

USACE
National Dredging Meeting
30 May – 1 June 2012

DREDGING
CONTRACTING
101

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US Army Corps of Engineers
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BLUF

The Bottom Line Up Front!

- In the interest of ensuring overall Mission Success, as it is with All USACE Nation Building Initiatives, it is vitally important that the CORPS and INDUSTRY all work together as unified partners, utilizing the right type and sized wrench {contracting tool/vehicle}, for the tasking and challenge at hand!!!



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Learning Objectives

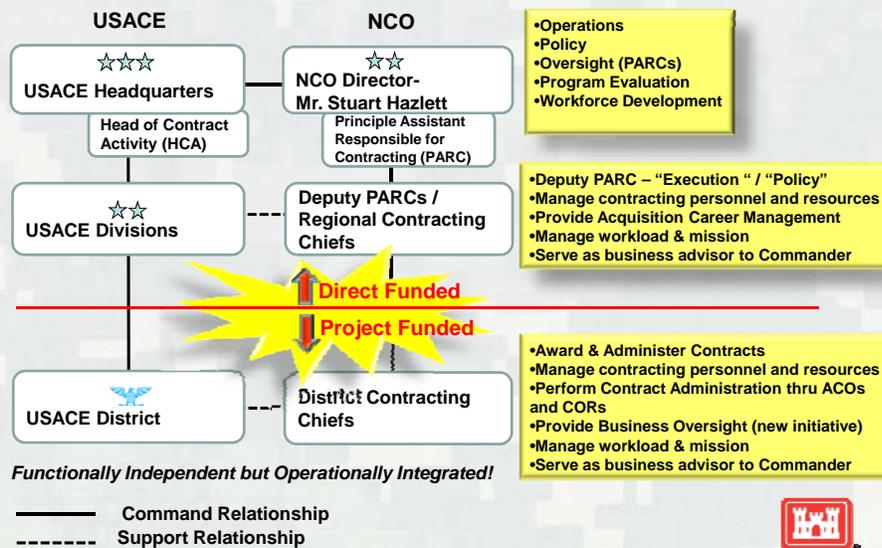
- Know the Major Considerations in the Dredging Planning & Procurement Process
- Understand Goals, Objectives, and Processes related to varying Dredging Delivery Methods
- Understand intricacies unique to Dredge Contract Types and their Modification Processes
- Understand the Roles and Responsibilities of the Task Order RFP/Awarding District Office
- Communicating the KTR / SATOCER's / MATOCER's Role in the Procurement Process



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National Contracting Organization (NCO)

Functionally Independent but Operationally Integrated



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Roles & Responsibilities

Contracting Officers

- Unique authority
- Appointed by PARCs (Atlanta, Dallas, Winchester)
- Warranted by type and monetary value of contract
- Authorized to enter into new contracts and may delegate authority to warranted ACOs and/or designated CORs

Key Roles:

- Contracting Officer (KO): Generic term for any individual with a warrant
- Procuring Contracting Officer (PCO): Usually refers to KO performing, as a minimum, pre-award functions
- Administrative Contracting Officer (ACO): KO (usually works in the field) who is authorized to obligate the government and modify contracts within specified limits (Const contracts up to \$500K)

Contracting Officer's Representative

- COR designated/appointed in writing
- Verifies the contractor has performed the requirements of the contract
- Performs all necessary inspections
- Verifies the contractor has corrected all correctable deficiencies
- Performs acceptance for the Government
- Performs property surveillance
- Maintains liaison and direct communications with both the contractor and the contracting officer
- Submits report concerning performances of services rendered under the contract
- **Can't modify or change contract**

Roles & Responsibilities

Area Engineer

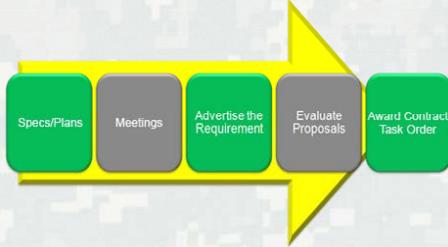
- Serve dual role as Area Engineer and Administrative Contracting Officer (ACO)
- Execute {in-scope} contract modifications in accordance with \$100K or \$500K ACO warrant {in-scope change order} authority
- Support Procuring Contracting Officer (PCO) / KO
- Support USACE Small Business programs
- Get involved in contractor poor performance issues (CCASS)
- Participate in industry partnering conferences
- Participate in acquisition strategy meetings
- Understand the DoD Source Selection Board process



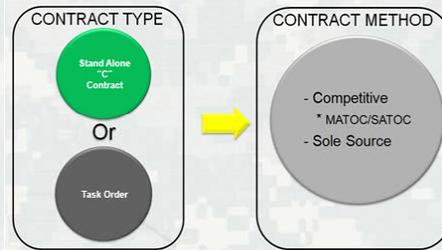
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Major Considerations in Dredge Requirements Planning

The Acquisition Process



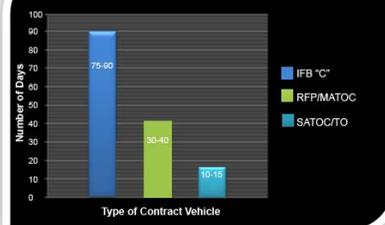
Acquisition Strategy



"Price Evaluation Scheme"

- **Low-Bid** – Lowest responsive/responsible bidder
- **Lowest Price Technically Acceptable** - process used in competitive negotiated contracting where the best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price
- **Tradeoff** - process allows for a tradeoff between non-cost factors and cost/price and allows the Government to accept other than the lowest priced proposal or other than the highest technically rated proposal to achieve a best-value contract award

Procurement Acquisition Lead Time



Contracting Methods

Sole Source - (Other Than Full & Open Competition)

- Least competitive, and the least desirable, method of acquiring supplies and services
- Proposal is solicited from one responsible source
- Requires a detailed justification and approval (J&A) signed by senior officials

Competitive - (Full & Open Competition)

- The Competition in Contracting Act of 1984 (CICA), 41 U.S.C. 253, requires, with limited exceptions, that contracting officers promote and provide for full and open competition in soliciting offers and awarding U.S. Government contracts
- "Full and open competition" means that all responsible sources are permitted to submit a proposal on the procurement
- For Other than Full & Open Competition requires a justification and approval (J&A) document

MATOC

- Multiple Award Task Order Contract (MATOC) is an indefinite-quantity contract that is awarded to several contractors (*referred to as a pool*) from a single solicitation
- Pool *competes* for each task order during the life of the contract
- Each pool member is guaranteed a minimum dollar amount

Advantages	Disadvantages
<ul style="list-style-type: none"> - Reduction in contract time and cost - Contractor pre-qualified - Ability to negotiate - Flexible response to emergencies (No J&A) 	<ul style="list-style-type: none"> - Large upfront effort - Minimum guarantee

SATOC

- Single Award Task Order Contract (SATOC) is an indefinite-quantity contract that is awarded to single contractor
- Bidding contractors compete for overall contract – Single contractor is awarded base contract, and *negotiates* with government for each task order

Advantages	Disadvantages
<ul style="list-style-type: none"> - Pre-priced work - Match funding to requirements - Single contractor - Flexible to add work (modification) 	<ul style="list-style-type: none"> - No competition for task orders

Steps for a Stand-Alone “C” Contract

1. 15 Days FedBizOpps Notice
2. 30 Days Solicitation Advertisement Period
3. 10 – 20 Days for RFIs / Amendments
4. Public Bid Opening
5. Pre-Award Survey of Lowest Bidder
6. Assemble contract file for Legal Reviews
7. Award Contract / Request Bonds/ Issue NTP



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Contract Modifications

What is a Contract Modification?

- FAR 2.101:
A contract modification is any written change in the terms of the contract
- A contract cannot be changed verbally – It must be in writing
- You can *imply* a change verbally
– Therefore, you must be very careful when talking to contractors

Types of Contract Modifications

- Two types:
 - UNILATERAL
A contract modification signed only by the contracting officer. (E.g., administrative changes)
 - BILATERAL
A contract modification signed by the contractor and the contracting officer. (E.g., supplemental agreement)

Kinds of Contract Modifications

- Two kinds:
 - Administrative Contract Officer issued (dollar amount depends on ACO warrant authority)
 - Contracting Officer Issued

Steps for Processing a Modification

- 1a. Evaluate the contractor's request for proposed contract change
- 1b. Evaluate the Government's request for proposed contract change
2. Determine whether to make a modification to the contract
3. Determine whether to use a unilateral or bilateral modification
- 4a. Modify the contract using a unilateral modification
- 4b. Negotiate with Contractor & Modify the contract using a bilateral modification
5. Document the contract file and distribute the modification

SAD MATOCs

Indefinite Delivery Indefinite Quantity (IDIQ) Multiple Award Task Order Contracts (MATOCs) Maintenance Dredging and Shore Protection Projects

- ▷ Group 1, Unrestricted CG Certified Hopper Dredging (AWARDED)
- ▷ Group 2, Small Business Dredging Projects (AWARDED)
- ▷ Group 3, Unrestricted Shore Protection/Beach Renourishment
- ▷ Group 4, Unrestricted Miscellaneous Projects



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Steps for a MATOC Task Order Award

1. Issue FedBizOpps / "Heads-Up" Notice
2. Issue RFP (Plans/Specs) to MATOCERs
3. 10 – 20 Days for RFIs / Amendments
4. Receive Proposals / Pricing from MATOCERs
5. Evaluate Proposals/Determine Apparent Awardee
6. Assemble Task Order file for Legal Reviews
7. Award Task Order / Request Bonds/ Issue NTP



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Steps for a MATOC Task Order Award

- **TECHNICAL EVALUATION:** The award of task orders are generally made on the basis of Lowest Price, Technical Acceptable (LPTA); the technical evaluation factors are:
 - 1) Availability of technically acceptable plant and equipment.
 - 2) Past performance under the MATOC (The government reserves the right to obtain copies of all Construction Contract Administration Support System (CCASS) records contained in the US Army Corps of Engineers CCASS database for the Prime Contractor (Offeror) and all Major Sub-Contractors (if applicable))



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Steps for a MATOC Task Order Award

- **MATOCER SUBMISSION REQUIREMENTS:**
 - 1) A letter on company letterhead identifying the piece of equipment the contractor proposes to do the work and the location of this piece of equipment. The identified piece of equipment must also have been found technically acceptable by the Contracting Officer prior to the proposal due date. Conditional proposals based on the availability of multiple dredges will not be accepted.
 - 2) Completed Pricing / Bid Schedule.
 - 3) Bid Guarantee per Clause 52.228-1
 - 4) Completed "Addendum to the Standard Form 1442"



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Steps for a MATOC Task Order Award

1. Issue FedBizOpps / "Heads-Up" Notice
2. Issue RFP (Plans/Specs) to MATOCERs
3. 10 – 20 Days for RFIs / Amendments
4. Receive Proposals / Pricing from MATOCERs
5. Evaluate Proposals/Determine Apparent Awardee
6. Assemble Task Order file for Legal Reviews
7. Award Task Order / Request Bonds/ Issue NTP



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Steps for a SATOC Task Order Award

1. Issue RFP (Plans/Specs) to SATOCer
2. 3 – 5 Days for RFIs / Amendments
3. Receive Proposal / Pricing from SATOCer
4. Evaluate / PNO / Negotiate / PNM
5. Assemble Task Order file for Legal Review
6. Award Task Order / Request Bonds/ Issue NTP
7. Award Task Order/ Request Bonds/ Issue NTP



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MATOC Review Meeting **29 March 2012 / Atlanta GA**

- Industry was given another opportunity to decide about sharing bid pricing information. What were the results?
- ✓ The original solicitation requested contractors' permission [for all pool groupings] to release pricing information once award of a task order was made. Not all pool members agreed in the initial solicitation for the GROUP 1 MATOC. During the MEETING, it was discussed that transparency was an issue and pool members wanted to have access to pricing information similar to the information released after an IFB bid opening. Accordingly, the Government re-issued Section 00600A at the Maintenance Dredging MATOC Conference to all GROUP 1 pool members and explained that if *ALL* pool members granted "release" permission, a full traditional bid abstract would be posted after award of each task order. Unfortunately, all pool members DID NOT grant the Government "release" permission, therefore a bid abstract can *NOT* be released after each MATOC competitive award.
- ✓ However, USACE stands by try again in the future, to re-solicit total GROUP 1 consensus concurrence on this matter.



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- Industry was given another opportunity to decide about sharing bid pricing information. What were the results?
- ✓ Not all Group 2 pool members were present at the Maintenance Dredging MATOC Conference. After the Maintenance Dredging MATOC Conference, the Government re-issued Section 00600A to all pool members in Group 2 via email and all pool members in Group 2 agreed to release their pricing so an abstract of prices will be released to all Group 2 pool members per MATOC requirements.



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- Notice of apparent low bidder within 2 days. How are we doing?
- ✓ Previously, the Government would not identify the apparent low offeror if the task order was NOT currently awardable. However,, Not Later Than - 2 days of the proposal due date, the apparent low offeror *WILL* be identified regardless of whether or not the task order is awardable. It will be clearly stated in the notice, if the task order is NOT currently awardable.
- ✓ After award of each Group 1 task order, the awardee's pricing and the Independent Government Estimate will be released to all pool members, regardless of whether or not all pool members proposed on the task order. Previously, only pool members who provided proposals received the awardee's pricing and the Independent Government Estimate. After award of each Group 2 task order, an abstract of pricing will be released to all Group 2 pool members per MATOC requirements.



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- MATOCs disallow "Joint Venture proposals. Is this true?
- ✓ As a general rule, MATOCs do *NOT* preclude "Formal Joint Ventures (JV)".
- ✓ Section 00100A of the Dredging MATOC solicitation allowed for Joint Ventures to submit offerors on the initial solicitation. However, the solicitation also stated that "[n]o task orders will be awarded to a joint venture unless the basic MATOC has been awarded to the joint venture." FYI, a MATOC was awarded to a Formal Joint Venture (JV) entity in the Group 2 MATOC Pool.
- ✓ However, unique to DREDGING, (because of the "40% rule), if a Small Business entity is attempting to Joint Venture with a Large Business entity, the Small Business entity *MUST* be the *OWNER* of the dredge plant.
- ✓ Per the CFR and "NAICS Code 237990 Dredging: To be considered a small business for Government procurement, a firm must perform at least 40% of the volume dredged with its own equipment or equipment owned by another small dredging concern."



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- MATOCs disallow “Joint Venture proposals. Is this true?
- ✓ This is the language that was provided in the solicitation Sub-Factor A, Submission requirements.
- ✓ "Sub-Factor A Proof of ownership of dredge. Small businesses are required to provide proof of ownership of their dredge(s) included under evaluation factor 1 above. If the plant is not owned by the business then a lease agreement from another small business firm must be provided. This requirement is in accordance with 13 CFR 121.201 which states "To be considered a small business, a firm must perform at least 40% of the volume dredged with its own equipment or equipment owned by another small business."
- ❖ The following is a link to the CFR: <http://cfr.vlex.com/vid/121-201-size-sba-identified-classification-codes-19632051>



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- Is there a schedule for pursuing the establishment of Group 3 and Group 4 MATOCs?
- ✓ There are on-going discussions, regarding the potential for a “SEED Project” coming out of the Mississippi Coastal Improvement Program (MSCIP) listing of planned projects for Fall of 2012, that could serve as a conduit for issuance of either a “Group 3” or “Group 4” MATOC RFP. More to follow....



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- ✓ In an effort to address industry's concern regarding ordering consistency throughout SAD, the internal Government Maintenance Dredging MATOC Ordering Guide was significantly revised and was redistributed just last week among all SAD Districts in an effort to further standardize the ordering procedures under the MATOC and maintain consistency throughout SAD when ordering. The Ordering Guide was previously issued; however, the Government has had subsequent "follow-up" teleconferences and meetings with all Districts within SAD to emphasize the importance of consistency.
- ✓ FYI,,, SAD will no longer require electronic submission of proposals; however, the Government reserves the right to make this a requirement for all task orders if mandated to do so by the Department of Army in support of the current push to convert to a paperless contract filing system.
- ✓ At the next, Regional Dredging Meeting (TBD), USACE-NCO will continue with these types of "Open Dialogue Forums" - to include USACE Navigation Managers and our Dredging Industry Associates, in the interest of Collaborative Partnering.



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Useful Links

- FedBizOpps USACE - <https://www.fbo.gov/index?tab=offices&s=agency&mode=form&id=63dd2680762c21c611c41c2499b507c5&cck=1&au=&ck=>
- Government Contracting Basics - https://docs.google.com/viewer?a=v&q=cache:p00ggUzSiagJ:www.acq.osd.mil/osbp/docs/government_contracting_the_basics.pdf+contracting+basics&hl=en&gl=us&pid=bl&srcid=ADGEEShT61kKuBAX WhJ5D87MxMAaLlLQ I e8RHbu4WnNeoFqm63M60OfUgSisGcRRaYCLileebU5PXqcC18oB4wx2-Mh74cnWiSn9cf8Ng5CXvfXnlpFzt4C8UkJvhuBfow6Xu0BaS&sig=AHIEtbT3epVeLLuOI 9lklwYpRre33sTwg
- Federal Acquisition Regulation - <http://farsite.hill.af.mil/>
- Office of Small Business Programs - <http://www.sellingtoarmy.info/user/showpage.aspx?SectionID=9>



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Thanks much for your time today, and also for allowing us the Corps the opportunity to serve along side each of you, in service to Our Great Nation!

Very Respectfully,

Your USACE Team Mates



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OPEN FLOOR

DISCUSSIONS!!!



QUESTIONS???



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