



Memo to: Board of Directors

From: Les Sterman

Subject: Program Status Report for May, 2013

Date: May 13, 2013

AMEC continues to submit Sec. 408 review packages to the Corps as well as working to resolve comments on those packages that have already been submitted. Final approval has already been given by the Corps for Bid Package 2a, a pump station in the Fish Lake district, and approval for Bid Package 6 for berms and relief wells in the area is expected very soon. Initial Sec. 408 submittals of all bid packages have been completed as of today. Final submissions to resolve Corps review comments on these packages are also happening over the next month, so good progress is being made on the review process.

Following the last Board meeting, I remitted an additional \$275,000 to the Corps so they could proceed quickly on the design work for the Wood River cutoff walls. High water elevations have prevented work on some additional borings planned by the Corps, but those conditions should abate in the next few days.

Other issues remain to be resolved concerning labor agreements and costs prior to our agreement to provide cost-share for construction. In response to the Corps' "market survey" about project labor agreements, the Council made a comprehensive submittal on May 8. The deadline for submissions was May 13 and a number of labor, business and civic organizations are making known their support for the use of a PLA on this project. In sum, our response to the Corps' market survey documented that there have been literally hundreds of projects, large and small, public and private, that have been successfully completed using a PLA. The Corps is planning to make a decision on the use of a PLA in early June. A copy of our submittal (without the voluminous attachments) is attached to this memo.

We are in discussions with the Corps on the most optimal way to spend expected appropriations in MESD. The opportunities are more limited because there are few, if any, places where the Corps project aligns with the Council's. It may be better for the Corps to work in areas where we don't have improvements planned, but that strategy is currently under discussion.

Following approval by the Board at the April meeting, we advertised for bids for packages 2a and 6. There will be pre-bid conferences this Friday, May 17 and bid openings on June 11. These events will all take place at the Council's offices. I anticipate getting approval of winning

bids at the June Board meeting, after which approval will be sought from the county boards as required by our authorizing statute.

In order for construction to start on the projects that are currently out for bid, we will need to complete any required property acquisition and make progress in completing our final wetland mitigation plan. Property appraisals and negotiations are ongoing, but we have reached agreement with any property own as of yet. We are still working on finalizing our agreement with Republic Services so that their contractor, SCI Engineering, can complete the design and cost estimate necessary to allow the mitigation plan to proceed.

Optimistically, construction can begin in early July, but that will happen only if the foregoing conditions can be met.

Only one proposal was received in response to our solicitation for a Diversity Program Manager. I will report on that proposal at the upcoming Board meeting. Fortunately, the proposal came from a well-qualified firm, but there remain cost issues to work out before I can recommend engaging the firm over the long term. There is some urgency beginning the outreach work that is a big part of our Minority Business and Workforce Utilization Plan, since the bidding process is now underway and construction will begin shortly.

The Senate version of the Water Resource Development Act has moved to the floor for consideration and is expected to be approved soon. The House is moving along a more deliberate schedule with their version of the bill. The Senate bill has a few provisions that address some of our interests, thanks to advocacy by Sen. Durbin, although there are other provisions that I believe will further slow levee improvements in general. I would certainly like for the Council to weigh in as the House bill is being developed. On this month's agenda, I am proposing to hire some representation in Washington that will help us do that.



Southwestern Illinois Flood Prevention District Council

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May 8, 2013

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Les Sterman
Chief Supervisor of
Construction and the Works

Re: Project Labor Agreement Inquiry Solicitation Number: W912P913RPLA1

Dear Ms. Killiebrew:

The Southwestern Illinois Flood Prevention District Council (the FPD) is the local sponsor of the subject project, the shallow and deep cutoff walls in the Wood River Drainage and Levee District. The FPD is authorized by Illinois statute to spend the proceeds of a local dedicated sales tax for the purpose of flood protection in three counties – Madison, St. Clair and Monroe. We anticipate providing the cost-share funding and other resources and assets to the Corps of Engineers for the purposes of accomplishing the subject project. While the FPD may not meet the traditional definition of the “construction community” as inferred in your inquiry, the organization has a direct fiduciary and policy interest in the Corps’ conduct and practice in implementing the project. We therefore hope that you will consider our comments as a decision is made about the use of a project labor agreement (PLA) on the project.

In addition to the project described in the solicitation inquiry, the FPD is engaged in a cooperative regional project to improve the performance of the Mississippi River levee system in the three counties in which we are authorized to work. The Wood River cutoff walls are an integral part of the overall plan that we have developed for the regional project. It should be noted that the FPD, as a matter of policy, is requiring all contractors working on the project to execute a project labor agreement with the Southwestern Illinois Building Trades Council (SIBTC). We have concluded that the PLA is essential to completing this time-critical regional project on time and within a limited budget.

There is a long, successful, and instructive history of the use of this PLA in our area for capital projects of all kinds. The responses to this inquiry describe some of that history, but we would urge the Corps to consult with the SIBTC and other public agencies (most notably the Illinois Department of Transportation) before reaching

a regional partnership to rebuild Mississippi River flood protection

Ms. Barrietta Killiebrew

May 8, 2013


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a conclusion as to the applicability of a PLA to this project. We also urge the Corps to reach beyond the "construction community" to understand the views of other key stakeholders to assess the desirability and efficacy of the PLA in our community.

Based on the experience of the FPD and the accumulated experience of public and private owners involving hundreds of construction projects in our area, we conclude that a project labor agreement for the subject project is in the best interest of the public and the federal government and a careful review of the attached material should lead the Corps of Engineers to reach the same conclusion.

Thank you for the opportunity to submit comments in response to your inquiry.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Les Serman', with a stylized flourish at the end.

Les Serman

Chief Supervisor of Construction and the Works

cc: FPD Board members
Alan Dunstan, Madison County Board Chairman
Mark Kern, St. Clair County Board Chairman
Delbert Wittenauer, Monroe County Board Chairman
Ellen Krohne, Leadership Council Southwestern Illinois
Dale Stewart, Southwestern Illinois Building Trades Council
Lou DellOrco, U.S. Army Corps of Engineers
Tracey Kelsey, U.S. Army Corps of Engineers
Michael Feldmann, U.S. Army Corps of Engineers
Jon Omvig, AMEC Environment & Infrastructure

Response to Project Labor Agreement Inquiry
Solicitation Number: W912P913RPLA1

Submitted by the:
Southwestern Illinois Flood Prevention District Council
May 6, 2013

(1) Should PLAs be executed on this selected contract in IL and surrounding area?

Yes. There has been a very strong record of PLA use on major public and private projects in Southwestern Illinois (see Attachments A-C). There have been no work stoppages on any of these projects due to disputes with or between labor organizations. PLAs have contributed to more predictable schedules and lower costs. The PLA has effectively made the project workforce into a partner in delivering a successful project outcome.

(2) Are there concerns by prime contractors on the availability of skilled construction labor?

The PLA will assure a steady supply of skilled and highly trained workers for the project. Local and national PLAs have been used for some of the very largest construction projects in the region, requiring a diversity of skills and trades, and the PLA was instrumental in making available a large and capable construction workforce.

(3) Would a PLA benefit a project which contains a unique and compelling mission-critical schedule?

The urgency of the subject project has been well established. The Metro-East levee system improvement project is a matter of great local concern because of its profound implications for public safety and on the economy of the region. The area's local governments, businesses, and civic organizations have mobilized to emphasize the urgency of the project and to support its timely completion. The PLA would contribute to achieving that goal by making available the necessary skilled workforce and by precluding labor disputes and work stoppages. The PLA would clearly reduce the risk of delays in the project schedule, providing public safety and economic benefits to the community.

(4) What type of project should be considered for PLA clauses?

PLAs have been successfully used on construction projects of all types and sizes in Southwestern Illinois. PLAs have been used on projects ranging from small schools to major interstate highways and bridges. Importantly, these projects have been funded with both public (local, state and federal) and private funds. There should be no limitation or restriction for the use of a PLA on any project.

(5) How will the use of a PLA impact time required to complete the project?

The PLA virtually eliminates the possibility of work stoppages due to labor disputes or the expiration of union contracts. All trades in the area have agreed to a single PLA that has been used on hundreds of projects to-date. This PLA, negotiated and administered by the Southwestern Illinois Building Trades Council, has been endorsed by the Southwestern Illinois Flood Prevention District Council, which has mandated its use on all projects wholly or

partially funded by the agency. The FPD Council is the local sponsor of the subject project and will be providing the local cost-share. In sum, there will be no time lost in negotiating any agreements with labor and once the job begins, there will be no risk of delays from labor disputes (as long as all parties comply with the requirements of the PLA). In the absence of a PLA, the Corps risks losing the cost-share for the project, putting the entire project in jeopardy.

(6) How will the use of a PLA impact the cost of the project?

A PLA will not affect the cost of the project, except insofar as the agreement will prevent costly work stoppages and labor disputes. As noted in the USACE Procurement Instruction Letter 2011-01, "The Department of Energy and the Tennessee Valley Authority have found that projects covered by PLAs tend to come in on time or early, and on budget or under budget, and that any delays in completion of such projects or any increases in costs that do arise are not due to labor issues."¹ The PLA will contribute significantly to schedule and cost predictability on the project.

(7) What other factors should the Corps consider before deciding to include PLA provisions in a St Louis Engineer District contract?

In carrying out the subject project, the Corps is signing a Project Partnership Agreement with the Southwestern Illinois Flood Prevention District Council on behalf of area communities that have agreed to tax themselves to provide the cost-share for the project and to undertake a number of levee improvements without the benefit of federal funds. The USACE should respect the partnership symbolized by the Agreement by complying with the policies of the FPD Council requiring the use of a PLA.

The FPD Council adopted the policy after concluding that it was in the best interest of the project and the public. This policy is strongly supported by local governments, state and federal elected officials, and business and civic groups in our area. Significantly, the Southern Illinois Builders Association (the local chapter of the Associated General Contractors) has also endorsed the use of a PLA on this project. That community consensus (which has been encouraged by the USACE since the outset) has been the foundation of area commitments to make significant investments in projects to reduce the risk of flooding. It would be a substantial setback in the cooperative relationship between the USACE and communities of Southwestern Illinois if a PLA were not used on this project.

The Corps should also consider the long track record of effective implementation of PLAs in our area. That success can be traced to two important factors: (a) every construction trade has agreed to a single PLA; and (b) the Southwestern Illinois Building Trades Council has administered the PLA very effectively. These factors make the SIBTC and its members into genuine partners in the project, solving problems and ensuring success.

¹ Department of the Army, U.S. Army Corps of Engineers. Procurement Instruction Letter 2011-01, USACE Policy Relating to the Use of Project Labor Agreements for Federal Construction Projects (Enclosure 4). October 15, 2010.

(8) Please provide a list of recent (2-5 years) construction projects in the local labor market of the project under consideration. Include the following items:

Project Name/Location/Project Description/Initial Cost Estimate/Actual Final Cost. Was the project completed on time? Number of craft trades present on the project? PLA (Y/N)? Were there any challenges experienced during the project?

Attachments B and C are comprehensive lists of construction projects in Southwestern Illinois that have used the SIBTC PLA. There are a few additional projects that have used a national PLA or other project-only labor agreement. While time or resources do not permit assembling all of the information requested for the hundreds of projects on the list, more details are provided on a few representative projects below. Suffice it to say that many of the projects are complex, employing a range of trades.

Two very recent projects (both currently under construction) that are illustrative of the successful use of PLAs are:

- **Illinois approaches to the new Mississippi River Bridge** between Illinois and downtown St. Louis, due to be completed in 2014. The overall project is consists of \$258,615,000 in awarded contracts, employing a total of 3500 workers in a wide variety of trades, including carpenters, cement masons, electricians, ironworkers, operators, laborers and drivers. The project is on schedule and within budget.
- **South Harbor at America's Central Port**, which consists of excavation, construction of relief wells, a clay cap and other features that are common to levee work. This project, which is currently under construction, will cost in excess of \$6,000,000 and is employing operators, laborers and other crafts. This project is on schedule and within budget.

(9) Which trades are expected to be employed on this project?

This project will likely require the skills of operating engineers, laborers, teamsters, bricklayers, carpenters, electricians, ironworkers, plumbers, and others. As with any large and complex project, this project would benefit from the use of skilled and well-trained workers. Important to note that the SIBTC PLA is a single agreement adopted by all of these trades.

(10) Does the local market contain the sufficient number of available skilled workers for this project? Are there other projects in the vicinity going to limit the pool of skill labor available for your project?

One of the purposes of the PLA is to assure a reliable supply of skilled workers for the project, even if the project is large or complex. However, there is nothing in the PLA that would preclude workers from outside the local market from participating in the project, particularly if they possess certain skills unique to the job. Based on the experience with a similar cutoff wall built in Sauget a number of years ago, we anticipate that the needed workforce is present in the local market.

(11) Has a project like this been done before in the local market?

Yes, there have been a number of large and similar projects done in the area, all using PLAs. See response to #8 above.

(12) Have PLAs been used on comparable projects undertaken by the public sector in this geographic region? Have PLAs been used on this type of project in other regions?

Yes. PLAs have consistently and successfully been used by the State of Illinois, the Illinois Department of Transportation, cities and counties, school districts, etc. These projects, among others, are shown in the attached project lists. While it is apparent that PLAs have been used in other regions, we have no specific knowledge of the details. What is most important, though, is the successful local use and implementation of PLAs by area contractors and the Southwestern Illinois Building Trades Council. It is the local experience that is the strongest indication that a PLA would be cost-effective and contribute to a successful project in our area.

(13) Could a PLA contribute to cost savings in any of the following ways?

- Harmonization of shifts and holidays between the trades to cut labor costs?**
- Minimization disruptions that may arise due to expiration of CBA?**
- Availability of trained, registered apprentices, efficient for highly skilled workforce?**
- Allowing for changes in apprentice to journeyman ration.**
- Serving as management tool that ensure highly skilled workers from multiple trades are coordinated in the most efficient way.**
- Others?**

Yes. As described in the above responses, PLAs, when effectively administered, result in greater efficiencies in deploying skilled labor and virtually eliminating disruption of the job due to labor disputes or expiration of existing collective bargaining agreements. Working hours and holidays are designated in the PLA and are uniform throughout the project.

A PLA will address workforce issues through provisions that commit the SIBTC and its members to provide labor on a timely and non-discriminatory basis, usually within 48 hours, a commitment that is supported by arrangements that, when necessary to an adequate supply, facilitate the movement of skilled labor to areas where there are shortages. The PLA will permit contractors that do not usually use union labor to bring specified numbers of their own "core" employees onto the job.

The SIBTC PLA also provides for a Pre-Job conference and regular meetings occurring not less than once a month to review the conduct of the agreement and resolve any pending problems or concerns. The PLA creates an effective partnership with the project workforce that leads to greater certainty in meeting budgets and schedules. PLAs contribute to cost savings and efficiency in all of these ways, and others.

(14) Could a PLA minimize risk and contribute to greater efficiency in any of the following ways?

- Mechanisms to avoid delays**
- Complying with Davis Bacon and other labor standards, safety rules and EEO and OFCP laws.**
- Ensuring a steady supply of skilled labor in markets with low supply or high competition for workers.**

Yes. The PLA ensures a steady supply of skilled labor, contributing to reduced delays. The administration of the PLA will also create mechanisms for more accurate reporting and greater accountability for meeting the requirements of Davis-Bacon and other regulations and statutes. There have been documented instances in our area of attempts to evade Davis-Bacon requirements when a PLA was not used. With a PLA in place, most workers will come through union referral systems, which require contractors to request employees in specific classifications, putting their hiring on record and facilitating ongoing monitoring for Davis-Bacon compliance. The regular labor-management project meetings will also facilitate resolution of compliance concerns in a timely fashion.

As the experience of the Illinois Department of Transportation illustrates, the PLA is not an impediment to meeting or exceeding goals for participation of minorities or small businesses on construction projects.

(15) Are there ways in which a PLA might increase costs on this particular project?

While there have been claims made that a PLA might, under certain circumstances, lead to increased costs, there is also ample authoritative evidence to the contrary. Moreover, the FPD believes that the role of government is to serve the public interest, and that interest goes well beyond the goal of minimizing costs. The extensive local experience with PLAs, involving literally hundreds of projects of all types and sizes, is that the PLA contributes to significant efficiencies, more predictable costs and schedules, reduced disruptions, and greater management/labor harmony. For a time-critical project like the Wood River cutoff walls, all of those factors are highly relevant.

While a single anecdotal experience at this point, the FPD's initial project, done using a PLA, produced a very competitive bidding process and a low bid that was significantly less than the engineers cost estimate for the project. The project was completed on time, under budget and without incident.

Also important to note is the support of contractors for the use of the PLA on this project. The Southern Illinois Builders Association, the local affiliate of the Associated General Contractors, has endorsed the use of a PLA for this project. This support is based on the favorable experience with PLAs in our area, due in large part to the prior agreement of all trades to a uniform document, and the effective administration of the PLA by the SIBTC.

(16) Is the use of PLAs conducive to ensuring compliance with laws and regulations governing safety and health, equal employment opportunity, labor and employment standards, and other relevant matters? Are there instances where these standards have not been met on Federal contracts in the local area? Were PLAs used for those specific contracts?

See response to question (14) above. We are not aware of instances where the referenced legal requirements have not been met on jobs that were done using a PLA. There have been documented instances where Davis-Bacon requirements were not met on jobs that were not done with PLAs. Work on the Mississippi River Bridge Illinois approaches by the Illinois Department of Transportation using a PLA, illustrates that the PLA is not an impediment to meeting goals for minority and women participation.

(17) Projects will require multiple construction contractors and/or subcontractors employing workers in multiple crafts or trades. Do you foresee any work on projects that may result in both the prime contractor and at least one subcontractor, or two or more subcontractors, employing the same trade?

On a large project, there may be prime- and sub-contractors utilizing members of the same trade. As described early, the referral system helps ensure that contractors will be able to meet their staffing needs, even if several are calling for members of the same craft. By being part of the planning meetings; labor organizations will be able to anticipate the contractors' needs, evaluate the numbers and qualifications of employees registered at any particular time, and, if needs require, solicit outside the area for skilled labor.

(18) How will a PLA impact the completion time? Would a PLA benefit a project which contains a unique and compelling mission-critical schedule?

As indicated above, we believe that a PLA is particularly important on a time-sensitive project like that for which this inquiry applies. Experience in our area has clearly and conclusively demonstrated that the PLA contributes to the timely completion of projects.

(19) Where have PLAs been used on comparable projects undertaken by Federal, State, municipal, or private entities in the geographic area of this project?

See responses to questions (4), (8), and (12) and attachments B and C. The State of Illinois, various state agencies, public universities, municipal governments and many private entities have entered into PLAs for capital construction projects of all sizes. The Illinois Department of Transportation, in particular, has undertaken heavy construction on projects as large as \$100 million using a PLA. At the other end of the size spectrum, PLAs have been used effectively on the smallest of projects as well. There are several projects that are useful examples of comparable projects, most notably the Mississippi River Bridge Illinois approaches and the South Harbor Project at America's Central Port. These projects are described in more detail elsewhere in this response.

(20). Will the use of PLAs impact the ability of potential offerors and subcontractors to meet small business utilization goals?

No. Our experience shows that small businesses have no problem effectively competing for work when using a PLA or in using a PLA. The use of a PLA will generally make it easier for small businesses to participate on this project. The employee referral provisions will give them access to the same pool of skilled construction workers available to large contractors and subcontractors on the project. And the pre-negotiated terms of the PLA will assist them in managing their portion of the work, by providing the basic ground rules under which they, and all other contractors and subcontractors, will operate.