

**DCA/Corps Q&A Session**  
WEDA Eastern Chapter Annual Conference  
October 11, 2007  
Philadelphia, PA

**Questions for Industry**

**1) Topic: Upland Placement Options**

Issue: Role defined by Private Dredging Industry

Background: In the Port of NY & NJ, much of the dredged material is too contaminated for ocean placement, which is the only federally managed placement site in the region. Most of this dredged material is stabilized and placed as beneficial use remediation material at upland landfill and brownfield sites, in cooperation with remediation project managers, private developers, and local communities and agencies.

Question: What role does the dredging industry see for itself in facilitating upland placement options for dredged material, in partnership with the public sector? In general, does the industry see itself taking on more of a leadership role in dredged material management / disposal options as government operated disposal options are no longer available?

**[WHH] Timely question. And actually we would say that in general the NY/NJ area has seen industry take a leadership role in dredge material management for many years already. At one point last year I think we counted 9 different options for dredged material processing facilities. Certainly the biggest issue has been finding ultimate disposal areas for the material after it is dredged and processed. There are several things that complicate this issue.**

**One is the fact that work typically takes place in two states, New Jersey which has been very cooperative in working with industry and New York which has been less than cooperative and more than happy to let the other state take all their dredged material. New Jersey seems to have had enough of that relationship. Industry can only take a leadership position so far before we need those responsible for regulatory issues to provide a better roadmap to allow development.**

**Second issue is an inconsistent market. In any business, an investor looks for revenue stream, and although the workload in NY has been promising it has consistently failed to deliver consistency or reliability. There are several businesses that have gone through the effort and investment to gear up for DMMP and then lost patience (and a lot of money) when projects got postponed or reduced in scale. We heard a presentation from the Hazleton folks in Pennsylvania yesterday and they are very willing to move forward, but only with a guaranteed quantity of dredged material. I checked with the developer of the only privately operated dredged material disposal area on the West Coast in the San Francisco Bay area last week and he says the only reason he made his investment was because his disposal area was authorized with the project and thus he was guaranteed a product. The risk involved in these investments is huge and for industry to do more, we will have to overcome these impediments.**

Another issue is an inability to understand clearly what disposal options are actually required when a job is bid. Projects still come out to bid with dredge material not having been chemically tested, with the apparent low bidder responsible to test the material. It is only after the material is tested that an appropriate treatment can be determined and only then that a suitable disposal option offered. There are some real business concerns here that make this a most peculiar market. How come the company that is only doing 10% of the work value (the dredger) taking 100% of the risk?

In the end, I think the answer to the question is that yes, you can expect to see industry taking on even MORE of a leadership role, but it will become even more important for the Corps and the respective States to allow that leadership to take place by facilitating a regulatory environment that allows our efforts to produce results. The NY District and PANYNJ convened a meeting to discuss options last year that were met with mixed results. We believe that meeting was a good start to discussion and would like to see additional such meetings to work out the issues raised.

## 2) Topic: Silent Inspector (SI)

Issue: Value to Private Dredging Industry

Background: During discussion of Silent Inspector implementation at the 13-14 June National Dredging Conference, Mr. Bill Hanson of Great Lakes Dredge & Dock Company, LLC, commented that implementation of Silent Inspector contractual requirements required hiring 5 additional staff to manage/monitor SI during the FY06/07 Baltimore Harbor Contract.

Question: Did GLDD realize a benefit from implementing SI for the FY06/07 contract beyond contractual compliance? What was the value realized in terms of cost/benefit to the company? Does GLDD foresee similar resourcing requirements for future, similar contracts, or will GLDD be able to reduce staffing as the company becomes more familiar with SI and as the SI hardware/software matures?

**[WHH] GLDD does not believe we received a benefit from SI in FY 06/07 beyond contractual compliance. In fact, contractual compliance brought what we believe to be an inappropriate punitive language clause in play that caused significant withholdings from our invoices that we are still trying to sort out. We believe the District acted in good faith, but was saddled with inappropriate language that did not reflect the test nature of the SI.**

It is possible that we might be able to reduce the additional staffing to 4 from 5. It is important to remember that the reporting requirements of SI are extremely burdensome and even without punitive penalty clauses, the whole system has to work under penalty of being shut down all together. So you need some redundancy to keep things moving. In addition, the Baltimore job is unique in that it typically involves some 15 pieces of floating equipment spread over a 60 mile working area. Just the logistics of this makes it very difficult to keep up with, and then when you add TDS to the equation it gets downright ugly. The TDS portion of the SI for scow is something we hope goes away. But at the end of the day, it will be up to our client to decide what they want and what they are willing to pay for. The TDS adds a lot of cost and a lot of uncertainty to the operation and what benefit is derived is questionable in our opinion, but again, it is the Corps' call.

### 3) Topic: Texas Lawsuits

Question: We've heard about the Texas lawsuits and understand some type of legislative action has occurred which may help the situation. Please provide a brief overview of the situation, legislative action taken, and the impacts that should result from actions taken. Follow on question: Also, how has this situation, as well as other things, impacted insurance rates, and what innovative actions are being taken by industry to get these rates lowered?

[WHH] Hard to summarize in a few moments what took us six months in Austin to accomplish. In general, for those who do not know what this question is about the dredging industry came under attack over the last 3 years with a spike in personal injury lawsuits. These lawsuits had a common thread in that they were all filed by a small group of Texas attorneys and were filed on behalf of dredge crews from south Texas. These attorneys bragged about their exploits stating in public that they needed little proof when such cases were filed in South Texas courts among “friendly” courts to collect huge settlements. While some of the cases were legitimate, others featured minor injuries that turned into back injuries requiring back fusion surgery. What seemed like only a Texas problem actually was a gulf coast and east coast problem because much of the dredging industry crew had residence in South Texas. So these lawsuits were coming from Memphis, and Miami, and Baltimore, as well from Brownsville and Houston. Why just Texas? Turns out that there existed a loophole in Texas law that states where cases can be filed that only existed in Texas that allowed these folks to sue in their home counties. These counties are notoriously friendly to plaintiff’s attorneys and have been described as the worst judicial hell holes for defendant companies in the country. In any event the maritime industry, led by the dredging industry, banded together under a group called Maritime Jobs for Texas to get a new law passed that removed most of the loophole.

Without this legislation, the dredging industry was clearly soon out of business in Texas and likely without much of our crews. We had already started seeing projects without bids and those that were getting bids were way over the government estimate. One of the interesting things about this is that industry was just beginning to feel the impact of the lawsuits and understand the implications. The suits were just starting to come to trial, and the insurance companies had just started to increase their premiums (typically 3 fold) as they attempted to reserve for the pending suits. In some cases, particularly with the smaller dredging companies, insurance was cancelled altogether and they had to scramble to find new insurance or go out of business. The larger companies like GLDD and Weeks who are self insured had to increase reserves and go begging to our underwriters to stick with us through the mess. With 120 pending suits and no end in site, the bottom line is that we had no solution and were left with the only option of changing the law or leaving Texas and/or our Texas employees behind.

With the change in law, we have seen a reduction in frequency of the suits as the lawyers have to work harder for less money on these suits. However, as with most laws we did not get everything we wanted. We wanted to eliminate the loophole completely. What we got is closure for most projects except hopper dredges working outside the Colregs. That should not be an issue. We are still exposed in plaintiff friendly areas like Sabine and Brownsville when we work there, and our Texas employees working on projects on the East Coast or in foreign locations can still sue us in their resident counties.

Bottom line for our clients is that without the law we would not be there. With the law, we are still saddled with 120 lawsuits that need to be settled each using the old law and with significant price tags. We will work them off over time, but it will be several years before we

see any reduction in insurance rates or competition from insurers until we see the real effect of the change in law.

Good news is that the maritime industry worked together to solve a very nasty problem. We will have to continue to monitor the situation in Austin, because just as we were able to pass the law to close the loophole, our opponents are trial lawyers who do not play fair.

By the way, GLDD is still being sued for our role in the effort by one of the plaintiff attorneys who blame us for hurting his reputation and damaging his earning capacity.

#### 4) Topic: Inland Dredging

Question: What can we, the Corps, do to make inland dredging work more attractive to bidders? Could the answer be a Corps-owned, contractor-operated dredge?

Below is a tabulation of the inland bid results for the last 5 years. Interest was greater than the minimum until disrupted by “Katrina”.

BWT bids prior to 2007 were for a project approximately 150 days in duration and that prior to 2006, all TT bids were for a project approximately 90 days in duration. BWT projects seem to have performed for the duration as bid, but the TT jobs seem to have been slightly longer.

In 2007, for some reason, bid project sizes shrank to approximately 2/3 the size of historical. To the Government’s credit, allowable hourly rates have risen in the very recent past in concert with post-Katrina costs.

	Date	Bidders	Low	Gov. Allow
BWT	30-Jan-03	3	\$4,288,590	\$5,793,343
	27-Jan-04	3	\$3,967,549	\$5,538,036
	11-Jan-05	2	\$4,727,722	\$5,736,223
	2-Mar-06	1	\$7,488,138	\$6,099,922
	2-Mar-07	2	\$4,585,025	\$7,193,446
Tenn-Tom	21-Jan-03	4	\$3,262,425	\$3,969,911
	18-Feb-04	2	\$3,127,996	\$3,820,511
	3-Mar-05	2	\$3,849,590	\$4,254,182
	24-Jan-06	1	\$6,187,500	\$6,636,375
	2-Mar-07	1	\$3,567,000	\$4,266,128

Low attractiveness is largely due to the Mob/Demob cap and the uncertainty of dredge availability for other work. The Mob/Demob cap forces the bidder to unbalance some required revenue into the hourly unit. In the case of an under run, the bidder is not made whole. In the case of an over run, the Govt. pays more than it would have if bid items were balanced. Dredge availability for future work is extremely important when bidding work in districts other than Mobile. Unless the rental is so large as to occupy the equipment for the balance of the year (which seems to be the direction of this year’s BWT), bidders must be able

to count on completion in a small window of time. Consider the rule of supply and demand. Contractors will go with their limited assets to the location of highest return. As the Government estimate increases, industry will continue to respond.

Industry is severely hampered with a lack of crew members for their own dredges. There would never be enough competent people to run a “non-industry” dredge.

### **Questions for the Corps**

1. With rare exception, the designated QC Manager of a dredging company has to have a valid CQC certificate (has attended the CQC course and passed the written test within last 5 years). The certification is only good for 5 years. The course is VERY BASIC and designed for someone who has never done QC work and is written more for vertical construction. The requirement for someone with many years of experience as a PM or QC manager to go to a basic info course every 5 years is a waste of time. If an employee has 10 years in the industry, he probably knows more about dredging than the instructor of the course. Would the Corps consider eliminating the testing requirements for industry employees of 10 years or greater?

**ANSWER:** This really is a HQ(DC) policy question, if it were to be eliminated. However, the requirement for this re-certification every 5 years is because our regulations, requirements and sometimes procedures are constantly changing. This course has been revised twice since it came out in 1995 to include the changes in regulations and Construction Quality Management (CQM) procedures that have been incorporated into our construction contracts including dredging contracts. We do not necessarily agree with the comment that the course is very basic. We have talked with at least one of the facilitators of this course who has been a facilitator for 12 years and has not run into anyone who received a perfect or close to perfect score during the pre-test evaluation; not even the experienced QC managers that are taking the course for the second and third time. This course is designed to prepare the CQC managers to perform all duties and responsibilities assigned to them. These requirements apply to all types of construction, military (vertical construction) as well as civil works, including dredging. The years of experience in the industry doesn't seem to have real relevance as to how well prepared a CQC is to write proper documentation and perform proper quality control activities. We would not necessarily be in favor of deleting this requirement, because we continue to have problems with the documentation and with the quality of the jobs, including dredging work. But if industry has any suggestions of how we could improve the course we are always open for new ideas.

2. If an RFP is used for channel maintenance or routine beach work, just so the scope can be adjusted down if the bids are greater than the budgeted amount, would the Corps consider using the base/option approach?

**ANSWER:** The RFP process is not being used to adjust the scope if the bids are greater than the budgeted amount. The RFP process does not hinder the Corps from using a base plus options.

3. Due to the recent, up tick in dredging costs, many districts have gone to a “base plus options” bid form. This is much better than an RFP. However, bidders desire to know immediately the total amount to be awarded in order to determine the availability of that equipment for other work, or its unavailability. Clarifying the low bidder’s schedule is in the Corps best interest, especially if it allows that bidder to compete on the next bid. A district should be able to reveal the funding amount at the bid opening so that all bidders know what to expect. How can districts improve the time taken to award all of the options that they are ever going to award – or at least inform bidders in a timely fashion of everything that is going to be awarded?

**ANSWER: When utilizing base and options, a Contracting officer must make a determination that there is a reasonable likelihood that the options will be exercised before including them in the contract. Therefore, when contractors bid and/or propose on a contract with options, they can expect it is the intent of the Government to exercise the options; however, as stated in FAR 52.217-5, evaluation of the options will not obligate the Government to exercise the option(s). The Government is required to specify the time period when the option must be exercised. If the Government fails to exercise the option in that time period, the contractor is no longer obligated to perform the option work and is then free to schedule their equipment for usage accordingly.**

4. The RFP solicitation process for the task orders under the South Atlantic Division (SAD) MATOC will impact industry’s ability to track bids and government estimates, study cost relationships, forecast project expectations, and manage its plant. Can you tell us what actions or decisions the Corps will make to curb this counterproductive consequence that runs contrary to the interests of all parties? What assurances can industry expect to receive from SAD that the number of bidders, government estimates, and winning bids for MATOC dredging projects will be made available in a timely fashion?

**ANSWER: Please refer to Section 00010B, paragraph 2.8 of the solicitation.**

5. A review of certain Corps project bid dates and the dates of the surveys provided in the solicitation to the bidders reveals that most but not all districts survey within just a few months of the bid opening and, since they know the volume, have a reasonable bid schedule. However, a few districts have a great problem documenting their shoaling. How can we bring some consistency among districts to Corps surveying during the procurement process (i.e. surveying not more than 120 days before advertisement as the survey manual recommends)?

**ANSWER: There is some truth in this statement and what the question appears to be suggesting is that another survey be performed much closer to the bid opening date and included in an amendment with revised volumes. In theory, this sounds like a good idea, but it is not always practical to attempt to perform another survey right before bid opening due to time restraints, vessel availability, scope of survey, cost, etc. This is why estimated shoaling rates are used. In some cases, particularly in volatile areas where shoaling is extremely unpredictable, the Corps has found that using historical shoaling rates is as accurate as any current survey and the timing of the surveys makes little difference. From a Corps-wide perspective, it is doubtful that there is one formula that will fit every District due to the widely variable project conditions.**

There is no specific one-size-fits-all time frame you can put in guidance on this issue. A project that requires dredging every 10 to 20 years does not need a survey two weeks old to provide meaningful data for the specifications, a dynamic inlet might. Within the North Atlantic Region there are some efficient channels whose shoaling rates would not require a two week or even a two month old specification survey. Preparing an extra survey which may not be necessary solely due to a timeline in guidance would utilize already scarce funding.

However, we will continue to improve the quality and timeliness of our surveys and support the partnering efforts between DCA and the Corps on the hydro graphic surveying initiative.

6. Some districts have managers assigned geographically across the district that manage all work in their area. They are the points of communication for the users between dredging projects and the dredging contractors prior to bidding and during dredging. They are located in the district and do not replace the Area Engineer, but oversee the Area Offices' work. Are there Corps representatives such as these in NAD and SAD that the industry can contact regarding project issues, whether pre-bid or post bid?

**ANSWER:** During the schedule presentations at the WEDA meeting all Districts will provide the point of contact for each project. However, we do need to assure that during the pre-bid process, all communications must be through the Contracting Office. FAR 14.211 states: "Discussions with prospective bidders regarding a solicitation shall be conducted and technical or other information shall be transmitted only by the contracting officer or superiors having contractual authority." This paragraph goes on to state that: "Such personnel shall not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others." FAR 15.201(f) states: "After release of the solicitation, the contracting officer shall be the focal point of any exchange with potential offerors." The purpose of these statements is to protect both the government and the contractors. If one contractor received technical information that was not made available to all other potential bidders, this would provide an unfair competitive advantage which would violate the "Competition in Contracting Act." In addition, if a contractor received incorrect or erroneous information from a technical person, such information could have a negative impact on the contractor's pricing proposal. After award, specific designations are made in writing, appointing Administrative Contracting Officers and Contracting Officers Representatives. Copies of these appointment letters, which state the exact authorizations for each individual, are provided to the contractor. In addition, the following directive is provided to the contractors, usually in the Notice of Award letters: "During the performance of the contract, you may have contact with numerous Government employees. It is your responsibility to ensure that you do not accept any changes in the terms and conditions of this contract from anyone other than the contracting officer. Should you choose to act on an unauthorized change and expect compensation, you will be required to submit a written request for equitable adjustment (REA) for the contracting officer's consideration. Any REA for an unauthorized change must include the name of the Government employee who issued the unauthorized change and your explanation for acting on the unauthorized change. Since unauthorized changes adversely affect the Government's contractual position, your performance report for this contract will include appropriate ratings and comments regarding compliance with this notice."

7. The Districts are not uniformly using the Fed Biz Ops. Many continue to use the FedTeds. Why are amendments on FedTeds? We thought/hoped the advertisements would revert back to the Fed Biz Ops which also contained an archive of bid results. Can we get all districts to get back to using Fed Biz Ops?

**ANSWER: New guidance will be provided by HQ(DC) by 1 December 2007 per the discussions at the last DCA/Corps partnering meeting, HQ POC is Robin Baldwin.**

8. Every year the DCA publishes a report of dredging statistics from the prior year's federal program and provides it to both industry and the Corps for reference. The association has frequently witnessed that some revised government estimates are not being uploaded into the Corps' Dredging Information System by the districts, resulting in the misrepresentation of true events and skewing of historical data that logically leads to incorrect analysis and misinformed decision-making. How can the Corps assure that all revised government estimates are uploaded into the DIS?

**ANSWER: It is unclear what is meant by "revised government estimates." If the question is referring to a government estimate that is revised either prior to bid opening or after bid opening but before award is made, then the revised government estimate should be reflected (see EFARS 36.203-102). However, if the question is referring to the fact that after award and subsequent modifications to the contract, the "revised government estimate" is not being posted, then the answer is: "the government estimate is not revised after award is made." The government estimate is not put into DIS until after the contract is awarded. It is taken directly off of the Abstract of Bids. When modifications are made to the contract as the work progresses, the Abstract of Bids is not changed.**

9. More and more often, the Government uses its own plant (special use dredges) to undertake what has traditionally been done by contractor plant. These projects have not been emergencies but rather routine maintenance dredging projects. Can industry be made aware of any changes to the Corps schedule of special use dredges prior to work commencing in order to allow industry an opportunity to demonstrate its ability to respond?

**ANSWER: We perform dredging where contractors do not have the capability or if something did not work out to have a contract, i.e. no bid within the limits of IGE, no plant available, or nonresponsive bids. We have been faced with all three circumstances, and when we do use Government plant on our projects that were traditionally contracts, we essentially "band-aid" it to a respectable depth and hope for a future successful contract. We have had a couple situations, Lynnhaven and Rudee Inlet, where the contract work was not completed or some small shoals developed and due to limited funding the special use dredge was in the area and completed the work or removed the shoaling.**

10. Contract Performance Evaluations:

a. Is it possible to put in-place a contractors' evaluation of the Corps with similar timing requirements and meaning as the Corps evaluation of contractors?

b. When we request a contractor's performance evaluation review with a contracting officer (CO).

- How much time do they have to respond?
- If the CO is late what actions can we take?

- If we disagree with a CO, what is the next step?

**ANSWER:** a. There is no formal evaluation process of the Corps by the Contractors, however, should industry want to provide this type of information or develop an evaluation and provide it to the Corps we welcome feedback. It would be our preference that it is done regionally. The regional navigation point of contact for feedback in NAD is Catherine Donohue (catherine.donohue@usace.army.mil) and SAD is Angie Premo (angela.y.premo@usace.army.mil).

b. In accordance with FAR 36.201, the Government is required to review performance of contractors to ensure the contractor is able to perform the contract successfully. As far as the Performance Evaluation of contractors is concerned, FAR 36.201 states that: “the report shall be prepared at the time of final acceptance of the work, at the time of contract termination, or at other times, as appropriate, in accordance with agency procedures.” Subparagraph (3) goes on to say: “If the evaluating official concludes that a contractor’s overall performance was unsatisfactory, the contractor shall be advised in writing that a report of unsatisfactory performance is being prepared and the basis for the report. If the contractor submits any written comments, the evaluating official shall include them in the report, resolve any alleged factual discrepancies, and make appropriate changes in the report.” If area offices are not complying with this directive, the contractor should bring this to the attention of the Contracting Officer.

A little more about the process. The Corps’ evaluation of the contractor can be completed any time (i.e. before final payment estimate is signed and release of claims) and, yes, it is initiated by the Corps. Evaluations are supposed to be completed for every project. Once they are completed, they are entered into the Construction Contractor Appraisal Support System (CCASS). CCASS is a web-enabled application that supports the completion, distribution, and retrieval of Construction contract performance evaluations (DD Form 2626). An evaluation assesses a contractor’s performance and provides a record, both positive and negative, on a given contract. Each evaluation is based on objective facts and supported by contract management data, such as contract performance elements that evaluate quality, timely performance, effectiveness of management, and compliance with contract terms, labor standards, and safety requirements (see <http://www.cpars.navy.mil/ccassmain.htm>).

The CCASS system allows the contractor being evaluated to review the proposed ratings and comment on any elements that may require further review or explanation. To comment on the evaluation via the web-based system, the contractor has to obtain either PKI or ECA certificate for the computer. If the contractor’s do not have the certificates, they can respond in writing. The CO only reviews/signs the evaluation if the performance is “exceptional” or “unsatisfactory”. Other ratings than that, it is signed within the Resident/Area office. The CO decision on the evaluation is final, but the contractor’s responses/rebuttal remains with the evaluation for viewing by whoever is looking at the evaluation.

11. The FAR provides a very good clause to use if the quantity of a unit-priced item in a contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity. An equitable adjustment in the contract price can be made upon demand of either party. Currently there are line items in contract bids that are in place to avoid this equitable adjustment opportunity. The risk and uncertainty of the actual quantity dredged is placed directly upon the contractors, and may result in increased unit price bids. If the work were more accurately defined, the likelihood of needing to utilize the VEQ clause would be small.

Contractors would be able to bid on actual work to be performed. A definite scope of work always results in better scheduling of equipment, which results in better pricing. However, if there were a volume change from the single bid volume, there would be an opportunity for the Corps to seek a reduced unit price for material dredged beyond 115% of the advertised quantity. Can the Corps explain why it has moved away from use of the tried and true VEQ 52.211-18 and what can be done to return to its use?

**ANSWER:** We believe the question is referring to the subdivided line items recently used in some pricing schedules, such as the following example (where line item 0002 is unpriced):

0002	Excavation, Unclassified, from Sta. X to Sta. Y
0002AA	Up to 150,000 cubic yards
0002AB	From 150,000 cubic yards to 200,000 cubic yards
0002AC	From 200,000 cubic yards to 250,000 cubic yards

The question presumes that the sole reason that these subdivided line items are used is to avoid the VEQ clause. This is not a true statement. The primary reason for use of such a CLIN structure is due to the unpredictability of shoaling in some extremely volatile areas where, even with current surveys, the amount of material cannot be predicted with any reasonable expectation of accuracy. In fact, the Engineer FAR Supplement (EFARS) addresses this very issue in Subpart 11.7, Variation in Quantity. Some Districts are using the EFARS clause at 52.211-5001, Variations in Estimated Quantities -- Subdivided Items,” while other Districts are using a local variation of this clause. The Corps has not, as indicated in this question, moved away from use of FAR 52.211-18, which is still included in our solicitations. The use of subdivided line items is not used in most of our solicitations. However, the contractor can always discuss these types of situations with the regional navigation point of contact in NAD, Catherine Donohue (catherine.donohue@usace.army.mil) or in SAD, Angie Premo (angela.y.premo@usace.army.mil).

12. Non-Corps dredging clients, particularly private companies, spend a significant amount of time during project design and plan preparation discussing equipment options, performance methodologies and schedules with potential bidders. They monitor dredging plant ownership so that they know who the owners of various types of equipment are and pursue those owners, not just for the benefit of the project, but to build a relationship with the operators. The bidders need to be familiar with the work and comfortable with the data provided from which they will generate their bid. The clients work hard to “sell” their project to all of the operators so that they will receive the maximum number of bids possible and reduce contractor risk as much as possible. Industry would like the Corps to adopt this approach when offering its projects for bid. They should recognize that they are competing with other clients to make their projects as attractive as possible. Nonetheless the Corps is still the most important client for the industry. It is important to remember that it is the contractors who have to make the investment in the plant to do the work and who also have to guarantee their work via a performance bond. It can be extremely effective if the Corps promotes a positive and proactive relationship with its contractors in order to win the best value for its dredging dollars. What can industry do to facilitate this approach?

**ANSWER:** Private companies are not required to follow the federal acquisition regulations and can pretty much operate as they see fit. However, the Corps of Engineers is required to follow the FAR, DFARS, AFARS, and EFARS as well as the numerous US Codes pertaining to federal procurement, including the Competition in Contracting Act of 1984. The

Corps attempts to hold pre-solicitation conferences with the dredging community whenever specific project details require input. Even such exchanges must be held in accordance with the many governing regulations and laws; such as the one provided in response to question #6 above regarding pre-bid communications in accordance with FAR 14.211. Furthermore, the Corps does monitor dredging plan ownership as well as current schedules of various plant and equipment. Site visits are held during the solicitation phase and contractors are invited to submit questions to the Contracting Officer. These questions are always answered and when necessary, an amendment to the solicitation is issued. The Corps understands that competition exists with non-Corps entities, but such competition is at the very heart of our democratic free market place. As to the fact that the Corps requires a performance bond, that also is in accordance with federal acquisition regulations (FAR clause 52.228-15). The Corps feels that it does promote a positive and proactive relationship with our contractors not only during the pre-bid process and the contract performance, but also in various forums such as the ICHDMG, WEDA, and National Dredging Conferences.