

# International Union of Operating Engineers

LOCAL ONE HUNDRED AND THIRTY-NINE

CHARTERED FOR THE STATE OF WISCONSIN

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**DALE A. MILLER**  
Business Manager

To: Members of the Committee on Economic Development, Housing and Government Operations

From: Dale A. Miller, Business Manager, Operating Engineers Local 139

Date: February 9, 2000

Re: Opposition to Senate Bill 198

On behalf of our 8,000 members located throughout Wisconsin, the Operating Engineers Local 139 opposes Senate Bill 198, which would authorize all units of government to use the design-build construction process if the estimated cost of the project exceeds \$1,000,000.

For over 100 years, contractors in the state of Wisconsin have worked under a system of competitive bidding in the determination of who wins construction contracts on public projects. **The system has worked well.**

Under competitive bidding, the owner of a construction project accepts the lowest responsible bidder when awarding work. This is a win-win, not only for the governmental body, but also for the taxpayers. Contractors are forced to sharpen their pencils to win contracts and taxpayers benefit from lower costs associated with competition in bidding.

Senate Bill 198 would change this system by allowing all governmental entities to use the design-build construction process as an alternative to competitive bidding. In the bill, design-build is defined as a procurement process where the engineering, design and construction services are provided by a single entity.

Design-build may work on some projects, but it also has many potential pitfalls. We are worried that the design-build process could increase safety concerns on the job, give government a false sense of security about getting projects done on time and on budget, and hurt small to medium sized businesses that do not have the financial resources to have in-house design teams. In order to attempt to compete, these firms will have to seriously increase their payroll to compete.

**We urge you to oppose Senate Bill 198 and support our tradition of requiring competitive bidding on public construction in Wisconsin.**

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# AGC WISCONSIN



Associated General Contractors of Wisconsin • 4814 East Broadway, Madison, WI 53716-4195 • (608) 221-3821 • Fax: (608) 221-4446

**Senate Committee on Economic Development**  
Wednesday, February 9, 2000

## **Senate Bill 198**

### **Testimony of Associated General Contractors of Wisconsin**

Presented by: Jim Boullion, Director of Government Affairs

Mr. Chairman and Committee members, thank you for the opportunity to speak to you today. My name is Jim Boullion; I am the Legislative Director for Associated General Contractors of Wisconsin. AGC represents many of the largest commercial contractors in the State of Wisconsin. Our members also perform much of the public construction work in the state. Because of this, we are very interested in any proposal that would make a change in the current lowest responsible bidder system for purchasing construction services.

I would like to start by saying that the authors of SB 198 made the effort to meet with AGC and other groups that would be affected by this bill to try to work out "fair" guidelines for the use of a design/build process on public construction projects. Unfortunately, we have not been able to reach an agreement in the short amount of time we have had to work on it.

**Because we have not yet been able to reach such an agreement on the language in the bill, AGC is opposed to SB 198 at this time.**

On the issue of allowing local governments to use design/build, AGC members recognize that, depending on the project and the owner, that there are potential advantages to using a design/build process, i.e. cost savings, faster completion of projects and design innovation. Unfortunately, none of these benefits can be assured. A design/build project may work great on one project, and on a different project, it doesn't.

The process of design/build means that each construction/design team is submitting their best project design ideas for consideration by the owner. You don't have a single plan that all contractors are bidding from. This means that you are asking local officials to make a subjective decision between projects that are, by nature, going to be different.

How do government officials or the local taxpayers know if they are getting the most for their money on a design/build project? Without close, experienced monitoring of the project, they don't! The only sure way is to have multiple contractors give you their best price on one specific set of plans.

Another problem is the reduced number of contractors who are able to bid design/build projects. There are many reliable and high quality contractors who give taxpayers a good value for their dollar, but they are not set up to do design/build work. Some of them will be able to team with architects and designers, but many of them will simply stop bidding on public works projects. Fewer bidders can mean higher costs.

What local governments want is more flexibility and more options in deciding what the best construction delivery method should be for their projects. Whether it is design/build, or some other method, local governments want to get more bang for their construction dollar. AGC of Wisconsin is not against making changes to the current system and we are willing to work with the various groups to achieve that.

But we are opposed SB 198, because it still leaves too many unresolved issues. The system by which local governments in Wisconsin purchase their construction services affects billions of dollars in taxpayer money. If we are going to change current the lowest responsible bidder system it must be done with a lot of careful deliberation with everyone at the table working to develop a consensus that is fair to contractors, designers and taxpayers alike, a package that everyone can agree to.

Thank you for your time. I will be happy to try and answer any questions you might have.

**RESOLUTION #00-05**

A Resolution requesting the State Legislature to amend SB 198 to permit the use of design/build contracts by all municipalities without a base limit.

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WHEREAS, small communities do not have either the resources or the borrowing capabilities of larger communities; and

WHEREAS, we too, as smaller communities, are very cost conscious and have found that design/build projects save us money because of the opportunity to combine the design work with the construction; and

WHEREAS, charges for the creation of bid documents as a separate task and separate costs for the construction are more costly than combining the tasks into a single job; and

WHEREAS, any municipality or public agency should be entitled to contract for design/build projects, regardless of a base or ceiling dollar amount; then

BE IT RESOLVED, the Village of Jackson supports the passage of SB 198, without a stated limit.

BE IT FURTHER RESOLVED, the Village of Jackson supports the passage of SB 198 with a provision which would require paying prevailing wage rates on all projects of \$20,000 or more.

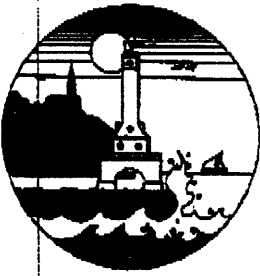
Passed and approved this 8th day of February, 2000.

Introduced by Trustee Phil Laubenheimer

Attest:

Alfred P. Bauer  
Village Administrator/Clerk

[Signature]  
Village President



**CITY OF PORT WASHINGTON**

**OFFICE OF CITY ADMINISTRATOR**

Mark E. Grams  
City Administrator

February 8, 2000

Senate Economic Development, Housing and Government Operations Committee

Dear Senators:

This letter is to express support for S 198, a bill authorizing local governments to let public works contracts under the design-build construction process, and increasing the threshold for competitive bidding of public construction contracts.

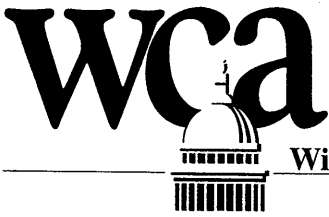
Design-build construction is the fastest growing method of project delivery in the private sector. Private sector owners have learned that design-build can shorten project times, allow for earlier and more certain determination of project costs, and create single-point responsibility for project performance. If this system was also available to public project owners, these advantages could make our building projects be completed faster, with less change order negotiation, and better cost control than the current sequential designer-contractor bidding system.

As a municipality, we are involved in many building projects that could benefit from the use of the design-build process. Allowing local governments to use this process will increase local control, and result in the construction of more cost-effective buildings and facilities for our citizens.

Sincerely,


Mark Grams  
City Administrator  
City of Port Washington

100 West Grand Avenue  
P.O. Box 307  
Port Washington, WI 53074  
Tel (262) 284-5585  
Fax (262) 284-7224



MEMORANDUM

TO: Honorable Members of the Senate Committee on Economic Development, Housing and Government Operations

FROM: Jennifer Sunstrom, Legislative Associate 

DATE: February 9, 2000

RE: Senate Bill 198

The Wisconsin Counties Association (WCA) supports Senate Bill 198, which authorizes 1<sup>st</sup> class cities, counties, metropolitan sewerage districts, technical colleges and federated public library systems, to let a contract for public construction, for which the estimated costs exceeds \$1,000,000, use the design-build construction process.

Under current law, counties are required to act as general contractors and construction managers on all public works projects. Serving as the general contractor exposes the county to liability should any of the contractors file lawsuits related to their ability to complete their portion of a project in a timely and cost-effective manner. In addition, the staff time required to coordinate multiple subcontractors on a given construction project represents a significant cost in employee hours to a county.

The design-build construction process provides many advantages for county government. The ability to combine design and construction contracting into a single agreement creates greater accountability, guaranteed costs, faster project completion, improved risk management, fewer administrative burdens, enhanced creativity, increased staff productivity and most importantly, increased cost savings for county government and Wisconsin taxpayers.

The design-build process is a growing trend accounting for almost 25% of all nonresidential construction in the United States. Wisconsin has authorized the design-build process for state-controlled projects, and other states have or are in the process of approving the design-build option for state and local units of government.

Given the increased demand for more efficient and cost-effective state and local government, the Wisconsin Counties Association believes that for the advantage of the taxpaying citizens, all options for the construction of municipal buildings should be made available.

Therefore, WCA respectfully request your support for Senate Bill 198.

If you have any questions, please do not hesitate to contact our office.



# **STEVE WIECKERT**

**STATE REPRESENTATIVE**

**CHAIRMAN**

**ASSEMBLY COMMITTEE  
ON GOVERNMENT OPERATIONS**

## **Testimony for the Senate Economic Development, Housing, Government Operations 2/9/00**

**by State Representative Steve Wieckert**

**Mr. Chairman and members of the committee, I would like to thank you for this opportunity to testify today on this bill Senate Bill 198 authored by Senator George.**

**I would like to compliment Senator George for dealing with this very important area.**

**I too am working on proposals which would update and modernize the way governments, both local and state, go about the process of building large projects whether it is schools, sewer and water treatment plants, public garages or other buildings.**

**IDEALS, PRINCIPLES, PATRIOTISM**

**STATE CAPITOL OFFICE: ROOM 9 NORTH • P.O. BOX 8953 • MADISON, WI 53708-8953 • (608) 266-3070 • (608) 261-2360 FAX • Rep.Wieckert@legis.state.wi.us  
DISTRICT 57 OFFICE: 3033 W. SPENCER STREET • APPLETON, WI 54914 • (920) 731-3000 • FAX: (920) 731-2999**

**COMMITTEES: EDUCATION • GOVERNMENT OPERATIONS • HEALTH • HOUSING • INSURANCE**

**Traditionally, the process has been design-bid-build. However in recent years the private sector has found that using other ways to go through the process of having a public structure built may be much more economical and therefore save considerable taxpayer dollars.**

**It has been reported that by using these alternative methods in the process to select a contractor, in Milwaukee for example, in updating their water treatment facilities the city saved about \$15 million on a \$60 million project. That is a tremendous savings.**

**Also, research has shown that there is not one correct way to go about the construction process. One size does not fit all. Local and state governments need more freedom to choose which way will best suit the**



**individual project at hand. For example, a project that is similar in design and scope to other projects that have been done in the recent past may best be done by a streamlined process, whereas a project of some complexity may best be served by the traditional design-bid-build process.**

**In addition, thought must be given to the fact that many times public officials who by their positions are required to make these decisions on purchasing these major construction items on behalf of their publics may not have the expertise or experience at knowing the best way to go about the construction process selection.**

**While well intended, a wrong decision on their part in determining how to go about having a building built for their community may cost the public they serve unnecessary millions of dollars of taxpayer money.**

**It would be on great value to other units of government in Wisconsin if the state would not only allow greater options by these governments in the way they go about selecting the construction process. They would receive great benefit if the state could establish helpful guidelines in determining which construction process would be best in a given scenario.**

**In this day and age of tight budgets, one way we can reduce spending and prevent our capitol debts from significantly increasing is to find ways to get more value for our taxpayer dollar. Looking at ways to modernize the processes by which governments purchases major buildings and related projects can save the taxpayers of our state hundreds of millions of dollars. This is true both at the local and state level. While this subject may**

**be complicated, I feel that it is well worth the legislature's time to improve our laws in this area.**

**Thank you again for this opportunity to testify, and if the committee or the author of the bill would feel it to be worthwhile I would be glad to help in this area in the future.**

February 9, 2000

Senator Robert Wirch, Chairman  
Senate Economic, Development, Housing &  
Government Operations Committee  
Wisconsin State Capitol, Room 310-S  
Madison, WI 53707-7882

Re: 1999 SB 198 Design/Build

Dear Senator Wirch:

Thank you for the opportunity to submit written testimony to the committee regarding 1999 SB 198 relating to the use of design/build for public works construction. We are **opposed** to this legislation and we have provided the committee clerk and members a copy of this text for your consideration.

The Wisconsin Underground Contractors Association (WUCA) is a statewide trade association representing 190 contractor and associate member firms. As a trade group, we date back to 1937 representing water, sewer, tunnel, utility contractors and related services. It was our contractor members that built the 17 miles of deep tunnel associated with the Milwaukee Metropolitan Sewerage District over the period 1986-1996.

WUCA is committed to improvements of the underground infrastructure and has worked hard over the years to encourage additional federal funding of the Clean Water Act to provide low interest loans to Wisconsin municipalities for improvements to sewerage treatment plants, collector and interceptor sewer systems.

Our opposition to 1999 SB 198 is based on the following:

1. **The legislation does away with over 100 years of legislative history that requires competitive bidding on underground public works construction.** The original law dates back to 1889 (s.s.925-90, Wis.Stats.1898). It became law to protect the taxpayers from the potential for graft, corruption and favoritism in the awarding of publicly funded construction. The legislation states in part, "There is no better safeguard against infidelity of officials than to require municipal contracts to be publicly let..."

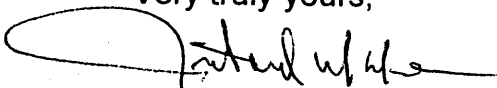
- For over 100 years the Legislature has protected the right of the contractors, both small and large, to bid public works construction. We believe that 1999 SB 198 restricts competition and entry in the bidding process. We believe that state government has a role to ensure that **all** contractors, not just a select group, have an opportunity to create and maintain jobs for their workers.
  - Competitively bid construction has been the basis for public construction for many years in Wisconsin. Competition by definition is a struggle or rivalry for a prize. It is one of the strongest impetuses toward effectiveness and efficiency. Governmental contract opportunity, the prospect of competition, and a good number of bids places a constraint on high costs. Former Green Bay Packer Coach Vince Lombardi once wrote... "It is the American zeal to compete and win." Because contractors are competing for contracts and jobs, the taxpayers see significant savings. (See Exhibit 1).
  - As currently written, 1999 SB 198 creates an oligopoly market situation whereby only a few large contractors will be awarded contracts. Our fear is that a public agency may award one or two firms the bulk of the tax-funded work. They in turn would then divide up the public work for themselves. That situation could happen because the Milwaukee Metropolitan Sewerage District (MMSD) projects \$521 million in conveyance and watercourse work over the next ten years. SB 198 allows for the *selection* of contractors to submit design/build proposals. Should SB 198 pass, we feel that only *avored* contractors will get the bulk of the \$521 million proposed by the MMSD. Because the MMSD has limited design/build experience, and because the MMSD lacks definitive cost saving numbers, the MMSD should not be experimenting with state, federal and local tax dollars under a design/build proposal. The potential for increased costs, collusion and favoritism in the award of tax-funded contracts is not a mythical fear. (See Exhibit 2).
  - Everyday Wisconsin contractors from Kenosha, South Milwaukee, Eau Claire, Juneau, and Pulaski bid municipal and other governmental contracts. They are from your legislative districts and they all should have an equal opportunity to bid work at *any* Wisconsin municipality or sewerage district free of favoritism. Whereby WUCA members promote free and fair competition, SB 198 promotes the selection of a few.
2. **This proposed legislative proposal would not save the taxpayers of Wisconsin money.** Because underground construction is the most risky type of construction due to concerns with differing soil conditions, rock, methane and petroleum contamination, contractors must deal with

those contingencies. SB 198 will place more responsibility on the contractor under a design/build *team* approach to construction. As such, the contractor and their engineer will bid a higher fee for construction and to cover the unknowns. The taxpayer will actually pay more. The current MMSD system had risk sharing with the contractors whereby the owner, contractor and consulting engineer will sit down and talk about problems and seek a reasonable solution. This risk sharing policy dates back many years at the MMSD. (See Exhibit 3).

3. **Many municipalities and sewerage districts use state, federal and local tax money for their infrastructure improvements.** If these levels of government use tax dollars or grants from other areas of government, we believe that they have an obligation to accept all bids from qualified bidders. To do otherwise arguably would be a restraint of trade. Again, SB 198 suggests that a few contractors would be selected from a short list of contractors to submit proposals. It could allow a system of favoritism in the award of public works construction.

In summary, design/build as it relates to *underground* construction is a mere concept without proven benefits. There is no legitimate reason to overturn over 100 years of Wisconsin open bidding law on \$521 million of Milwaukee Metropolitan Sewerage District work with this design/build proposal. There is no proof that design/build is a better delivery system to deal with underground sewer repairs and flooding problems. We believe that SB 198 is nothing more than a fundamental assault on Wisconsin's low bidding law and an attempt by a few to circumvent the low bid system of awarding the lowest responsible bidders. No one can show that current Wisconsin law is obsolete or outmoded. No one can show that design/build of underground sewers will save the taxpayers a dime. Wisconsin is blessed with honest government and we need to keep it that way. Thank you for the opportunity to comment.

Very truly yours,



Richard W. Wanta  
Executive Director

# MILWAUKEE TWO AND STATE NEWS

Homeless take  
shelter by breaking  
into dealer's cars

Page 3

MILWAUKEE JOURNAL SENTINEL — FINAL EDITION.

12-24-99

SECTION B

## Competition expected to lower cost of flood-control project

Firms' bidding war on work  
for Lincoln Creek could  
yield \$10 million savings

By GREG J. BOROWSKI  
of the Journal Sentinel staff

The sewerage district's flood-control project for Lincoln Creek could come in at about \$10 million less than expected, thanks in part to the number of firms bidding for the work.

The wide-ranging project, which includes two massive holding ponds and other improvements to the flood-prone

creek, was expected to cost about \$70 million, according to the Milwaukee Metropolitan Sewerage District.

"We could be in the upper 50s instead," said MMSD spokesman Mark Kass. "It's a large project and everybody wants in, so the competition brings down the price."

Contractors are nearing completion on the first of the two holding ponds, a key element of the project. When major storms hit, water will be diverted into the ponds and then released at a controlled rate back into the creek.

The first pond is north of W. Green Tree Road, between N. 46th and N. 50th streets. It is a huge undertaking — removing dirt in an area as large as 20 football fields to a depth of 10 feet.

Every day, a non-stop convoy of dump trucks makes between 800 and 1,000 trips between the pond site and a site where the dirt is dumped about a half-mile to the west, before the trucks circle back for another trip.

Crews are expected to be done with the pond in February. The site will actually be dry most of the time and will appear to be a sunken grassy field.

The second detention pond will be downstream, in the Havenwoods State Forest, just south of W. Mill Road. Part of that pond will be a wetland, serving as an educational area for visitors to the park.

Between them, the ponds will be able to hold about 80 million gallons of water. In both cases, costs were kept down by the nearby location of the fill site. For the first pond, it is just blocks away, which reduced the trucking costs in the bid. At the Havenwoods site, some of the

Please see CREEK page 6

# Creek/Competition cuts cost of flood-control project

From page 1

...dirt will be taken to a Department of Natural Resources landfill across the creek.

The sewerage district accelerated work on the project after severe flooding in August 1998, the second major flood in about a year. The project is expected to be done in mid-2002, two years earlier than originally planned.

Lincoln Creek runs for about eight miles through Milwaukee's north side, from north of W. Good Hope Road south, looping southeast until it spills into the Milwaukee River at Lincoln Park.

In addition to the flood-control detention ponds, the project includes widening and deepening the creek in some places, buying and removing several houses, and taking out some concrete to return the creek bed to a more natural state.

"When you have concrete, it moves the water as quickly as it

can," said Kass. "This will make it more meandering, rather than a straight line."

About 1,600 homes and buildings are in the floodplain. In some cases, MMSD officials say, the properties were not in the floodplain when they were built, but increased development upstream has resulted in greater pressure on the creek downstream during storms.

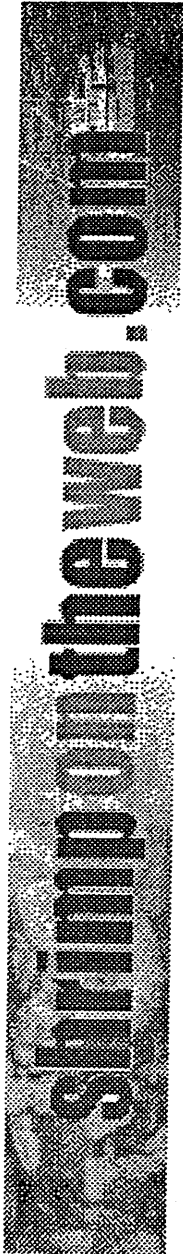
MMSD officials have been taking aldermen and others on tours of the work areas to high-

light progress. Most of the flood-prone homes are downstream from where the major work is going on now, but officials say they will still benefit even if heavy rains hit before the overall project is done.

"The ponds will keep some of the water here and it won't go into people's basements and businesses," said Ald. Don Richards, who toured the project this week with Ald. Marvin Pratt.

Both have flood-prone areas in their districts.





NEWS

Published Sunday, December 19, 1999, in the Miami Herald

# Airport official steered contracts Building chief at MIA bent bid rules

BY MANNY GARCIA AND RONNIE GREENE  
[rgreene@herald.com](mailto:rgreene@herald.com)

A Miami International Airport construction chief who resigned abruptly earlier this year repeatedly dodged county bid rules, approving lucrative work for handpicked firms, including one that employed his father-in-law and another that bankrolls political campaigns, a Herald investigation found.


Richard Mendez, 47, resigned in January as assistant aviation director overseeing the airport's \$5 billion expansion program, a job that granted him considerable power over airport contracting.

He sometimes abused his power, directing MIA contractors to hire specific subcontractors or otherwise bypassing rules meant to ensure airport contracts are awarded after competition, records show.

For example:

Mendez approved a no-bid \$126,000 airport lighting contract for Horsepower Electric in 1997, shutting out potential competitors. The Hialeah firm employed his father-in-law at the time.

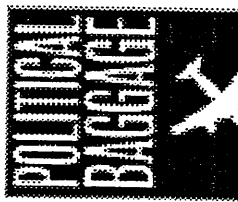
Mendez ordered architects working on the MIA expansion to hire a company for more than \$1.5 million in no-bid work providing 3-D computer models of airport expansion. The company and its top



**C.W. Griffith**  
**PROBED: Richard Mendez says superiors knew of his actions.**

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**PREVIOUS COVERAGE**



executives have contributed \$190,000 to Democratic campaigns and gave several thousand to Miami-Dade Mayor Alex Penelas in 1996. Its president flew aboard President Clinton's Air Force One.

At least five other times, Mendez played a significant role in directing airport consultants to hire specific subcontractors -- in violation of rules forbidding the county from telling companies who to hire.

For example, Mendez pressed to hire one company for an \$800,000 aircraft noise monitoring system despite requests from MIA's general consultant, Dade Aviation Consultants, to seek competition.

A squad of Miami-Dade police, FBI and IRS agents is examining Mendez's bank records as part of a probe of alleged airport corruption. Mendez denies wrongdoing.

"Everything I did I thought was in the best interests of the airport," Mendez said in a brief interview at his home last week. He said superiors were aware of his actions. "It's easy to blame me now that I'm gone. I can tell you I have not done anything illegal."

Mendez, now operating a private aviation consulting firm, declined to answer specific questions about the contracts.

After working as a supervisor in the county's Public Works Department, Mendez joined the airport staff in early 1995 as an assistant director.

#### POSSIBLE CONFLICT

He was personally tapped for the job by Armando Vidal, county manager at the time, who had worked with him at public works and who reported to Miami-Dade commissioners as the county's top administrator.

While at public works, Mendez had dealings with Horsepower Electric, which has received more than \$16.7 million in county contracts since 1991. Records show he had a role in approving millions of dollars in work orders for the company.

In 1994, a colleague noted that Mendez had a possible conflict because his father-in-law worked as a Horsepower mechanic's helper, county records show. Osvaldo Costa has worked for Horsepower since 1992.

Still, Mendez continued hands-on dealings with Horsepower after he became the airport's point person for construction.

On March 21, 1997, he approved a no-bid contract for Horsepower to install street lighting at Lejeune Road and Northwest 36th Street near MIA.

Scrawled on a memo setting the contract in motion: "Approved by Richard Mendez, PE, Assistant Director Aviation Department on 3/21/97."



## BID PROCESS

Miami-Dade administrators said the \$126,000 contract should have been put to bid.

"He should have bid that. It's always best to put it out for bid," said Assistant Public Works Director Eduardo Vega.

The county charter states all contracts or purchases greater than \$100,000 "shall be secured" via sealed bids.

But in the real world of government, that rule is sometimes bypassed to expedite work, said Assistant County Attorney Bob Cuevas. Still, Cuevas said: "How do you know if you are getting the best price unless you put it out to bid?"

Rather than seek bids, Mendez tapped an existing public works contract held at the time by Horsepower. A public works official asked Horsepower for a proposal, and Mendez signed off.

Mendez said the work was needed quickly because the site was unstable and susceptible to flooding due to poor drainage. "Accessibility and safety problems due to poorly lit and unevenly graded areas are of great concern," he wrote in a memo at the time.

Competitors were shut out.

"If we were aware of it, we would have bid," said James Hardemon, manager for American Lighting & Signalization, which also had a public works contract at the time.

MIA instead approved a proposal submitted by Horsepower President Hector P. Ortiz, who is a friend of Mendez's family, according to Mendez.

Horsepower is a steady donor to Miami-Dade political races. The firm, its principals and related businesses have contributed at least \$12,000 since 1996. Penelas received the most, \$4,000.

## 'NO CONFLICT'

In a letter to The Herald, Ortiz said the company obtained all of its work through public bidding and disputed any conflict of interest. He described Costa, Mendez's relative, as a "helper in our truck maintenance department" who was hired through an "open selection process."

"We do not consider Mr. Costa's employment a conflict with our work with Dade County, since he did not perform any work for Dade County and he has no interest in the company."

Ortiz questions the notion that the \$126,000 job was no-bid, saying his firm had won its public works contracts through a public bid process. He said his family has long been involved in "community, charity and political activities," but that those have no impact on his business.

## **EMBARRASMENTS**

Beyond the Horsepower contract, Mendez's MIA tenure was marked by controversy.

He was known as a hard-driving director who drew praise in some quarters, but MIA suffered several embarrassments on his watch. One involved a basic car wash that ballooned to a \$1.5 million boondoggle, costing nearly \$1 million more than county experts anticipated. The Herald reported last year. Mendez personally approved the price after his staff balked.

Another involved an overpriced parking garage, known as Park 7, part of MIA's Dolphin garage. The county spent \$23,000 per space to build the garage and resolve construction flaws, far above the typical \$13,000 spent elsewhere. The Herald reported in October.

Mendez pushed for a higher payout to Odebrecht Contractors of Florida than airport consultants suggested. Miami-Dade Commissioner Natacha Millan held negotiating sessions to help prod the county to settlement; her office said she merely wanted to resolve a lingering dispute, and that her ties to Odebrecht lobbyists were not a factor.

## **HATED POLITICS**

Mendez, paid \$127,000 annually, teared up earlier this year when a reporter asked why he was leaving before he could collect a full pension. He said he was sick of the snail's pace of moving a project through County Hall -- and the politics that are often to blame.

"I have a lot of qualified architects and engineers who come to me and say they want to do work with the county. And they ask me, 'What lobbyist should I hire to get the job?' That is not the way to do business," he said.

Mendez described MIA's culture in a letter to The Herald earlier this year as the paper examined his role in several projects.

"The airport is a clique and a hornet's nest of employees, consultants, contractors and vendors with each concerned simply with their own respective agenda without regard or concern to the mission of improving MIA," Mendez wrote.

## **AT THE CENTER**

But county records show Mendez was sometimes at the center of activity. At least a half-dozen times he was involved in directing contractors to hire specific subcontractors for work in violation of county rules.

"It is completely inappropriate and unacceptable for (airport) staff to select subcontractants to be used by a consultant," a county attorney opinion states.

Engineering & Construction Services, creator of 3-D computer programs, is one example. Mendez directed architects working for the airport to hire ECS for more than \$1.5 million in no-bid work, records

Instead of seeking bids, he directed -- or approved by signature -- having airport consultant Dade Aviation Consultants hire specific subcontractors for specific jobs.

Mendez told DAC to pay \$800,000 to Harris, Miller, Miller & Hanson for aircraft noise monitoring equipment, though DAC repeatedly pushed for competition. Company official Andrew Harris did not return three calls seeking comment.

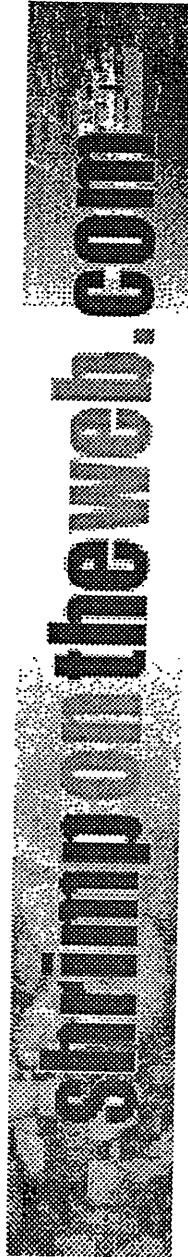
In two other cases, Mendez directed no-bid contracts to experts to help resolve construction problems with the troubled parking garage, records show. He approved a no-bid planning contract for another consultant.

In a fifth case, Mendez told DAC to hire Ricondo & Associates for \$250,000 worth of airfield studies and planning work in 1997. Bypassing bids, Mendez called the firm "uniquely qualified" because of its prior work. Auditors said this route "bypassed established competitive hiring" procedures.

"As a matter of policy, we don't talk about our contractual relationships unless the request comes from the client," said firm President Ramon Ricondo, whose Chicago company contributed a few thousand dollars to recent county races.

Auditors examined the contracts last year in a broader review of the DAC contract.

"Acquiring these services through DAC, bypassing county procedures, undermines the credibility of the procurement process and may subject these transactions to claims of impropriety," auditors concluded.



Contact Us  
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show.

Mendez said the company was on the airport payroll when he arrived in 1995, and it made sense to expand its virtual reality tours of airport renovation projects.

The programs help MIA "identify potential change order situations," he wrote earlier this year. "Such proactive measures can potentially save millions."

Mendez's directives to hire ECS broke county rules.

"It was not done properly or following county procedures," said Airport Director Gary Dellapa. "We should never be directing consultants which subcontractor to engage. We should never be directing -- ever."

Dellapa said he likes the 3-D programming, but, "You pick those through a competitive process."

In subsequent contracts, there was no competition -- just directives from Mendez, who told architects and consultants to put ECS to work creating 3-D models on five different airport projects.

Mendez pressed ahead despite questions from staff, and though one architect told The Herald "we didn't use it."

"I still think that the cost is high, but Richard told me to go ahead with it," airport planner Manuel Rodriguez wrote on one ECS job.

#### **CAMPAIGN FUNDS**

Beyond contributions to the Democratic National Committee, ECS, company President M.J. Parker, staff members and associates gave \$4,000 to Mayor Penelas' 1996 campaign. At least \$2,500 went to the mayor's opponent, Arthur Teele.

Parker said she won her airport contracts on merit, not politics. The company does a good job, she said. "I don't know of anyone doing it with the expertise we have."

In 1996 and 1997, the company's lobbyist was Christopher Korge, a major DNC fund-raiser who helps bankroll campaigns for Penelas and other county politicians. Korge said he didn't help the firm win airport work. He did, however, try to broaden ECS' airport contract to the seaport, contacting Mendez and former manager Vidal.

#### **NO-BID WORK**

Records compiled in a county audit cite five other cases in which Mendez played a key role in nearly \$1.5 million of no-bid airport work.

In memos, Mendez said he needed to move quickly to resolve urgent issues, and that he tapped qualified firms.

By all industry standards, this demonstrates a high degree of accuracy in planning and estimating.

The increased costs of the tunnel work are totally a result of unexpected and extremely difficult ground conditions. The risks of this unpredictable expense are ultimately the responsibility of the Owner; it is the District's management philosophy (and the EPA's requirement) that contractors are not asked to include these contingencies in their bids. If they were, all bids would be substantially higher and the entire contracting process more costly.

The Dryer Building Facility is unique because it is the only major amendment to the original Facilities Design approved by the DNR - added when the District decided it was cost effective and environmentally advantageous to continue in the business of producing Milorganite. Initial cost estimates were made before adequate design information was available in order to qualify for timely entry into the funding process. Subsequently, projected construction expenses increased (due to design refinements) and other necessary costs had to be added which had been omitted from the early estimates.

In order to meet court ordered timetables, it has been necessary to solicit contract bidding in a rapidly growing construction market and this is driving up costs across the board. This is the result of expanding economic activity in Southeastern Wisconsin. MMSD alone is adding construction volume in excess of \$200 million per year in 1987, 1988 and 1989. As a result, there are contracts for which the MMSD could not enlist more than two bids and sometimes only one. Construction costs in this bidding environment have risen over 40 percent in the past two years for CSO work.

The statement that the Milwaukee Water Pollution Abatement Program has tremendous cost overruns is not true. In fact, it is still projected to be completed at its original budget estimate established 5 years ago. The District requested \$94.2 million in additional grant funds which are required to cover cost increases to certain areas of the Program. The MMSD must respond to these needs if it is to meet schedule requirements and to build environmentally acceptable facilities. The requested \$94.2 million in additional grant funds represents only one element of a large and complex Program which has had a number of budget fluctuations since its inception - both up and down. MMSD must respond to these current needs if it is to meet schedule requirements and build environmentally acceptable facilities.

# Village of Slinger

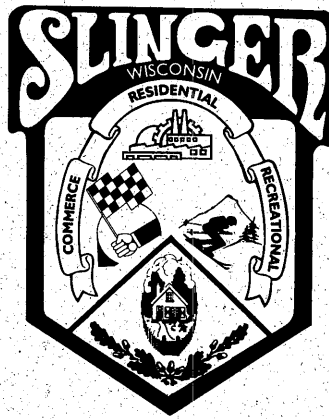
Incorporated 1869

Washington County

220 Slinger Road

P.O. Box 227

Slinger, Wisconsin 53086-0227



# Slinger Utilities

Electric

Sewer

Water

Telephone: (262)644-5265

Facsimile: (262)644-6341

February 8, 2000

Honorable Robert W. Wirch, Chair  
Senate Economic Development, Housing and Government Operations Committee  
Room 310 South, State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882

Dear Chairman Wirch:

The Village of Slinger has reviewed with interest Senate Bill 198 referencing Design Build Authority. Based upon our review of the proposed legislation, the Village would like to go on record as being supportive of efforts to provide municipalities, of all sizes, to utilize this very effective means to accomplish a wide variety of public works projects.

Although the Village is supportive of the above referenced legislation, we believe that any municipality or public agency should be entitled to contract for design/build projects, regardless of a base or ceiling dollar amount. The language currently included in the bill provides too high of a threshold before design/build projects could be accessed by the majority of governmental units in the State.

Again, the Village of Slinger applauds and supports the effort of the sponsors of SB 198, however, we feel that the threshold dollar amount is too great and should be eliminated. Thank you for the opportunity to present this testimony regarding SB 198.

In the event that you have any questions regarding the above, feel free to contact myself at 644-8933, or Village Administrator James Mann at 644-5265.

Sincerely yours,

**Village of Slinger**

A handwritten signature in cursive script, appearing to read 'Gerald A. Kreuser'.

Gerald A. Kreuser  
Village President

Cc: James Mann, Village Administrator  
Village Board



## Village of Slinger

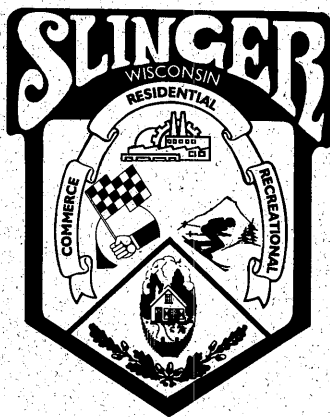
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Village of Slinger

A handwritten signature in black ink that reads "Gerald A. Kreuser". The signature is written in a cursive, flowing style.

Gerald A. Kreuser  
Village President

Cc: James Mann, Village Administrator  
Village Board

**OFFICE OF VILLAGE ADMINISTRATOR**

1971 Washington Street  
P.O. Box 125  
Grafton, WI 53024  
Phone (262) 375-5328  
Fax (262) 375-5304

February 7, 2000

Senate Economic Development, Housing and Government Operations Committee

Dear Senators:

This letter is to express support for S 198, a bill authorizing local governments to let public works contracts under the design-build construction process, and increasing the threshold for competitive bidding of public construction contracts.

Design-build construction is the fastest growing method of project delivery in the private sector. Private sector owners have learned that design-build can shorten project times, allow for earlier and more certain determination of project costs, and create single-point responsibility for project performance. If this system was also available to public project owners, these advantages could make our building projects be completed faster, with less change order negotiation, and better cost control than the current sequential designer-contractor bidding system.

As a municipality, we are involved in many building projects that could benefit from the use of the design-build process. Allowing local governments to use this process will increase local control, and result in the construction of more cost-effective buildings and facilities for our citizens.

Sincerely,

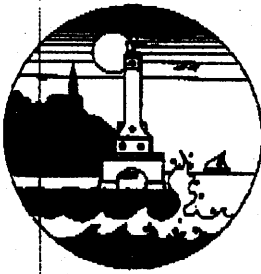
VILLAGE OF GRAFTON

Darrell Hoffland  
Village Administrator

DH:MG:msd



*The Heart Of Ozaukee County*



**CITY OF PORT  
WASHINGTON**

**OFFICE OF CITY  
ADMINISTRATOR**

Mark E. Grams  
City Administrator

February 8, 2000

Senate Economic Development, Housing and Government Operations  
Committee

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Sincerely,

Mark Grams  
City Administrator  
City of Port Washington

100 West Grand Avenue  
P.O. Box 307  
Port Washington, WI 53074  
Tel (262) 284-5585  
Fax (262) 284-7224

**RESOLUTION #00-05**

A Resolution requesting the State Legislature to amend SB 198 to permit the use of design/build contracts by all municipalities without a base limit.

---

WHEREAS, small communities do not have either the resources or the borrowing capabilities of larger communities; and

WHEREAS, we too, as smaller communities, are very cost conscious and have found that design/build projects save us money because of the opportunity to combine the design work with the construction; and

WHEREAS, charges for the creation of bid documents as a separate task and separate costs for the construction are more costly than combining the tasks into a single job; and

WHEREAS, any municipality or public agency should be entitled to contract for design/build projects, regardless of a base or ceiling dollar amount; then

BE IT RESOLVED, the Village of Jackson supports the passage of SB 198, without a stated limit.

BE IT FURTHER RESOLVED, the Village of Jackson supports the passage of SB 198 with a provision which would require paying prevailing wage rates on all projects of \$20,000 or more.

Passed and approved this 8th day of February, 2000.

Introduced by Trustee Phil Laubenheimer

Attest

Alfred P. Bauer  
Village Administrator/Clerk

[Signature]  
Village President