

FM&E BPFTI PMO Tactical Infrastructure White Paper April 30, 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 Customs and Border Protection (CBP) Commissioner.
- The following is the April 30, 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.

PF Segments Left to Construct

Location	Seg. #	Seg. ID	Length (miles)	Status	Target Fence Comp Date
El Paso	(b) (7)(E), (b) (5)				
Del Rio					
Rio Grande Valley (RGV)					
RGV					
RGV					
RGV					
RGV					
RGV					
TOTAL					

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."
- A meeting between CBP, USIBWC and Department of State (DoS) is scheduled for May 13, 2010 to discuss the possibility of a unilateral decision to allow us to build.

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

- USIBWC notified FM&E on March 22, 2010 that the K-5A pedestrian fence segment (approximately (b) (7)(E)) just completed 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 ft., 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; therefore 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.
 - 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.
 - IBWC is currently revising their design to accommodate the completed fence at K-5A.
- M-2C: USACE PM reported that USIBWC is voicing concerns that (b) (7)(E) of M-2A and (b) (7)(E) of M-2B fence alignment were not approved by IBWC. FM&E Border Patrol Facilities Tactical Infrastructure (BPFTI) PMO's Chief Engineer attended a meeting with IBWC where IBWC personnel verbally confirmed former Commissioner Marin's intent to sign a unilateral decision letter approving these fence segments. This topic will be added to the May 13, 2010 meeting agenda with USIBWC and DoS.
- O-19: Fence completed with exception of (b) (7)(E) to the Gateway POE pending engineering study/report of structural integrity of IBWC-owned levee wall. This work will be completed as component of O-21A.

Real Estate Status:

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(b) (5)

Comprehensive Tactical Infrastructure Maintenance and Repair (CTIMR):

- FM&E, working in coordination with Procurement, has staggered the release of the four Requests for Proposal for CTIMR.
- Dates of note:
 - FM&E received proposals for all four RFPs by April 2010.
 - FM&E has set up Technical Evaluation Teams to evaluate proposals for all four RFPs. The Technical Evaluation Teams are represented by Tactical Infrastructure, Border Patrol and FM&E Facilities
 - CBP is still on track to award all contracts by the third and fourth quarters of fiscal year 2010.

Environmental:

- 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 and DOI have informally agreed on the Inter Agency Agreement (IAA) language and DOI submitted a list of 29 prioritized projects to CBP on March 26, 2010 for funding. The IAA package has been completed and is being submitted to CBP procurement for action. We anticipate the first increment of funding for non land acquisition projects valued at (b) (5) to be provided to DOI in June 2010. A majority of DOI recommended mitigation projects (b) (5) (b) (5) 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. CBP briefed Appropriations Committees staffs on April 22, 2010 and the legislative language should be included in the FY11 DHS Appropriations.