

S2 Wall Questions
Friday, February 3, 2017

Question: Explain the plan for the wall in detail. What areas should be done first (quick win), what areas should be done second, third, etc. (i.e., what is the phasing plan)?

Response: Wall construction will be phased according to USBP priorities and requirements. USBP has identified at least three phases based on priority with an additional fourth phase under consideration.

USBP has definitively identified priority mileage for inclusion in Phase 1. Execution of Phase 1 is divided into two sub-phases, Phase 1a and Phase 1b which will be executed concurrently and for which planning activities have already been initiated.

Phase 1a encompasses approximately 11.75 to 15.75 miles of new primary wall construction in the San Diego and El Paso Sector Areas of Responsibility (AOR). The Phase 1a project details are as follows:

<i>Project Location</i>	<i>Project Title</i>	<i>Estimated Wall Mileage*</i>
San Diego Sector	(b) (7)(E)	(b) (7)(E)
San Diego Sector	(b) (7)(E)	(b) (7)(E)
San Diego Sector	(b) (7)(E)	(b) (7)(E)
San Diego Sector	(b) (7)(E)	(b) (7)(E)
El Paso Sector	(b) (7)(E)	(b) (7)(E)
El Paso Sector	(b) (7)(E)	(b) (7)(E)
TOTAL		11.75 to 15.75 miles

**Estimated wall mileage is based on an initial review of requirements in geographical information systems. However, more accurate estimates can be provided subsequent to site reconnaissance and design completion. Final segment length will not be determined until construction completion.*

Within Phase 1a, CBP expects to award its first design-build construction contract by July 31st 2017 with design to occur from August 1 through September 29 for a September 30, 2017 construction start. CBP will utilize a similar expedited scheduling approach to stagger the remaining five projects for award from August 1 through October 31, 2017. The expected period of performance once construction begins is 100 to 150 days depending on the complexity of the project. This will result in completion of the first of the Phase 1 projects by February 28, 2018 with the all remaining Phase 1 projects completed by May 31, 2018.

Phase 1b

Phase 1b includes real estate planning and acquisition activities for all future wall construction in the Rio Grande Valley Sector AOR to be constructed as a part of Phase 2 or later.

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Commented [TAA2]: 0 (b) (7) miles

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Commented [TAA4]: (b) (7) miles

Commented [TAA5]: (b) (7) miles

Commented [TAA6]: (b) (7)(E) miles

Phase 2 and Beyond

USBP is currently refining operational requirements and determining appropriate phase placement for all new, replacement and secondary wall construction not already identified for Phase 1a. Requirements and associated phasing are expected to be finalized in the April/May 2017 timeframe.

Phase 1 Actions

Funding – CBP is working internally to identify sufficient funding for the execution of Phase 1. The expected requirement is approximately (b) (5). CBP is leveraging small amounts of existing funding to allow for planning activities required to expedite the schedule for Phase 1 construction to commence. An Interagency Agreement between CBP and the U.S. Army Corps of Engineers (USACE) is expected to be in place by mid-to-late February to move (b) (5) (b) (5) if available, in additional funds to start architectural and engineering and real estate planning activities. The activities detailed below for Phase 1 utilize this funding in order to proceed. If funding is not available in this timeframe, the schedule for Phase 1 execution will slip day-for-day until funding can be provided.

Commented [TAA7]: This is just Phase 1A, doesn't include planning and RE for Phase 1B (b) (7)(E) phase 1a,

Commented [TAA8]: Currently moving (b) (7)(E)

Environmental –

S1 Waiver – CBP is developing the initial waivers required for Phase 1 project execution. Monday, February 6, 2017 CBP's Office of Chief Counsel (OCC), USBP and Office of Facilities and Asset Management (OFAM) are convening to identify all attributes including but not limited to project specific waypoints and applicable environmental (e.g. the National Environmental Policy Act), land management (e.g. (b) (6) please fill in) and other specific statutes (e.g. the Administrative Procedures Act) required for inclusion in the waivers to be signed by S1 no later than March 31st, 2017.

Waiver signature starts the clock on the 14-day period during which interested parties with standing can challenge waivers in court. Experience from the Pedestrian Fence 225 and Vehicle Fence 300 programs coupled with the current political climate leads CBP to assume that challenges to the waivers will occur and that temporary restraining orders may be granted while challenges are being resolved in the judicial branch. To date, CBP has successfully overcome all challenges filed against prior waivers and therefore does not anticipate that challenges will result in a delay to construction start.

Public Outreach & Consultation – CBP is developing a public outreach and consultation strategy to engage stakeholders across impacted locations and comply with the consultation and other requirements laid out in the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA). The strategy is expected to be completed and ready for execution in mid-March 2017.

Real Estate –

Initial Site Visits – The week of February 6, 2017, the joint CBP and USACE project execution team will visit the proposed El Paso sites to initiate segment alignment and access road requirement validation. The week of February 13, 2017, the same group will visit the proposed San Diego sites to initiate segment alignment and access road requirement validation in those locations.

Planning and Acquisition – CBP is leveraging existing funds to allow USACE to begin researching tract ownership for real estate requirements necessary for segment and access road construction for all Phase 1 projects. Tract ownership identification is expected to be completed by February 28th, 2017 at which time CBP and USACE will begin approaching landowners for Rights of Entry (ROE) for Survey and Exploration. CBP expects to determine how real estate acquisition will proceed, either through voluntary signature or through condemnation action, by mid-March 2017. If condemnation actions are required, CBP, in coordination with USACE and the Department of Justice will begin assembling Declarations of Taking and filing actions as required. These proceedings are expected to occur from April 2017 through July 2017 at which time CBP anticipates having court-granted possession of real estate required for access road and segment construction. Funding to allow for all required real estate acquisition for Phase 1 must be available by early May in order to keep the project schedule.

Acquisition – CBP has developed an acquisition plan for all Phase 1 project execution. Through USACE, CBP will leverage Indefinite Delivery/Indefinite Quantity (IDIQ) Architectural and Engineering contracts, unrestricted and small business set aside Multiple Award Task Order Contracts (MATOC), Small Disadvantaged Business (i.e. 8(a)) and HUBZONE and full and open acquisition vehicles. Proposals will be evaluated on the basis of *Low Price Technical Acceptable* criteria.

Phase 2 and Beyond Planning Actions

At this time, the scope for Phases 2 and beyond is still being defined. At such time as the scope has been agreed upon between USBP and leadership, CBP will be able to define the priority actions for each subsequent phase in much the same way as detailed above for Phase 1. However, in anticipation of Phase 2 and beyond, CBP is engaging the following actions in order to ensure an expedited schedule can be met for all requirements under a Wall Program.

- *Funding* – CBP has estimated a Rough Order of Magnitude cost per mile for all primary, secondary and replacement wall construction in various locations across the Southwest border. At present, CBP has estimated an approximately (b) (5) requirement to create a contiguous, impassible primary wall in addition to meeting some additional replacement and secondary wall requirements as well as completing (b) (7)(E) in the RGV sector as identified by USBP. This request has been submitted to DHS for consideration for a Congressional action on an Emergency Supplemental Appropriation.
- *Validating Known Phase 2 Requirements* – While USBP continues to identify requirements for Phase 2 and beyond, CBP has initiated planning activities associated

with anticipated Phase 2 requirements to continue to expedite execution activities once Phase 2 has been approved and funded.

- *Staffing Plan* – CBP and its partners continues to plan for staffing needs associated with the scope of requirements of the complete Wall program.
- *Steel* – An acquisition strategy is being finalized, pending final approved Phase 2 and beyond estimated mileage, for a large-scale buy to ensure efficient supply and supply chain management of steel for some Phase 1 and all Phase 2 and beyond projects.
- *Acquisition* – CBP and USACE are partnering to develop a large-scale acquisition strategy for all Phase 2 and beyond projects. In early February, USACE issued a Sources Sought notice to begin the market research process for possible Wall contracts. The Sources Sought must remain on the street for at least 30 days prior to the development of an acquisition plan. During the 30 day period, CBP continues to refine known requirements to develop projects which lead to a recommended acquisition strategy.
- *Acquisition Decision Process* – CBP, through our Chief Acquisition Executive (CAE), has partnered with DHS **Program Acquisition and Risk Management (PARM)** and the Joint Requirements Council to develop the required artifacts (i.e. Mission Needs Statement, Operational Requirements Document, **CAD/CAS**, Life Cycle Cost Estimate, Program Rough of Order of Magnitude Estimate and Integrated Logistics Support Plan) to ensure appropriate management of the Level 1 Acquisition program. CBP has already identified a Level 3 Program Manager. The CAE is scheduling an Acquisition Review Board meeting with DHS for late February to review the required documentation to allow CBP to pursue a follow on ARB engagement for an Acquisition Decision Memorandum for the Wall program.

Question: What is the timing/sequencing of those areas?

Response: Timing and sequencing, to the best of CBP's current knowledge, is addressed in the response to the question above.

Question: What are the limiting factors?

Response: The following are the limiting factors when considering the execution of a Wall program.

- *Funding* – In order to proceed with contiguous wall across the Southwest border, CBP's **(b) (5)** requirement submitted to DHS for an Emergency Supplemental must be funded timely.
- *Requirements* – In order to conduct appropriate planning for all phases of a Wall Program, CBP must have defined and agreed upon USBP operational requirements for primary, replacement and secondary wall.

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- Waiver - A waiver of applicable environmental laws by the Secretary of DHS would be necessary in order to execute tactical infrastructure improvements along the border. Additionally, a waiver would provide for rapid access to federal lands for construction. Without a waiver, the timeline to construct the necessary tactical infrastructure to secure the Southwest Border likely would be extended indefinitely due to litigation and associated injunctions prohibiting construction. CBP experienced this over 10 years ago during the construction of the Border Infrastructure System in San Diego---litigation and an injunction effectively stopped construction until the Secretary of Homeland Security issued a waiver of the environmental laws that were the subject of that litigation.
- *Access to real estate in the Southern District Court of Texas's jurisdiction* – Based on experience during PF 225 and VF 300 and due to the Southern District Court of Texas's interpretation of the consultation requirement laid out in Section 102 of IIRIRA, CBP has tentatively constructed a three-year schedule from planning to possession of real estate. CBP has partnered with DOJ to continue reviewing this schedule to reduce its duration where possible. It must be clearly understood that design and construction activities CANNOT commence until the Government is granted possession of real estate subsequent to a condemnation action.

Question: How much could we accomplish in two years, if funding were not a limiting factor?

Response: Assuming funding were not a limiting factor and was provided timely, CBP can construct up to approximately (b) (7)(E) miles of new primary wall in California, Arizona, New Mexico and Western Texas (El Paso, Big Bend and Del Rio Sectors), depending upon USBP's requirements in these locations. USBP is expected to have significant priority requirements in Laredo and Rio Grande Valley Sectors. However, due to real estate acquisition constraints in these locations, CBP does not believe construction can begin within the two-year window.

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