

**OBP PMO Tactical Infrastructure White Paper**  
**March 3, 2010**

**Background:**

- The Office of Administration’s (OA) Facilities Management and Engineering (FM&E) Directorate will provide a monthly Tactical Infrastructure (TI) Program report, to include the following topics, as applicable: status of current TI projects and related initiatives, future TI planning, legal updates, the status of TI funds, and other emergent issues. This requirement replaces prior monthly TI briefings to the CBP Commissioner.
- The following is the March 31, 2010 TI Program deliverable, which addresses current fence mileage, recent real estate actions and associated legal activity, Comprehensive TI Maintenance and Repair contract status, and issues associated with fence segments in Starr County Texas. The paper has been cleared by the CBP Offices of Border Patrol and Chief Counsel, as well as State and Local.

**Fence Status:**

- As of March 25, 2010:
  - (b) (7)(E) of Vehicle Fence (VF) have been completed.
  - (b) (7)(E) of Pedestrian Fence (PF) have been completed.
  - There are (b) (7)(E) of PF left to construct.

**PF Segments Left to Construct**

Location	Seg #	Seg ID	Length (miles)	Status	Target Fence Comp Date
El Paso	(b) (7)(E)	K-1B	(b) (7)(E)	Request for Proposal (RFP) to be issued August 2010	TBD, Funds have not been identified
El Paso	(b) (7)(E)	K-5A	(b) (7)(E)	Under Construction	April 2010
Del Rio	(b) (7)(E)	M-2C	(b) (7)(E)	RFP Target issue date is June 2010	February 2011
Rio Grande Valley	(b) (7)(E)	O-11	(b) (7)(E)	Final Inspection completed March 10, 2010	Awaiting measurement of final mileage
Rio Grande Valley	(b) (7)(E)	O-17	(b) (7)(E)	Final Inspection completed March 10, 2010	Awaiting measurement of final mileage
Rio Grande Valley	(b) (7)(E)	O-19	(b) (7)(E)	Final Inspection completed March 10, 2010	Awaiting measurement of final mileage
Rio Grande Valley	(b) (7)(E)	O-20	(b) (7)(E)	Under Construction	August 2010
Rio Grande Valley	(b) (7)(E)	O-21	(b) (7)(E)	Under Construction	TBD, Pending Real Estate Issues
Rio Grande Valley	(b) (7)(E)	O-21A	(b) (7)(E)	RFP target issue date is June 2010 with Hope Park inclusion	February 2011
<b>TOTAL</b>					

### **Fence Segments O-1 through O-3 Starr County, Texas:**

- Despite former Commissioner Ruth's acknowledgement during a January 6, 2010 meeting with CBP, that from a practical perspective the fencing will have no impact on the floodplain (zero impact to Mexico and negligible to U.S.), new Commissioner Drusina sent the Acting Commissioner a letter on January 21, 2010 indicating that the U.S. International Boundary Water Commission (USIBWC) could not support the construction of the fence due to "substantial increases in water surface elevations and deflection in water flows at several locations."
- Facilities Management & Engineering (FM&E) has drafted a suggested response letter that is pending signature from the Acting Commissioner to send to USIBWC Commissioner Drusina and the Department of State that refutes their conclusion.
- A meeting between CBP, USIBWC and Department of State (DoS) is being scheduled for April 2010 to discuss the possibility of a unilateral decision to allow us to build.

### **Fence Segment K-5A, El Paso, Texas:**

- US International Boundary Waters Commission (USIBWC) notified FM&E on March 22, 2010 that the K-5A pedestrian fence segment (approximately (b) (7)(E)) currently under construction on the north side of IBWC's levee and in proximity to the Ft Hancock Border Patrol Station conflicts with flood protection improvements IBWC plans to construct to their levee. Specifically, IBWC plans to raise their levee by 4 feet, which will necessitate the removal and re-installation or replacement of the K-5A fencing (and (b) (7)(E)).
- This was the first CBP had heard of IBWC's proposed project, which was particularly surprising given CBP received written approval from them to proceed with the fencing in August 2009. Neither our Memorandum of Agreement (MOA) nor the K-5 approval letter requires CBP to fund construction activities of this type so we have taken the position that: (1) IBWC will need to fund any modifications to our fencing; and (2) the levee/fence modifications cannot compromise the deterrence capability of the fence. We also believe IBWC could save costs and avoid modifying our fencing altogether if they were to construct a flood wall on the south side of the levee instead of raising the levee. They are looking at this option.
- Thus far, the discussions associated with this issue have been between staffs. No senior leadership engagement from either organization has occurred. CBP will only engage Senior Leadership if USIBWC seeks funding to execute changes to segment K-5A.

### **Real Estate Status:**

- 1 Outstanding Possession Associated with Fence Construction:  
The Nature Conservancy (TNC); Approximately (b) (6), (b) (7)(C) on Segment O-21; Opposed Motion for Possession filed. TNC's response to the court requested a meeting with the government to review their final concerns. This meeting will take place on 26 March 2010.
- Other Noteworthy Cases/Acquisitions:
  - (b) (6) O-19): The was to be the first compensation trial set for the Rio Grande Valley, and it involves a significant disparity between the government and the landowner on property appraisals. However, the Court has postponed the trial; the pre-trial conference in court is currently set for 3 August, 2010.

- (b) (6) (HV-1, 2, 3): This involves the landowners of access roads used to construct VF with a Right of Entry (ROE)-C. CBP decided not to entertain their request to enter into a lease agreement and recently initiated negotiations for a ROE-S, pursuant to acquisition of long-term rights for the roads. If owners remain non-responsive by 31 March 2010, USACE will formally notify them of the government's intent to pursue condemnation to secure the ROE-S.

**Comprehensive Tactical Infrastructure Maintenance and Repair (CTIMR):**

- FM&E, working in coordination with Procurement, is staggering the release of the four Requests for Proposal for CTIMR.
- Dates of note:
  - All four CTIMR Request for Proposals (RFP) have been issued, as of February 2010.
  - FM&E received proposals for the first two RFPs on February 12, 2010. The other two RFPs are due in March and April, 2010.
  - CBP is still on track to award all contracts by the third and fourth quarters of fiscal year 2010.
- FM&E, working in coordination with Procurement, is staggering the release of the four Requests for Proposal for CTIMR.
- Dates of note:
  - FM&E received proposals for the third RFP on March 1, 2010.
  - FM&E is to receive the last proposals for the fourth RFP in April, 2010.
  - CBP is on track to award all contracts by the third and fourth quarters of fiscal year 2010.
  - CTIMR COTR "boot camp" training received approval by DHS as a certified training course.

**Environmental:**

- U.S. Customs and Border Protection (CBP) and U.S. Department of Interior (DOI) signed a Memorandum of Agreement (MOA) in January 2009 that committed CBP to fund up to \$50M for mitigation of unavoidable adverse impacts to DOI resources due to the construction of tactical infrastructure. CBP is still negotiating the Interagency Agreement and project list with DOI. A majority of DOI recommended mitigation projects are for acquisition of land as compensation for lost habitat. However, CBP does not have authority under the Economy Act to fund DOI land acquisition for purposes of environmental mitigation. CBP needs legislation to give CBP this authority. Legislative language is being worked within CBP and with DHS. Language was also coordinated with DOI last fall.