

U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT OF

**BRIGADIER GENERAL THEODORE C. HARRISON
DIRECTOR, NATIONAL CONTRACTING ORGANIZATION**

BEFORE THE

**COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP
UNITED STATES SENATE**

ON

**DISASTER RECOVERY: EVALUATING THE ROLE OF SMALL BUSINESSES
IN REBUILDING THEIR COMMUNITIES**

September 15, 2011

Madam Chair and Members of the Committee, I am Brigadier General Theodore C. Harrison, Director of the U.S. Army Corps of Engineers (Corps) National Contracting Organization. Thank you for the opportunity to testify before you today concerning the role of small businesses in responding to disasters.

The Corps continues to work in support of the Federal Emergency Management Agency (FEMA) in carrying out a wide variety of missions in response to disasters throughout the Nation. The Corps strives to maintain transparency in our contracting activities and welcomes oversight of our actions.

I fully recognize the value that small businesses bring to our national economy, and I am personally committed to using small businesses in performing our work, both in the normal course of business, and in times of major natural disaster. We use Small, Small-Disadvantaged, Women-Owned, HUBZone, Veteran-Owned, and Service-Disabled Veteran Owned firms to the maximum extent possible, and typically, each year the Corps of Engineers awards 40 percent or more of its prime contract dollars to small businesses. After a Presidential declaration of disaster, we work to support the local community using local area set-asides permitted by the Amended Stafford Act.

My statement will address four areas; our pre-disaster contracting; our post disaster declaration focus on contract awards to small businesses and local area set-asides, the GAO-10-723 Report, entitled "Hurricanes Katrina and Rita, Federally Funded Programs Have Helped to Address the Needs of Gulf Coast Small Businesses, But Agency Data on Subcontracting Incomplete," and finally lessons learned.

PRE-DISASTER CONTRACTING

In a time of disaster, the Department of Homeland Security, National Response Framework dictates our response. Under the National Response Framework the Corps has been designated the coordinator for Emergency Support Function (ESF) #3, Public Works and Engineering. When tasked by FEMA, the Corps is responsible for providing ice, water, debris removal and temporary power. The Corps is also a support agency to ESF #6, Mass Care and Housing providing temporary roofing in the wake of a disaster.

Due to the necessity to lean forward in time of need, the Corps developed the Advanced Contracting Initiative or ACI to quickly respond to major disasters. The ACI Program consists of suites of competitively awarded contracts that allow immediate response to water, ice, temporary power, temporary roofing and debris removal missions. The ACI program has been in place for over 11 years with lessons learned applied to new solicitations each time we recompetes the ACI contracts. We used our ACI contracts to support recovery efforts after Hurricanes Katrina, Rita and Wilma and we are now using ACI contracts again to respond to tornado recovery missions in Missouri and Alabama.

Although it is always our plan that our ACI contracts are ready to effectively respond to all disasters, we have learned that sometimes the magnitude of disasters require more contract capacity or geographic coverage than is available under the scope of existing

ACI contracts. For Katrina, the Corps needed four additional contracts to remove debris in Mississippi and Louisiana. Each contract was valued at \$500 million with an option to increase each contract by an additional \$500 million. The contracting officer awarded the contracts competitively on a best value basis. At that time we determined that the sheer magnitude of the work involved did not lend itself to a small business set aside. And the focus was placed on small business subcontracting by the prime contractor. The Corps included aggressive small business subcontracting goals in these additional debris removal contracts. The Corps negotiated a small business subcontracting goal of seventy-three (73%) percent with three of the debris removal contractors and sixty (60%) percent with the fourth debris prime contractor. At the time our standard small business subcontracting goal was fifty-two (52%) percent.

After our initial disaster response through our ACI contracts, we use the Stafford Act as amended to move to disaster recovery contracts set-aside for businesses in the local geographic area.

FOCUS ON EMPLOYING SMALL BUSINESSES IN RESPONSE TO DISASTER

Small business subcontracting data for the Corps of Engineers response to the Gulf regions recovery through March 2007 made it very clear how vital small business participation was to the recovery effort, with eighty-eight (88%) percent of all subcontracted dollars in Louisiana awarded to small businesses and eighty-four (84%) of dollars awarded in Mississippi going to small businesses.

As we respond to tornado disaster recovery efforts in Missouri, and Alabama, the Corps is providing opportunities for small businesses to support the rebuilding of their communities.

In response to the Joplin recovery, the Corps of Engineers has awarded approximately 45% of total dollars in support of recovery directly to small businesses of which 70% are small businesses from the local geographic area. The remaining small business contracts were awarded to firms from Kansas, Ohio, and Illinois, all within the same region of the country impacted by the tornados. Debris ACI contracts were not available for use in Missouri and required the immediate response to be awarded against the existing large business Security, Disaster, Infrastructure Contract (SDIC) which offered us a world wide scope and the ability to respond immediately. In June 2011, following our initial disaster response through the SDIC contract, we awarded three debris removal contracts valued between \$20 million dollars to \$40 million dollars to Missouri businesses: Intelligent Investments, Incorporated, a service disabled veteran owned small business from Neosho, Missouri; Larry Snyder and Company, a small business from Ozark, Missouri and R & R Trucking, Incorporated, a large business from Duenweg, Missouri.

In Alabama, small businesses have proven to be major contributors in the overall success of the debris removal mission being accomplished under our large business

ACI contractor for the region, Phillips and Jordan. This state-wide geographically dispersed debris mission led us to the conclusion that we needed the highly experienced management and oversight abilities of a large business ACI contractor. Over half of the subcontractors hired by Phillips and Jordan are Alabama-based small businesses.

With regard to the Corps' overall small business performance, as of September 9, 2011, the Corps is exceeding all Fiscal Year 2011 Small Business Goals for prime contract awards.

To date, our Fiscal Year 2011 data pulled from the Electronic Subcontracting Reporting System (eSRS) reflects that Corps contractors have awarded 63% of subcontracted dollars to small businesses. Our prime contractors responding to a disaster are required to report their subcontracting efforts weekly for the first 90 days and monthly thereafter vice the normal reporting period of every six months. These reporting requirements continue to improve our visibility of small business subcontracting and allow us to track progress against our subcontracting goals.

GAO REPORT (10-723)

Overall, the Corps successfully ensures that small businesses are provided the best opportunities to participate in the rebuilding of their local communities after disasters occur. Nonetheless, the Corps has continued room for improvement in subcontract reporting and its oversight as illustrated GAO Report 10-723. The Corps is in the process of fully implementing the GAO recommendation to provide improved oversight to ensure that our contracting officers are monitoring the extent to which our contractors are meeting subcontracting goals and submitting subcontracting plans.

I will be the first to say that we should have better accountability for tracking subcontracting reports through contract completion, but we are on the path to getting this right. The Corps has undertaken the following steps to ensure full accountability in subcontract reporting:

The Office of Internal Review, at the direction of the Chief of Engineers has undertaken a comprehensive review of the Corps Subcontracting Program that will validate compliance with program objectives and to determine the extent to which the Corps holds prime contractors accountable for meeting subcontracting goals. The report and any findings will be filed in January of 2012 and immediately acted upon by my staff.

The Corps fully implemented eSRS during Fiscal Year 2009. We now have the ability, through eSRS, to review all subcontracting reports filed, determine if reports have been filed in a timely manner by the prime contractor, and determine if the reports are complete and if they have been reviewed by the contracting officer.

In accordance with Department of Defense policy, the Corps submits a semi-annual eSRS status report to Headquarters, Department of the Army outlining the results of all subcontracting plan reporting activities by contractors and contracting officers for the preceding six month reporting period. Our report includes the number of outstanding reports where no action has been taken by the contracting officer, along with supporting rationale; plans to reduce the number of outstanding reports with a timeline for corrective actions; and barriers preventing acknowledgement of the receipt or rejection of reports. This report is due December 30 and June 30 annually.

I have directed the Corps Principal Assistants Responsible for Contracting to include subcontracting reporting as an area for review during their semi-annual Procurement Management Reviews of each National Contracting Organization field contracting office.

My staff will report out to me quarterly, during the National Contracting Organization Management Review, the status of all aspects of subcontracting reporting data found in eSRS.

While the Department of Defense Office of Small Business Programs has the lead for responding to the recommendations of GAO Report 10-273, the Corps will provide GAO with an implementation timeline for the report recommendations.

LESSONS LEARNED

Small businesses are vital to the Corps disaster response mission as both prime contractors and subcontractors.

Local area set-asides for large and small businesses in response to disasters are successful and put the impacted community back to work.

Tiering of subcontracts continues to be problematic in large scale debris response. Unscrupulous subcontractors often respond to disasters and take advantage of their less experienced subcontractor in regard to payment terms and whether payment is rendered at all. Privity of contract prevents the Corps and all government agencies from reaching down to lower tier subcontractors and enforcing payment bonds.

Subcontracting reporting has been greatly enhanced and improved through the implementation of the Electronic Subcontracting Reporting System.

Independent reviews of the National Contracting Organization are welcomed and provide invaluable insight to the Corps on business processes that work and those that need improvement.

LOOKING FORWARD

I am committed to the Corps' continued partnership with local contractors and moving to local area set-asides under the amended Stafford Act as soon as practicable and to local small business contractors when market research indicates we have viable small business within the local area. We will negotiate subcontracting plans with our large business contractors to enable small businesses in all socio-economic categories to support disaster response. Our contracting officers and small business specialists will ensure that proposed subcontracting goals from large businesses are realistic and attainable, but also challenge the large business to reach higher to find great small businesses to assist in disaster response. Our large business partners who demonstrate their commitment to the small business community will be awarded higher scores during evaluation of their small business participation during best value source selection.

To ensure that the Corps is compliant with subcontracting statutes, I continue to encourage and welcome independent reviews of our small business program. The Corps will continue to always consider small businesses first as we develop our Acquisition Plans.

SUMMARY

The success of the federal small business program is a shared responsibility and I applaud the Senate Committee on Small Business and Entrepreneurship for holding agencies accountable to their small business obligations.

To close, I would like to thank you once again, Madam Chair, for allowing the Corps of Engineers the opportunity to appear before this Committee to discuss our consideration of small business and local area small business awards in disaster response. Our Corps personnel continue to serve by helping in response to natural disasters across the Nation. We are very proud to do so. I would be happy to answer any questions Members of the Committee may have.