

PUBLIC SERVICE COMMISSION

Abandoned Mine Lands Division

Memorandum

TO: Commissioners Kalk, Christmann and Fedorchak
Darrell Nitschke
Illona A. Jeffcoat-Sacco and Ryan Norrell

From: Jim Deutsch, Director - AML Division

Date: September 18, 2013

Subject: Change Orders for the 2013 Sinkhole Filling Project, Case No. AM-13-96

On June 19th the Commission entered into Contract No. AM-679-13 in the amount of \$100,000 to Pleasant & Sons Construction, Inc. of Greenville, KY, for sinkhole filling at numerous locations in western North Dakota. This project primarily involves the excavation and filling of sinkholes that have formed due to the collapse of abandoned underground coal mines. Work on this project began in August and, so far, about 100 sinkholes have been filled at six sites. Due to the wet conditions earlier this year, new sinkholes had formed this spring and summer at most sites and these were filled as well. Work under this contract will resume the week of September 23rd and this fall's work should be completed by mid to late October. In addition, some erosion repair work at the former Buechler/Velva project site in Ward County will be carried out under this contract.

To date we have spent \$69,085 on the sinkhole filling project and it appears the remaining \$30,915 under the contract will not be sufficient to complete the remaining sinkhole filling planned for this year and the repair at the Buechler/Velva site. The Commission's 'Change Order' policy limits staff's ability to issue individual change orders under this contract to 5% of the contracted amount, with a total dollar increase not more than 20% of the original contract amount, without formal Commission action. Therefore, I'm requesting that the Commission authorize staff to issue change orders to increase the total contract amount with Pleasant & Sons to \$150,000. Also, it should be noted that this contract does not end until December 31, 2014 and we would like to have funds available under the contract to do some sinkhole filling next spring. We have more than enough federal funds in our current construction grant for the \$50,000 increase in Contract AM-679-13 and Pleasant & Sons are willing to do the additional work under the terms in this contract.

Attached is a motion for the September 25th Commission meeting to allow staff to issue change orders to increase the contract amount with Pleasant & Sons Construction, Inc. up to \$150,000. Change orders would only be issued as needed for work under this contract. A copy of the Change Order policy is also attached.

Attachments

PUBLIC SERVICE COMMISSION

AML CONTRACT CHANGE ORDERS

POLICY 5-04-94 (0)

AUGUST 24, 1994

A. PURPOSE

Project Managers of the Abandoned Mine Lands (AML) Division need authority to write change orders to contracts into which the Public Service Commission (Commission) has entered for construction and professional services. Change orders are written when site or material conditions are faced which were not anticipated in the bid solicitation.

B. PROCEDURE

AML staff are authorized to write change orders without formal commission action for up to \$50,000 or five (5) percent of the contract amount, whichever is less, for contracts of \$50,000 or greater and up to \$5,000 for contracts less than \$50,000. The total dollar amount of change orders for any given contract shall not exceed twenty (20) percent of the original contract price.

C. BACKGROUND

Bid specifications are written based on anticipated site conditions and qualities of materials used. Particularly with underground mine reclamation, the estimates of material quantities needed and how those materials will react to site-specific conditions are difficult to anticipate. Quantities of material to be moved on surface mines are more accurately estimated, but the estimates are based on cut-and-fill calculations that can never perfectly reflect topography and, hence, material volume. This element of uncertainty may require that change orders be written. A policy that allows in-field AML staff to make immediate decisions consistent with their background and experience is needed. The alternative is either to halt construction or a service until formal commission action, resulting in contractor claims for down time, or rebidding the project. Both of these alternatives unnecessarily add to the cost of completing projects.

D. REFERENCES

(0) PSC Minutes, August 24, 1994