

US ARMY CORP OF ENGINEERS

Moderator: Courtney Chambers
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Courtney Chambers: Okay at this time I would like to give you today's speaker on working with nontraditional project sponsors. (Brett Walters) is the chief of planning, environmental branch, at the Charleston district of the Corps. Throughout his career, he has worked on many civil works studies and construction projects throughout the country including numerous small boat harbors, deep draft navigation studies, watershed studies, and ecosystem restoration studies. Currently at the Charleston district, he is on the leading edge of the Smart Planning Initiative with the Charleston Harbor Post 45 study.

(Brett) has also had a unique opportunity to work on a tremendously wide range of projects and partnered with a variety of non-federal sponsors in his career. Prior to working for the Corps, he taught high school chemistry, physics and math in Minnesota and worked for Westinghouse Electric in Anchorage, Alaska. He then worked at the Alaska district for 16 years as a chemist, industrial hygienist, and biologist/regional technical specialist, and then at the Memphis district for two years as a senior planner and regional technical specialist there.

And now he is at the Charleston district again as the planning and environmental branch chief since October of 2012. (Brett) also completed the planning associates program in 2008. (Brett), it is a privilege to have you with us today. And if you would like to access this information about (Brett) it can be found in his bio posted on the learning exchange with the rest of today's meeting documents. Okay at this time, (Brett), I am going to give you the presenter rights and we can begin.

(Brett): All right, thank you (Courtney) and thanks for everyone participating today. And this is my first time presenting through this format so please excuse any technical difficulties that might come up. And I work best in these situations, if I can kind of respond to questions and concerns as we go along so feel free to ask a question either through the phone or through the chat box as (Courtney) indicated as we go along here. Otherwise, at the end we will clean up what we can there.

So like my bio said, I've done a lot of Corps studies and worked with a lot of different partners but there has always been things to learn and I guess I am hoping to pass on some of my experience onto you folks so that you can all learn and hopefully maybe some of you can contribute to some of this today also. So my primary purposes here are to help you to identify any potential or possibly overlooked non-federal sponsors that might be able to help you move on your studies forward or more of your studies. To do that, I'm hoping to help you understand some key characteristics that can really make a difference when you are partnering and how you can use those characteristics to your advantage and avoid pitfalls, and also just overall to help improve the likelihood of success of your Corps projects.

The main topic, I'm going to try to explain the differences between traditional and nontraditional sponsors and that's not as easy as it might sound. There is no consensus on this so we are going to use some general characteristics and some examples to help you identify some nontraditional and there is some guidance out there that provides some light on that and at the end of the presentation there's a couple of links that will help you make that determination, not even that you really have to make a determination but it will help you figure out if you might be able to take advantage of some of these opportunities.

So, part of that is to identify some similarities and differences between traditional and nontraditional sponsors and some opportunities that are presented, some common issues or problems that might come up, and then some take away points and some tools and resources that will help you succeed. So, most of you have had enough experience to know that most of our nonfederal sponsors typically tend to be states or political subdivisions of states. Those are the easiest to work with. That's where most of our policies and procedures were developed around those and over time our policies and procedures have sort of melded around them enough to where if something doesn't fit into this box, often it presents problems but we are trying to solve those now.

So some examples of nontraditional, nonfederal sponsors, a pretty big one is nongovernmental organizations, 501C3, tax exempt organizations. There's a ton of those out there. The Nature Conservancy has sponsored several projects at the Corps, Ducks Unlimited, a couple, Audubon has been involved, Conservation Fund.

There are a lot of interstate commissions and committees out there where you have multiple states joining forces sort of to tackle a common goal or a problem that they have in common, whether it be a coastal zone or area or maybe a specific river where they teamed up and signed resources to help solve problems. And then there is another one out there, Federally Recognized Tribes, and that one is enough of its own entity that I decided not to address that one on this particular presentation but essentially they are treated as a sovereign nation but the members are also American citizens of course so that can kind of throws a curve ball into some of our policies and procedures, but nothing that is difficult to overcome.

So just probably one of the more important slides in here, in terms of determining the best path forward, keep in mind that these are just general differences and none of these - you shouldn't try to fit every single sponsor into one of these two boxes but most of our traditional sponsors are accountable to and connected to a governmental entity. They generally have an identifiable and somewhat stable source of revenue, such as taxes or bonding authority. They are intended to represent the general public's interest. They have a predictable life span either through La, or you know, maybe if you're working directly with the state they essentially are expected to last indefinitely.

In general, they seek direct tangible benefits and that's not always the case but frequently our traditional sponsors are looking for a specific benefit, whether it be an economic benefit at a navigation, for a navigation study, or for ecosystem restoration they are looking, a lot of times they are looking for like recreational opportunities, things that will benefit its citizens. On the other hand, some of our nontraditional sponsors don't always fit in those categories. Often they are not accountable to or back slide governmental entity. For instance, such as the Nature Conservancy really isn't accountable to any state or federal government other than, you know, for tax filing purposes and accounting purposes, but you know, their membership isn't voted in by the general public.

Also, it's revenue is based on donations from its members and that drives things often towards where they frequently have a very narrow set of interests or they really maybe only represent a subset of the public. And that's one thing you have to watch out for on all of these when you're working with nontraditional sponsors is that particular bullet where, if they are really concentrating on a specific issue. And that's what their whole purpose is, that can be a limiting factor on both what projects they can sponsor and not only

what they can sponsor but can make it real difficult for your Corps project delivery team to manage the scope and keep it broad enough to represent the public's interest so always keep that in the back of your mind.

They have a less predictable life span. They can be disbanded almost at will. I know I had a project not long ago where one of my sponsors went bankrupt and disappeared. That typically wouldn't happen with a state, so that's kind of a little bit of unusual situation. The other thing that makes them quite different often is the fact that a lot of times they are not seeking economic benefits or direct tangible benefits of any kind. Sometimes their purpose is to improve habitat for a certain species possibly and they may not directly benefit from that so they have different motivations and that's something that you have to keep in mind when you're going through your study. Any questions before I leave this slide? Okay I'm going to move on.

So with these differences, often there are opportunities that come up and sometimes nontraditional sponsors such as NGOs might be willing to sponsor a study when a state or a city or a county or a borough may not be willing to sponsor a study. They may bring knowledge, expertise or even energy to the table when you are working with them. That can often come from the fact that they are motivated by other things other than the financial benefits of the project.

And I also worked on a study one time where actually the Nature Conservancy assembled a team of eight other smaller NGOs and teamed up to sponsor a pretty big watershed study and there was a total of nine team members as part of that team and they brought a wide variety of expertise to the table and they were able to generate a lot of work in-kind that was able to move the project forward. And in this particular case, we were having great

difficulty trying to find a nonfederal sponsor, a typical nonfederal sponsor that was willing to do that study.

So as you get started, sometimes it's full start and that's been my experience on a couple of these where essentially our model agreements aren't always set up to easily apply to several - NGOs is an example. If you make significant changes to these model agreements, they end up having to go to the system sector to the Army for Civil Works to get approved and that can take a year or even more in some cases.

One of the things that drives this is there are some specific accounting and auditing procedures that we line out in our agreement and those don't always match up. Now I should state that headquarters is working on modifying these agreements. Many of them are already changed and there is a plan to, as they get updated this language in these agreements will have new text added to incorporate changes needed for these NGOs.

As you are putting these agreements together, most people that work as NGOs they have a certain mindset and when they start reading the language that's in our agreement, that's really, it really is one-sided. It really favors the government in a lot of different ways. It protects the government from liability. It puts in all kinds of caveats about whether funding is available or not and it doesn't give those same flexibilities to our partners and some people can find that offensive and I think you have to understand that's just something that we can't change. Talk to them about that ahead of time, work through the issues and kind of give them fair warning and then help them understand why we have to do it, explain that we can't guarantee that we are going to get funding next year and we really have to - we don't have a choice in this so if we want to do it, we have to do it this way.

Another issue is it's not always clear who signs the agreement for some of these NGOs. There are local chapters frequently and there's national chapters and sometimes even international chapters. It doesn't make a whole lot of difference personally, but make sure your legal staff agrees that it's getting signed at a high enough level and that the people who need to certify the capabilities of the nonfederal sponsor are in agreement with your choices there.

Okay, some common issues. A lot of our nonfederal sponsors just basically they don't have all the requirements that the Corps has and the policies and the procedures and the tools that we are required to use. They are used to working much more efficiently. They have direct contact with their supervisors and up the change. Information moves very quickly. They don't have the financial limitations, the travel restrictions. A lot of times people don't understand the review requirements so it's always good to inform the sponsors ahead of time before they even enter into this agreement so that they go in there with their eyes open and they are not expecting everything to turn out perfect and everything to go as quickly as they might expect it if they were doing themselves and had the resources to do it all themselves.

Some other common issues, work in-kind contributions; a lot of times our nonfederal sponsors are really good at one thing and maybe they are not so good at - they don't have a large enough broader aspect of abilities. Make sure that you let them know that they cannot get credit for any volunteered labor or donated materials and services and also give them the tools that they need to understand that, and to get credit for their work in-kind that they can get credit for, so work with your resource management office and get the spreadsheets and tools that will be acceptable so that you can provide that, those to them and kind of walk them through before you start the project so that there isn't

confusion later either about what they would get credit for or how much they would get credit for.

One point of intention comes out of -- you will find often that our federal salaries often are almost always higher than what their salaries are. You could be sitting across, working very closely with somebody having similar responsibilities on a specific study and that pay disparity might rub them the wrong way when they are working as hard as you and they are not getting the same credit for it, but you just have to kind of work through that and make sure that that works out okay.

High personnel turnover rates, I found that to be very common on all of these types of projects that are sponsored by nontraditional sponsors. One of the biggest things to always keep in mind here is matching the sponsor's ability to perform with the project. In fact, the only project that nontraditional sponsors can sponsor are ecosystem restoration projects and if they partner with a legally constituted public body, then they can sponsor other projects but the only ones they can sponsor without the legally constituted public body are ecosystem restoration projects.

I think we talked a little bit about this before, and matching the scopes of our projects with the nonfederal sponsor's ability. It's really the Corps team's responsibility to match those skill sets with the needs and in addition to matching those skill sets with the needs, making sure that the scope of the study targets the broad public interests and not a more narrow set of interests.

Some more common issues: Construction operation, maintenance rehabilitation, (unintelligible) constructed feature, this slide is really concentrating on post-construction type work and the nonfederal sponsors on these projects are responsible for the perpetual maintenance of these

constructive features so that can be a real issue for many nonfederal sponsors, that signing up for something that might cost a lot of money and it's supposed to last forever, some of them just aren't willing to do it. I've got a couple of projects where they have partnered with governmental entities to take over that part of the project, so has to be documented. This is a pretty big responsibility and a small organization might have a hard time doing this.

Another thing to think about and this applies to the construction also, they cannot get credit for donated time or materials and assume that comes up in both cases. Looks like I've got a question here. Regards to work in-kind, please clarify the following: Okay, if everyone can read that question, basically asking for clarification that the nonfederal sponsor is only allowed to claim as work in-kind their actual expenditures as opposed to what that might be worth on the open market. That can go either way actually. They get the lesser of what they paid for it or what the Corps determines its value on the open market.

So it's actually worse than that. You know, if somebody donates it, they get nothing. If somebody gives it to them for \$10, they get credit for \$10 and on one project that I am aware of, there was a private person that was willing to donate close to \$1 million worth of rock for an ecosystem restoration project. The fact that they are donating it, they couldn't get any credit for that so the way that works mathematically for the project, if it would have went through this way, is the total project cost would have been decreased by almost \$1 million.

So that is where the cost savings for the whole project would have come from. So both the federal government and the sponsor would have taken a chunk of that donated material cost. Hopefully that wasn't too complicated. But the

thing to remember here is they get the less of what they actually expended for it or what the Corp of Engineers think it is worth.

Okay, we're getting toward the end here. These are a couple of tools and resources that are available that are on our gateway partnership page. There's a link there. There's a ton of resources there. There are all sorts of existing agreements and templates for agreements, points of contact at headquarters for different people to contact for expertise. There is also a link there to a guidance document from April of 2012. It's a little bit less than a year ago. And that really lines out and defines a lot of the requirements that we talked about today. I think I went too fast here.

(Courtney): (Brett) right quick, (Ellen) responded to that last comment and just mentioned that the NGO would not get credit for the time or material, or the value of the material, but that the total cost of the project would be reduced so then we would see that savings as well as a sponsor in that 65 or 35%, even though it wouldn't be a direct credit.

(Brett): That's correct.

(Courtney): There's another question that just popped up from (Diane). Oh she just asked, it was sent just to me. She asked if you could back up to the resources slide for a second.

(Ellen): I was going to say, (Brett) basically said what I wrote. I was on the phone when he said it so I just sent it anyway.

(Courtney): Okay, no problem.

(Brett): All right. Well, we are ready to move on. The main thing that I think that people should take away from this today is that basically when you start a project and you are considering a nonfederal sponsor for your project, you should see a pathway that goes all the way from the start of your project to the end of your project. It doesn't help the Corps or the potential nonfederal sponsors to get into a study partnership and not be able to have successful results, so always think about what nonfederal sponsors' skills and weaknesses are and then your team's ability to manage the scope to look out for the broader public interest and keep the federal perspective in mind.

And I think that's all I have. Sorry if I went too fast there.

(Courtney): Okay, (Brett), no that's fine but if you wouldn't mind just while we are parking for a few minutes and answering some questions, could you go back to that resources slide again? I think we got some people trying to get those links written down, so they can check them out.

(Brett): Okay.

(Courtney): All right at this time, if you do have any questions please feel free to speak up and remember to take your phone off of mute or you can again use the chat feature down here and send that message to everyone. Also while you are thinking or gathering your thoughts, I am going to send the link for the gateway where we host this recorded meeting as well as the others in our series so you can check that out as well. From (Larry) we got a question that said, that was wondering if there were any lessons learned from the bankruptcy example.

(Brett): From that example, there really wasn't. One point I should have mentioned was, and it's related to the bankruptcy issue, but I didn't encounter it on that

particular project but don't allow your project to get out of balance in terms of cost sharing. That would have been a big problem in that case if we had been out of balance when that occurred. In this particular case, they gave us a heads up that it was happening. We had plenty of work in-kind that was performed already and they kept working as long as they could. We basically kept the project moving with other federal sponsors. This was actually one that ended up having several partners involved. It would have been a lot bigger problem had it only been one federal sponsor in this case.

(Courtney): On those lines, if any of you participants of our meeting today have had interesting stories or lessons learned from working with maybe some nontraditional partners that you would like to share, feel free to do so.

No need to be shy but if you don't have anything, any other questions, (Brett) do you have anything else that we might need to be aware of?

(Brett): I think that's about all I have. I think I just talked too fast.

(Courtney): I don't think so. (Brett) one other thing you might do, could you share your contact information maybe through the chat feature and send that to everyone in case they had a question they might like to followup with you about?

(Brett): Sure can.

(Courtney): All right, thanks.

(Brett): I'll put myself on mute so you don't hear that typing.

(Courtney): That's not too much of a problem. We've had far worse. All right well, if we don't have any other lessons learned or questions that you would like to share

with us, we will begin wrapping up. I do want to thank all of you for joining us today and (Brett) thanks for sharing your experience in this arena of working with so many different kinds of sponsors. I hope you can all join us for our next web meeting and that is scheduled for Tuesday, March 19th, and it's going to be on research into incorporating ecosystem goods and services and to restoration planning by (Elizabeth Murray). So hopefully you can join us as we explore this new area that the Corp is getting into.

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