

# Contracting Challenges for Navigation Work

AAPA Harbors and Navigation Committee

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# Navigation Work Impacts

## Dredging and Dredged Material Management

- Previous law had exception for historically combined work
- New law was intended to help small business, viewing consolidated contracts as being used to avoid using small business. Corps Districts are experiencing unintended consequences, for example:
- Small Disadvantaged Business (8a) contracts for disposal area management. New law requires site specific d/a management contracts or keep the contract amount below \$2M. Past practice was competitive 8A contracts up to \$30M, for 5 years for d/a management.
- New law requires approvals for consolidation on large dredge contracts, which are getting approved based on mobilization cost savings. HOWEVER, this approval process is adding 6-8 months to the dredge contract development time. Fastest approval has taken 4 months.

# The Law, 15 USC 657(q)

## Consolidation of Contract Requirements

### (c) Limitation on use of acquisition strategies involving consolidation

**(1) In general** The head of a [Federal agency](#) may not carry out an acquisition strategy that includes a [consolidation of contract requirements](#) of the Federal agency with a total value of more than \$2,000,000, unless the senior procurement executive or Chief Acquisition Officer for the Federal agency, before carrying out the acquisition strategy—

**(A)** conducts market research;

**(B)** identifies any alternative contracting approaches that would involve a lesser degree of [consolidation of contract requirements](#);

**(C)** makes a written determination that the [consolidation of contract requirements](#) is necessary and justified;

**(D)** identifies any negative impact by the acquisition strategy on contracting with [small business concerns](#); and

**(E)** ensures that steps will be taken to include [small business concerns](#) in the acquisition strategy.

# Proposed Remedies – in order of preference

1. Under Definitions Para 2 (B) - Delete entirely - this will exempt all construction projects from this requirement.
2. Under Definitions Para 2 (B) - add in parenthesis (excluding dredging and related disposal and disposal management activities)
3. Under Definitions Para 2 (B) - add "unless historically combined" - This will restore past practice, although approval required for new requirements
4. Under 3 (c) (1) - increase the \$2 million floor. The higher the better, but at least \$4 million, which matches the sole source 8a limit

# Other Issues, Concerns