



AMERICAN COUNCIL OF ENGINEERING COMPANIES

ACEC
Federal Agencies and Procurement Advocacy
Summer Committee Meeting Minutes
July 12-13, 2011
ACEC HQ – Washington, DC

Those in attendance (signed in):

Mary Anderson – Schnabel
Jim Blake – JMT (Chair)
Liz Burkhart – Collins Engineering
Maria Buscemi – ACEC
John Cassidy – Pond & Co.
Nick Cerro – C & S Companies
Michael Duffey - SSOE, Inc.
Joan Freitag – Hanson (Vice Chair)
Laura Gallo – STV
Steve Lakner – Stanley Group
Laura Linn – Dewberry

Sean McGraw – Weston Solutions
Rob Mullins – Stantec
Craig Newton – H & A
Dick Ragold – SK&A
Bruce Sadler – Brockenbrough & Associates
Bob Schlesinger – Baker Corp.
Stephen Scott – Mason & Hanger
Mohan Singh – Baker Corp.
Mark Steiner – ACEC
John Woods – Woods Peacock

The meeting began at 9:00 a.m. on Tuesday, July 12. Introductions were made.

Blake discussed the role of the subcommittee chairs and the recent initiative to streamline some of the subcommittees along with their goals and initiatives. The new organizational chart (attached) originally presented at the Spring meeting was used as a reference to outline each subcommittees' chairs and the goals or tasks of each. It was pointed out that each subcommittee should move forward independently with their issues while keeping the FAPA Committee chair and co-chair informed. Action Item: Jim Blake to produce a list of responsibilities for all co-chairs including deadlines and top 2-3 initiatives to focus on.

Maria Buscemi was introduced to the Committee; she will be working alongside Mark in an effort to deliver timely, federal-program-related education programs to the membership.

Each subcommittee present provided a status report on initiatives and priorities.

Bob Schlesinger updated the Committee on the Tri-Service Total Ownership Cost template development for use in selection of design-build contractors, the need for tracking "hollow" contracts, and attacks on the Thomas Amendment (limiting USACE provision of services to state and local governments) in WRDA, Flood Insurance, and other legislation.

Concerns were raised about the USACE's recent practices and the perception that there is an increase in the amount of work being done in-house by the Corps instead of outsourcing work to A/E firms. Mohan Singh, who very recently served as a Senior Executive in the USACE, said the Corps outsourced more work than other agencies – especially on the military side. As much as the Corps would like to keep work in-house, there simply aren't enough resources within the Corps to accomplish the work they want to do and A/E firms will receive a great share of it as a result. This sentiment was echoed by the representatives of the USACE that meet with the Committee later in the day.

Laura Linn reported on behalf of the Civilian Agencies subcommittee that their contact at FEMA, Jake Hansen, has left the agency and their action item is on hold until a new Director is appointed.

Jim Blake reported on behalf of Philios Angelides that a partnering agreement is being pursued with the Dept. of Veteran Affairs. The legal department of the VA has expressed some concern about giving unfair advantage to ACEC's member firms and has hesitated to sign a partnering agreement; it's up to the Committee to persuade the Dept. of Veteran Affairs otherwise. A General Services Administration partnering agreement is also being pursued at this time; however, the GSA wants to be a member of ACEC and since ACEC is a lobbying organization, they cannot. ACEC staff is seeking a way to establish a separate organization that would allow government members.

Concerns were raised about recent news that the appropriations for GSA and new projects in the coming year totaled \$0 in the bill that passed the U.S. House (the Senate has yet to act) and Laura Linn called for all member firms to contact their state representatives in Congress about the issue. The creation of a Civilian BRAC for federal properties was mentioned in the same appropriations bill.

Action Item: Jim Blake asked all Committee members to review Mark Steiner's recent email and provide comments regarding the GSA appropriations issue. ACEC will then determine an appropriate lobbying course of action to try to rectify the situation.

Committee members were then asked to review the 2012 NDAA considerations and sections of interest.

The Committee discussed the Small Business Size Standards issue and ACEC's official position. Some members of the Committee expressed dissatisfaction with ACEC's position but Mark commented that \$10 million was based on available industry and ACEC data and represented the consensus of the Small Business Size Standards Task Force, which was made up of large, mid-size, and small firm representatives.

Committee members representing mid-sized firms expressed concerns about the disadvantage mid-sized firms find themselves in when contracting with the federal government. The Committee agreed that ACEC should address this issue as an initiative, while providing procurement officers needed education about the impacts of these disadvantages. Additionally, Stephen Scott indicated we need data to formulate an intelligent position and action plan for addressing the disadvantages of mid-sized firms. Past efforts to gather such data resulted in identification that while such data is maintained for individual contract administration, it is not aggregated for further use. Members of the Committee thought ACEC should demand small business reported data from the government (SF

294/295). Committee reiterated need for data from Corps and its district offices to formulate an action plan. Joan Freitag asked ACEC staff to provide definitions of small, mid-sized, and large firms. Mark noted that our comments on the small business size standard and our ongoing legislative initiatives include recommended changes to the federal small business program that address both the current “mid-size firm subcontracting penalty” and the gathering of data to better understand the actual use of engineering small businesses by the federal government.

The Committee was asked for feedback on the GSA schedule survey about whether or not member firms benefit from using the GSA Schedule. Mark noted that ACEC management has approved the survey use. Much time has passed since the original survey questionnaire was finalized. Joan Freitag mentioned that the Civilian Agencies Subcommittee should review the survey and either abandon the survey altogether or make appropriate edits since there have been programmatic and economic changes since it was initially developed.

Action Item: Laura Linn will lead the working group to review the survey and make necessary changes or a decision on whether the survey is necessary or not. Mark Steiner needs to send electronic version of survey (Word).

Mark Steiner then initiated the discussion on the need for the Committee to recruit speakers for upcoming events – both for Committee meetings and the ACEC Annual Convention (federal markets conference sessions). Mark asked the Committee if there are any interim events they want/need and also mentioned that we plan to do another small/large firm teaming event at the ACEC Annual Convention.

ASHRAE has recently asked Mark Steiner to review commissioning standards of practice and the qualifications needed for commissioners. Mark said that ACEC’s position is that a commissioning agent should hold a Professional Engineering license. The USACE’s position is that a commissioning agent should hold a P.E. license as well; however, contracts are still going out with the current language indicating that the commissioning agent must be “certified.” Since there are certifications provided for commissioning that do not require a P.E. license, ACEC has concerns about this. Mark Steiner will turn to Bob Schlesinger on the Committee for help with addressing this issue.

Rob Mullins, along with other members of the Committee, raised concerns about the communications taking place between government owners and A/E firms at debriefings. Committee members say they are not getting valuable feedback and information at these debriefings. Time constraints, for example, make it difficult for selection committees to give thorough debriefings and sometimes, there is simply no dialogue at all. Members need thorough information at debriefings to develop better proposals; there is a great cost associated with responding to RFPs and with little to no feedback during debriefings, A/E firms will not know how to avoid costly efforts that seemingly lead nowhere.

To address the above issue, Joan Freitag mentioned that selection committees need appropriate training and guidance on how to select A/E firms and how to debrief and Committee members agreed. It was noted that A/E firms rarely protest awards and truly use debriefings to better future proposals, which benefits the agencies. The Committee thought MOs should write letters to their districts about

debriefing issues. Bringing in the representatives from the divisions to discuss issues and debriefs might also help. Action Item: Joan Freitag volunteered to produce a white paper regarding the value of thorough debriefs.

Some Committee members indicated that the FAPA meeting at the fall conference should be more meaningful than past conference meetings to increase attendance. Given the tight Conference schedule and Las Vegas location, doing this would be a challenge. The Leadership and Programs Subcommittee will address potential alternatives (e.g. regional federal agency representative; BUREC, NPS, etc.).

The performance ratings for engineers involved on design-build projects remains problematic. Along with joint ventures having different names and unfiled reports by contracting officers for direct design contracts, most engineering firms are receiving no ratings whatsoever.

Action Item: Jim Blake volunteered to prepare a white paper on rating systems for engineers working on design-build projects. Relevant issues include: Privity of contract, who does ratings, pairing with a contractor, verbiage on A/E in contractor's rating, drop down in CPARS, and ACASS.

Mark Steiner indicated that ACEC should produce a sustainability inclusion list, most sustainability focuses on energy and water use. The focus needs to be balanced with other considerations, such as resiliency, safety, security, flexibility, etc.

USACE involved - US Army Corps of Engineers representatives James Dalton, Eric Halpin, and Steve Deloach then joined the Committee to discuss four issues of concern to A/E firms: (1) Revised policy for self performing design work, issued in June 2010; (2) moving work into design production centers; (3) Congress lowering budgets and supplemental and setting fewer (no) earmarks; and (4) the hiring myth.

James Dalton, USACE, first wanted to dispel a few myths about the Corps. Firstly, there was a perception that the Corps hired a lot of engineers in the last few years. Dalton said that the staff size has not increased proportionally to the amount of work available. When accounting for known and expected attrition, the net loss through FY10 is 1500 to 1600 personnel, half of which are in engineering and construction. For FY11, the net loss is estimated at 200 personnel. They do not have the staff to handle their entire workload, much less take on additional work. Steve Deloach promised to provide actual numbers and yearly changes in workforce.

Dalton mentioned that the Corps' prior policy was to contract out 30% of civil works to A/E firms, and perform 70% of civil works' projects in-house, while contracting out 80% of military work and performing 20% of military projects in-house. These percentages include construction. If districts did not meet their goals for providing in-house services, they'll receive warnings (amber if 10% below; red if 20% below). Due to supplement work and earmarks (99% contracted out, due to timing), USACE usually attained about 50% self performance of civil works and 15% military works.

Under the new policy, a new metric will be used (which is currently being determined) to measure the amount of self-performed work needed to maintain capability (skill sets) . James Dalton expects the

percentage of work to be outsourced to remain about the same. Divisions and districts are strategically planning actual funded project performance based on the amount of work needed to maintain capability, including progression of responsible work for developing staff. USACE Headquarters will review plans for reasonableness and sustainability. When asked if specific analysis of capability needs has been performed and could be made available, the answer was “not yet”. Also, concern was raised that sustainability of work level may override true capability needs and keep work in-house that should go to the private sector. When asked if self performance of work would be rejected if the level was higher than that needed to maintain a capability, no clear answer was provided.

The question was asked if the current planning percentages (self performance versus contracted) could be provided to ACEC? That information has not yet been collected or developed and probably won't be. The percentages will probably be similar to what was done before. It was noted that “management oversight” of contracted work should not have been counted as in-house work in prior analyses and won't be in the future.

Dalton discussed the move of work to Design Production Centers similar to the Centers of Standardization currently set up for military construction; he expects about eight or fewer Design Production Centers to be created. This would correct the inefficiencies inherent in each district trying to be full service and mirrors how the private sector operates. Two of the proposed Design Production Centers include one for dam safety (in Denver – 40 people currently working there) and one for Navigation Projects (Pittsburgh). Congress is funding the dam center through dam emergency money. There is also a recently established Risk Management Center associated with both identified Production Centers, which is focused on dam and levee safety. The RMC is virtually linked to assigned resources which are all USACE employees, including new specialty hires.

The main concern of the Corps of Engineers is that it needs to maintain the expertise and technical competency of its own staff, thus the emphasis on performing a certain level of work in-house. The Corps has operated inefficiently on the Civil Works side and the Design Production Centers are meant to address this issue. Like the RMC, the Production Centers will be virtually linked to resources when first set up. After that there will be reassessments of operations and needed workloads on a yearly basis.

Districts have RASBs, (Regional Advance Strategy Board) that puts together a regional 3-5 year project list including in-house/out-of-house. These involve establishing Human Capital Plans and Advance Acquisition Strategy Plans to support them. Projects may be shifted based on resource and capability needs. The details and should be clarified by the end of the calendar year. Contracting changes may involve consolidation by geographic area and not be owned by Production Centers.

Communication between ACEC and USACE is key; ACEC needs to fully understand USACE plans and intentions in order to remain response to USACE needs, while remaining viable entities. Corps representatives asked for as much advance notice as possible on meetings and to meet regularly with ACEC regarding issues.

Action Item: Develop schedule of quarterly meetings and coordinate with USACE to have representatives present.

The Corps previously contracted out about 50% of its Civil Works projects and about 80-90% of its military projects. Mr. Dalton doesn't know what current percentages are. It was noted that these new Design Production Centers represent a huge culture change for the Corps, but the Corps believes that there will always be a balance of outsourced work and in-house work since the amount of work available cannot conceivably be performed entirely by Corps staff.

Committee members asked if there was a public document of the skills set the Corps is trying to maintain. This is currently being worked out by the Corps HQ staff over the next couple of years.

Committee members expressed some concern about competing with the Corps' district offices for projects and the more the A/E firms know about what the Corps is thinking or looking for the better it is for firms in terms of not wasting resources on bidding for projects that will likely end up with the Corps.

James Dalton asked ACEC Members to provide information about instances where the Corps has competed with private sector firms for project work. He also mentioned that they hope to produce a spreadsheet of all the project work available to disseminate to our constituency.

Eric Halpin, P.E. of the USACE provided a presentation describing the Risk Management Center for federal dams (~700) and levees (~2000) and providing an example of why the Corps needs to make efforts to maintain or increase the technical competency of its workforce. The Corps has not worked on a dam in over 40 years and much of the staff is young and inexperienced.

The discussion then turned to how ACEC can help the USACE. USACE representatives indicated a need for ACEC to lobby for infrastructure funding and should work closely with AGC to combine forces in this effort. The Corps also requests continued participation on the National Committee on Levee Safety.

ACEC then asked USACE to provide data that's needed to make arguments on Capitol Hill; ACEC needs non-transportation related data to help with policy.

To make next meeting with the Corps more meaningful, we need to ensure continuity of the issues and discussions raised during previous meeting. Next meeting, we need to touch on the Design Production Centers and find out about any updates from the Corps related to the metrics that will be used in identifying in-house/out-of-house work.

The Leadership and Programs Subcommittee should consider setting up regular meetings with Congressional committees' staffers/legislative staff and the Committee should develop a common message to deliver to legislators.

After the conclusion of the meeting with the USACE representatives, the question of whether quality is the "Achilles heel" for Design-Build method was raised. The idea to ask for a Government Accountability Office Design-Build audit was mentioned.

Stephen Scott initiated a discussion on how we can modernize Design-Build-Bid.

Action Item: A working group made up of Steve, Rob Mullins, and Joan Freitag was established to discuss this issue, which is on hold until next year.

The Committee should increase the frequency of meetings with various agencies besides USACE and NAVFAC, including the General Services Administration, Dept. of Veteran Affairs, and Department of Energy, Dept. of Homeland Security, and the U.S. Air Force. Subcommittees should establish a regular schedule, per Jim Blake, to meet with agencies to discuss issues. The idea is for three to four people from a subcommittee to meet with agency officials instead of officials needing to face the entire Committee. The role of the co-chairs of the subcommittees is to keep these actions moving along rather than be the sole individuals on the subcommittees performing the work.

The Committee requested that Mark send an email summary once or twice each month of issues the Committee needs to comment on; Mark mentioned that sometimes the window for providing comments (from the time the issue is published to the time the comments are due) is very narrow, making it difficult to save issues for once a month.

The Committee discussed the potential for the use of SharePoint or LinkedIn Groups for Committee discussions on issues. The Dewberry offered use of their SharePoint system is no longer available due to increased internal use and lack of ACEC activity on the system. The Committee asked that ACEC staff look into the possibility of ACEC implementing SharePoint sites for each of the committees and subcommittees and whether or not there is space on our server.

The meeting adjourned for the day at 5:00 p.m. and continued the next day, July 13, beginning at 9:00 a.m.

The NAVFAC Partnering Agreement signing event was announced – only those Committee members that provided their name and bios in advance could attend.

The Committee was asked to reflect and provide any reactions to the discussions that took place the previous day with the USACE representatives.

There was a consensus from the Committee that they are seeing instances where the Corps has issued RFPs for project work that has ultimately then been granted to one of the Corps' district offices. Members of the Committee all agree that when this happens, a great deal of resources are spent in vain. Mark mentioned that USACE HQ representatives assure him they'll work on communicating to industry what projects are likely to be carried out by the Corps. However, Mohan Singh mentioned that uncertainties within district Corps offices make it difficult at times to inform industry of what they can/will do in-house.

The need for communication between industry and the headquarters and district offices of the USACE is going to be critical to ensuring private sector A/E firms do not expend resources unnecessarily on project solicitations. ACEC should ask James Dalton of USACE to include divisions in our quarterly meetings, which can be done remotely. Minutes should be taken at every meeting.

ACEC is interested in knowing what level of competence and support is needed within the Corps.

The Committee then tried to come up with different ideas for how A/E firms can help the USACE. Ideas included:

- Doing Independent Technical Reviews for the Corps – private firms could provide a review for a collaborative approach between A/E and Corps
- Balance energy, resiliency, safety, ownership costs, and other sustainability factors in future designs
- Design process working group to support NIBS and Whole Building standards
- Get other parts of the Army engaged– DoD subcommittee charged with taking the lead on getting them involved

Action Item: ACEC needs to report to Corps at next meeting how much progress we've made in meeting their requests.

The next discussion topic was the 6% of estimated construction cost limitation on total design fee issue – the question being whether or not we want to pursue more consistency among agencies in the application of this limit on firms. Bob Boyer was mentioned as someone who has a great deal of information on this issue (what's in the limit and what's not). The Committee agreed it was a worthwhile effort to pursue.

Action Item: Mark Steiner will reach out to Bob Boyer for in an effort to develop a consistent guide for use by member firms and agencies.

The national debt ceiling issue was raised – the Committee was asked whether they thought ACEC should do something to help member firms prepare; members of the Committee agreed that most firms had their own precautions or procedures in place.

The Committee asked to move the meeting at the fall conference and then discussed the scheduling for the winter meeting – either the 2nd or third week of January 2012.

Action Item: Mary Anderson and Jim Blake will set a date and let Mark know.

Mark then reminded Committee members that we need to get started with planning agency presentations for the annual convention in the spring. Also, the Teaming Fair will be repeated, with improvement made. If the Committee wishes to add any other events at the spring convention, they need to let Mark know.

The meeting then adjourned at 11:30 a.m. and Committee members prepared to travel to NAVFAC for the signing of the ACEC-NAVFAC partnering agreement.