

MISSISSIPPI VALLEY AGC
ANNUAL SPECIFICATIONS MEETING
WITH CORPS OF ENGINEERS

THE PERDIDO BEACH RESORT
ORANGE BEACH, AL
THURSDAY, FEBRUARY 4, 2010

A G E N D A

- A. Opening Remarks..... **Mike Luhr, Chairman**
AGC Spec Committee
BG Michael Walsh
Division Commander, MVD

- B. Self-Introductions

- C. Discussion Topics
 - 1. MVD/MVAGC Quarterly Meetings (AGC)
 - 2. Bonding of Set-Aside Contractors (AGC)
 - 3. Reverse Auction (AGC)
 - 4. Inconsistencies Among MVD Districts (AGC)
 - 5. Safety (COE)
 - 6. Construction Capacity (COE)
 - 7. Partnering (AGC)
 - 8. Contractor Design Submittals (AGC)
 - 9. Compaction Field Testing (AGC)
 - 10. Debriefings and Protests – *presentation by Mr. Dirk Haire, Attorney* (AGC)

**MISSISSIPPI VALLEY BRANCH, AGC
2010 SPECIFICATIONS COMMITTEE MEETING**

ITEMS FOR DISCUSSION

Item No. 1 – MVD/MVAGC Quarterly Meetings

AGC

MVAGC extends its appreciation to Mr. Jim Hannon, MVD Deputy Director of Regional Business, for establishing quarterly meetings between MVD and MVAGC. MVAGC considers the meetings extremely beneficial in working ongoing issues and requests that the meetings continue. Two meetings have been held, one on August 10th and one on November 4th. Mr. Hannon and Mr. Freddie Rush, MVAGC, will report on the several issues discussed at the two meetings and not discussed separately below to include Hired Labor, Early Contractor Involvement (ECI) Selection Process, and Small Business Set Asides.

NOTES:

Item No. 2 – Bonding of Set Aside Contractors

AGC

- a. AGC will present a short briefing on important concerns related to a subcontractor securing bonding for a prime set aside contractor.
- b. Corps solicitations with the “T” designation are now done primarily as set asides and not directly with suppliers; the “T” solicitations do not have a bonding requirement. If a supplier quotes the set aside bidder, there is no guarantee the supplier will be paid and suppliers are, therefore, reluctant to provide a quote. The Corps should require a Payment Bond from the set aside contractor in order to provide assurance to suppliers that they will be paid.

NOTES

Item No. 3 – Reverse Auction

AGC

AGC requests that the Corps provide details on lessons learned in the use of reverse auction for the clay borrow solicitation for the Hurricane Storm Damage Risk Reduction System in New Orleans including the Corps' assessment on application of the pricing method on future Corps solicitations.

NOTES

Item No. 4 – Inconsistencies among MVD Districts

AGC

- a. MATOC Task Orders: AGC requests that all MVD districts post task orders on FedBizOpps at least 30 days prior to award to provide sufficient time for subcontractors and suppliers to contact MATOC contractors and submit proposals. Also, AGC requests that all MVD Districts post task order award results with unit prices on each District's website or on FedBizOpps.
- b. Safety Manual Interpretations: There is inconsistency among Corps safety inspectors at the Districts on interpretations of EM 385-1-1; for example, one district requires drivers of off-road vehicles that are never operated on public roads and streets to have a commercial driver's license (CDL) although other districts do not.

NOTES

Item No. 5 – Safety

CORPS

a. Within the Valley our most recent and serious contractor injuries/fatalities involved subcontractors. EM 385-1-1 states that the prime contractor is ultimately responsible for contract safety. What measures are prime contractors taking to ensure their subcontractors are properly emphasizing safety? What suggestions/actions from the AGC to reverse this trend?

b. MVD is exploring new options to draw attention and emphasize safety by proposing new guidance such as:

If Contractor has a lost time accident the Owner of the company must personally contact the Chief of E/C, Chief of Safety and discuss the circumstances along with steps to correct, actions taken, etc.

If Contractor has a fatality, there will be a stand down on further construction until the Owner of the Company personally comes to the District to meet with the District Commander, Chief of E/C and Chief of Safety.

We would appreciate the AGC's input and feedback on this proposed guidance.

NOTES

Item No. 6 – Construction Capacity

CORPS

MVD is executing about \$1B of American Recovery and Reinvestment Act (ARRA) projects and \$4.2B Hurricane Storm Damage Risk Reduction System (HSDRRS) projects this year, what is your capacity to execute additional infrastructure ARRA projects?

NOTES

Item No. 7 – Partnering

AGC

a. Dan Fordice, AGC, and Jimmy Waddle, MVD, will provide an update on FY2009 partnering activities including reports on the progress and future activities of six groups formed at the October 2007 MVD/MVAGC Partnering meeting to address the following partnering actions:

1. Incorporate Right People
2. Consistency Among Districts
3. Lessons Learned
4. Pre-bid Opportunities
5. Educate Partnering
6. Safety

NOTES:

Item No. 8 – Contractor Design Submittals

AGC

On certain projects for the Hurricane Storm Damage Risk Reduction System the Corps requires that the contractor engage the services of a registered professional engineer to design specific items of work, i.e. temporary flood control measures. Upon completion of the design by the PE, the contractor submits the design for Corps review and approval. However, the Corps review and approval process can be very time consuming with a 30-day minimum timeframe set for each submission or resubmission. Often the Corps review requires redesign and resubmission and the process starts all over again and may repeat several times before the design is finally approved. Such a process is too slow and too costly for both the Corps and the contractor for work on the Hurricane Storm Damage Risk Reduction System. AGC requests that the Corps reevaluate this process with an objective of expediting review and approval of such submittals through scheduled, specific timeframes for both the Corps and the contractor.

NOTES

Item No. 9 – Compaction Field Testing

AGC

The Corps has changed its specifications on Embankment such that the contractor is no longer permitted to perform field density and moisture content tests on compacted materials. The current specifications state that such tests shall be performed by a Corps of Engineers validated commercial testing laboratory. The change in requirements will result in significant additional costs to the Government and additional time to performance of the contract without any apparent value added. AGC asks the Corps to explain the purpose of the change in the field testing requirements.

NOTES

Item No. 10 – Debriefings and Protests

AGC

Mr. Dirk Haire, an attorney with Smith, Currie & Hancock of Washington DC, will give a 30-minute presentation on debriefings and protests.