, and payment protection for P3 projects.

Thursday, July 31

9:00 a.m. Business (continued, see above)

10:00 a.m. Small Business and Mentor Protégé Programs, Anthony Ruiz, Assistant District Director

Mr. Ruiz' presentation is available on the ACEC FAPA Committee webpage. He stressed the ease of use and practicality of the mentor protégé program, the benefits to everyone, and his availability to guide firms through the process.

11:30 a.m. Open discussion during lunch

Major topics included:

- QBS award candidates for next year. Several to be developed, including the National Guard Bureau (National or Nebraska), some USACE Districts, and the National Park Service; National Capitol Region.
- Narrowing down the "roundtable" sessions to Creative Financing (Miro and Scott Borges) and Improved A/E Acquisition (Stephen Scott, Deb Wittle, and Melissa Bertoli)
- Focus on Partnering Agreements or MOUs with NAVFAC, VA, FEMA, and OBO.

1:30 p.m. Veterans Affairs Construction Program, Dennis Milsten, Associate Executive Director

Mr. Milsten's presentation is available on the ACEC FAPA Committee webpage. He stressed VA's interest in attracting the "best" engineering firms and working with ACEC on best practices and funding issues.

He also noted the focus on strategic planning and consistency, as opposed to the prior “bottom driven” planning (e.g. medical centers each identifying their own requirements). Other items of note were, commissioning agents need to be PEs, one-step design-build is no longer being used, open to P3 arrangements, and budgeting based on 35% design. An area where more strength is needed by designers is in providing medical equipment planners.

3:30 p.m. Adjourn

DRAFT