

**DEPARTMENT OF THE ARMY**  
**COMPLETE STATEMENT**  
**OF**  
**COLONEL NORBERT DOYLE**  
**PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING (ACTING)**  
**U.S. ARMY CORPS OF ENGINEERS**  
**BEFORE THE**  
**HOUSE SELECT BIPARTISAN COMMITTEE**  
**TO INVESTIGATE THE PREPARATIONS FOR AND RESPONSE TO**  
**HURRICAN KATRINA**  
**UNITED STATES HOUSE OF REPRESENTATIVES**

**The Role of Federal Agency Contracting in Disaster Preparedness**

**November 2, 2005**

## INTRODUCTION

Mr. Chairman and members of the Committee, my name is COL Norbert Doyle, and I am the Acting Principal Assistant Responsible for Contracting, for the U.S. Army Corps of Engineers or the Chief of Contracting for the Corps.

Thank you for the opportunity to testify before you today concerning the Corps' disaster-relief contracting procedures. Under the leadership of the Chief of Engineers, LTG Carl A. Strock, we practice a concept of openness. We strive to maintain transparency in our contracting activities and welcome oversight of our activities. From a contracting perspective, this visibility and transparency is best demonstrated by the publishing of our contract listing on our web site where we give specific contract information, to include the contractor, dollar value, and purpose of the contracts for all to see.

I would like to divide my statement into four parts, pre-disaster planning, contracting during the "emergency" situation, "a return to normalcy", and I will finish with comments on small and local business utilization.

## PRE-DISASTER PLANNING

In our pre-disaster planning, the Corps has been assigned Emergency Support Function #3 (ESF 3) under the National Response Plan. This is one of fifteen assigned functions to various elements of the Federal Government. Under ESF 3, Public Works and Engineering, the Corps assumes the lead in the areas of water, ice, power, temporary roofing and debris removal. Having this responsibility, the Corps has created a program called the Advanced Contracting Initiative, or ACI. Under the ACI program, we competitively award contracts for future use in the areas of water, ice, power, temporary roofing, and debris removal. Having these contracts in place allows the Corps to rapidly respond to emergency situations. We did in fact use our ACI contracts to not only support the Katrina recovery, but those areas impacted by Hurricanes Rita, Wilma and Ophelia as well. We also used the contracts to support recovery efforts in the Southeast after several hurricanes of last year's hurricane season. The ACI program has been in place for about six years.

## EMERGENCY

Turning to the emergency situation, the Federal Acquisition Regulation, (FAR), is based upon the principle of full and open competition. Drafters of the FAR, however, realized that emergency situations sometimes require emergency actions. As a general rule, the FAR mandates a 15 day advertisement period. The FAR also requires a 30 day proposal period in most cases. What does this mean? Simply stated, if we were to follow the rules for full and open competition, we would not have awarded a contract to get the flood waters out of the city of New Orleans until the end of October. Clearly the people of New Orleans could not wait. In fact, the FAR allowed us to considerably shorten the time period of the award, under the urgency exception to the Competition in Contracting Act. The Corps contracting officer contacted four companies on September 1, 2005. Of those four companies, only Shaw Environmental, Inc, of Baton Rouge, Louisiana, could respond in a timely manner to begin the unwatering effort. Contract award was made on September 2, 2005.

In our other efforts to support relief efforts in response to this emergency situation, the Corps considered and used the entire suite of available contracting options authorized under the FAR, including verbal and letter contracts. Using these methods, the Corps procured such critical items as sand bags to be used to stop the flow of water into New Orleans. You probably saw pictures of helicopters dropping these huge sand bags into the various levee breaches. It was an urgent situation, which required expedited procurement. Additionally, we made use of a Naval Facilities contract to assist in the unwatering of the city.

Due to the magnitude of Katrina and the wide-spread devastation, the Corps needed to award debris and roofing contracts in excess of those contracts pre-placed under the ACI program. Based on the large scale of the work that needed to be performed, we awarded four debris removal contracts following the emergency. Each contract is valued at \$500M with a \$500M option. This requirement was open to any company, under a shortened advertisement and proposal period. The Corps received 22 proposals in response to the advertisement. The contracting officer awarded the contracts on a best value to the government basis. The Army Audit Agency is reviewing the award and administration of these four contracts.

Oversight of Corps contracts, especially in an emergency situation, is important to the Corps. Within just a few days of the storm hitting the Gulf coast, our internal review staff teamed with the Defense Contract Audit Agency and the Army's Criminal Investigation Division and deployed to the area of operations. Their mission, which is still ongoing, is to provide oversight of the operation, to include looking for instances of fraud, waste and abuse. This includes reviewing contracts.

### RETURN TO NORMALCY

In our efforts to assist in the recovery of areas affected by Hurricane Katrina, we concluded that it is not yet prudent to follow the full waiting periods that apply in normal circumstances, before awarding contracts. It is our goal, however, to return to standard procurement operations as soon as possible. The Corps is currently moving in that direction. We are currently advertising our requirements for longer periods than we did under the urgent situation, we are attempting to give prospective contractors as much time as possible to prepare their proposals, and we are using Federal Acquisition Regulations principles and competitive awards to the maximum extent possible.

### UTILIZATION OF SMALL AND LOCAL BUSINESSES

The Corps has made extensive use of standard authorities granted to us under the various small business set aside programs, especially in the area of 8(a) firms. Section 8(a) is a Small Business Administration business development authority to benefit minority owned, socially and economically disadvantaged firms. The program helps aspiring entrepreneurs build their businesses by helping them obtain government contracts. Participants can receive non-competitive awards up to \$3 million during a 9-year developmental program. Many of these small companies are local and therefore are already in the area and available quickly to participate in recovery efforts. We have also held, and will continue to do so, 8(a) competitions in which only Small Business Administration registered 8(a) firms from designated areas can compete. In those areas where we have awarded contracts to large businesses, our debris contracts mainly, we encourage use of local business subcontractors. We have instituted high goals for small business subcontracting and a reporting requirement that keeps them focused on achieving results in these areas. These contractors report their sub-contracting efforts to us weekly for the first 90 days, and monthly thereafter instead of every six months, the typical reporting requirement. We have also inserted clauses citing the preference for use of local subcontractors.

We are in the process of developing our acquisition strategy for a newly assigned mission from FEMA, demolition, where the Corps will raze structures determined to be uninhabitable. We will include opportunities at the prime level for local disadvantaged companies and a geographic set aside for the unrestricted portion of the strategy. We are considering limiting competition to Mississippi companies for the Mississippi aspect of the mission and to Louisiana companies for the Louisiana aspect of the mission. Our estimates at this time are that the costs in Mississippi will be \$500 million and \$600 million in Louisiana. Award is planned for late December.

## SUMMARY

To close, I would like to thank you once again, Mr. Chairman, for allowing the Corps of Engineers the opportunity to appear before this Committee to discuss contracting procedures during times of emergencies. Many Corps personnel serve our nation by helping in the response to natural disasters in Texas, Louisiana, Mississippi, Alabama, Florida, or elsewhere in the nation or the world. We are proud to do so. I would be happy to answer any questions Members of the Committee may have.

Thank you.