AGC- NAVFAC Meeting
2020 Federal Contractors Conference
Virtual
June 9, 2020

<center>**MEETING AGENDA**</center>

AGC Questions for NAVFAC

2020/2021 BUDGET, APPROPRIATIONS, & PROJECTS OUTLOOK
- Please provide a general update on the budget and projects for FY 2020/2021.
  - **Q1a1 CI** What is the breakdown of projects? By project types; Open versus set aside; By procurement/project delivery method (design-build, design-bid-build, so forth); By state/location.
  - **Q1a2 CI** There are projects that are authorized, but do not have funds appropriated. What is the status of these projects, and when are appropriations expected?

NAVFAC Response to COVID-19
- AGC appreciates the open communication between NAVFAC and contractors. Access to installations and the associated screening protocols are governed are important to NAVFAC and AGC contractors. The health and safety of all of the personnel working on our installations remains our top priority. NAVFAC and AGC contractors have worked together to ensure projection against COVID-19 while maintaining the rapid execution of these critical facilities.
  - **Q2a1 CI** What lessons were learned and how will these lessons be applied in the future?
  - **Q2a2 CI** What Class Deviations were issued? Will any of these be considered to be made permanent?
  - **Q2a3 CI** How is NAVFAC evaluating REA's related to COVID-19 delays (i.e.) Compensable or non-compensable)? How does Sec. 3610 of CARES Act factor into these decisions?

PAST PERFORMANCE EVALUATIONS
- AGC thanks NAVFAC for its partnership with industry to better standardize the contractor performance ratings system (CPARS) process across all of NAVFAC by introducing a new CPARS Matrix tool.
  - **Q3a1 CI   Please explain the CPARS Matrix tool.**

  - **Q3a2 CI How does the CPARS Matrix ensure timely issuance of past performance evaluations, accurate ratings, and sufficient narratives?**

  - **Q3a1 CI What resources are available for contractors?**

SAFETY

- o **Q4a SAFETY** The safety of our workforce is paramount to AGC members**.** As such, timely feedback that NAVFAC can offer contractors outside of the CPAR process as to what safety measures are and are not successful is appreciated. For instance, if there is a notable uptick in a specific type of job site injury, informing contractors as soon as possible would help the community at large identify the root cause and address the problem expeditiously. Often times contractors can implement stringent controls more quickly and effectively as an employer than an agency can through a trickle-down information program.
  - o **Will NAVFAC and DoD at large work with AGC and the contracting community to share more statistics and practices highlighting safety successes?**

ACQUISITION
- *Best Value: LPTA versus Trade Off*. AGC understands the need for Low-Price Technically Acceptable (LPTA) in certain circumstances, however, AGC encourages NAVFAC to return to the Best Value Trade Off delivery system to avoid the noticeable increase in change orders, claims, project delays, and disputes.
  - o **Q5a1 ACQ Does NAVFAC have plans to utilize more of the Best Value Trade-Off delivery system?**

  - o **Q5a2 ACQ** Proposals are an expensive endeavor; if the government wants to alleviate costs and resource burden then the contractors should also be allowed to minimize its costs and resources, especially when a Lowest Price evaluation criterion is utilized. **If a LPTA is used would NAVFAC agree not to request a technical or narrative along with the price?**

- *Design Build*. It appears that the Government is planning to use the Design Build delivery methods less in the coming years.
  - o **Q5b1 CI What is the reason for reducing the number of acquisitions using the Design Build Delivery method?**

  - o **Q5b2 CI Are there any updates to the Government's acquisition strategy** that would increase the use of Design Build with Tradeoffs determinations?

- Small Business Subcontracting Plan. AGC members have reported instances of being penalized in RFPS for not identify all planned subcontractors by name that will be used to support each small business category. This practice places significant

additional performance and financial risk on the Prime Contractor and its Subcontractors, as well as increasing the exposure to legal claims and financial hardships. It is our opinion, that identifying a Subcontractor's Small Business classification by listing them in a Small Business Participation Plan does not indicate that firm's "responsibility" (capability of completing the work), nor does it further increase the likelihood of achieving Small Business subcontracting goals. Subcontractor listing during the Proposal Phase effectively eliminates the tremendous post-award small business outreach efforts used by Prime Contractors to identify all types of small businesses and develop new relationships. The practice of listing will ultimately result in a much smaller pool of small businesses that are actually being utilized, which is contrary to the mission of the SBA and Federal Government, nor is it currently included in any provision of the FAR. With large-scale, complex Design-Build projects, the scope of work is conceptual at the Bid-Proposal Phase. It is not until after the Post Award Concept Design Workshop (CDW), and subsequent Design Phase Meetings, that the Government's input and comments are received and incorporated into the final design. Given the Design-Build progression, the scope of work is not definable at the Proposal Phase, and therefore it is typically not reasonable to make final Subcontractor selections with firm commitments.

- o **Q5b3 CI What is NAVFAC's policy requiring prime contractors to identify all planned subcontractors by name that will be used to support each small business category in the proposal stage?**

- o **Q5b4 CI Will NAVFAC Headquarters communicate to its regional offices that this practice should not be used?**

POST-CONTRACT AWARD CONCERNS
- o **Q6a1 ACQ Has NAVFAC considered holding Notice-to-Proceed direction on design-bid-build projects until the kickoff meeting in lieu of at the time of award?**

- *Modifications.* Timely issuance of Contract Modifications continues to be an issue for contractors. Although there have been improvements in the process, overall, the burden is still with contractors to fund and continue work while modifications are being prepared and issued. The alternative for contractors is to face project delays and the burdens of Time-Impact-Analysis. AGC appreciates the progress NAVFAC has made in this arena, however, a major hurdle still exists with the contract modification process. By and large, the unreasonable length of time it takes to process a changed condition from inception to obtaining a fully executed modification is still a real concern.

- o **Q6b1 CI Please comment on NAVFAC procedures for handling small and large modifications, expected turn-around times, if any, and any guidelines or in-house training as to what is expected from your FEC's relative to processing Mods.**

- o **Q6b1 CI How can AGC help the NAVFAC in resolving the excessive amount of time needed to process a modification?**

- o **Q6b1 CI What is the status of Naval Engineering Training and Operation Procedure (NETOPS) #35, which requires field offices to use Lean/Ultra Lean process for modifications equal or less than $150K?**

- o **Q6b1 CI Please describe NAVFAC's efforts to address its upward obligations?**

CYBER SECURITY
- *Cybersecurity*. 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.
  - o **Q7a CI How is NAVFAC implementing these requirements? Will NAVFAC provide guidance as to what information contractors will be liable for protecting?**

  - o **Q7b CI How will these requirements be addressed in the new ECMS System?**

Covered Telecommunications Ban
- Section 889(a)(1)(B) prohibits agencies, including NAVFAC, 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.

o **Q8a CI How does NAVFAC plan to implement these requirements? Will NAVFAC provide guidance as to what information contractors will be liable for protecting?**

PARTNERING

- AGC believes that engaging in project-level partnering as committed team members with NAVFAC will improve project execution, staff efficiency (NAVFAC and contractor), safety, trust, and the project team relationships. AGC members have embraced partnering and are committed to bringing key decision makers into the fold in order to get the most out of the process. We see an opportunity to improve the process by getting a commitment from all parties attending to bring key decision makers (i.e. Design Manager, Contracting Officer, Contract Specialist, Project Manager, and Operation Manager, FEAD Director, Public Works Officer, etc.).

  - **Q8a1 CI What is NAVFAC's policy on Formal vs. Informal Partnering?**

  - **Q8a2 CI Does NAVFAC have a policy regarding what agency staff should participate in this process?**

  - **Q8a3 CI If so, what is that policy and what can contractors do to help encourage attendance by key decision makers, particularly on large or complex projects?**

  - **Q8a4 CI How does NAVFAC ensure that partnering is actually followed through and abided by? What metrics are tracked from the date of partnering through project completion?**

- *Issue Resolution.* All parties would like for issues to be resolved at the lowest possible level, however some issues need the support of senior leadership for resolution. The process for Issue Resolution can be confusing for contractors when dealing with multiple leadership 'paths' that NAVFAC has in place and there is often a resistance to elevating issues in a timely manner.

  - **Q8b CI Would NAVFAC consider a process that elevates resolutions that could be applied uniformly across all projects for key issues such as Modifications, Time Impact Analysis, Final Design Approvals, etc.?**

General Questions

- Open questions from the floor?

NAVFAC Questions for AGC

Adjourn