



NOVEMBER 4, 2015

A NEW APPROACH TO INCREASE TRADE AND SECURITY: AN EXAMINATION OF CBP'S PUBLIC AND PRIVATE PARTNERSHIPS

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON HOMELAND SECURITY, SUBCOMMITTEE ON BORDER AND MARITIME SECURITY

ONE HUNDRED FOURTEENTH CONGRESS, FIRST SESSION

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OPENING STATEMENT

November 4, 2015

MEDIA CONTACTS

Susan Phalen, Matthew Ballard

**Statement of Subcommittee Chairman Candice Miller (R-MI)
Border and Maritime Security Subcommittee
House Homeland Security Committee**

A New Approach to Increase Trade and Security: An Examination of CBP's Public Private Partnerships.

Remarks as Prepared

The commerce that moves through the nation's ports of entry powers our economy, drives job creation and is fundamental to our way of life. If ports of entry shut down, or traffic is backed up – millions of dollars may be lost, economic growth comes to an abrupt halt, travelers find other destinations to visit, and would-be customs revenue destined for the U.S. Treasury goes away.

Despite the importance of ports of entry to the nation's economic health, port of entry modernization efforts have been significantly underfunded, and Customs and Border Protection staffing has not kept pace with growing demand.

While CBP is frequently asked to provide new or additional service at ports of entry across the country, CBP is often unable to accommodate these requests due to staffing shortages and other resource constraints.

Over the past few years this Congress has appropriated more than \$2 billion dollars for port of entry construction, but that is dwarfed by the estimated \$ 4-6 billion dollars needed to fully modernize our ports of entry.

Air passenger volumes are growing at a rate of 4 to 5 percent a year, the nation has experienced a 24% increase in cargo containers since the dark days of the Great Recession, and more cars and trucks transit the land ports of entry than ever before.

We are falling further behind every year to match the demands placed on our CBP officers and infrastructure.

In 2014, Congress appropriated hundreds of millions of dollars for an additional 2,000 CBP officers nationwide. However, according to CBP's workflow staffing model, the current need is more than 2,500 additional officers —with projections to grow even further as travel volume increases.

In today's current budget environment, CBP and GSA are hard pressed to find the billions of dollars needed to fix our failing infrastructure and fund additional officers, so we must be creative and explore new approaches to fund the great need across the nation.

The private sector is often a willing partner who can work with CBP, on a mutually beneficial basis, to pay for additional overtime staffing, or donate real or personal property to make ports of entry run more efficiently at peak times.

Congress provided such authority to CBP and GSA in section 559 of the fiscal year 2014 Appropriations Act. This authority established a pilot program, allowing them to enter into public private partnerships to pay for additional officer hours, and to accept donations of real and personal property such as new inspection booths, computers and scanning equipment.

From everything that this committee has heard, those pilots are working well to meet the immediate needs of land, air and sea ports of entry across the nation and I look forward to hearing from our witnesses today on how these can be improved.

Today, 19 ports of entry have entered into reimbursable service agreements with CBP that will pay for additional officer hours when those air, land, and seaports need it most. The need for this type of agreement has been clearly and convincingly demonstrated – so far CBP has been reimbursed for over 12.9 million dollars in expanded overtime. In one case study, it was found that, despite increases in travel volumes at Dallas Fort Worth Airport, DFW has experienced an estimated 45% decrease on its average wait time as a result of the partnership they entered into with CBP.

In addition, three localities in Texas are poised to take advantage of donation authority at land ports of entry to provide CBP with additional booths, new scanning equipment, and renovations to an agricultural lab.

This is why the full Committee, through a thoughtful amendment offered by the gentleman from Texas, Mr. Hurd, unanimously voted to permanently authorize CBP's Public Private Partnership program, which is characterized by its Reimbursable Services Program and its Donation Acceptance Program.

But the donation authority is limited, and is not designed to pay for an entire port of entry, or significant expansion. Congressional appropriations alone are appropriate for such large scale projects of national importance.

As our economic and security requirements grow, our ports of entry must be able to accommodate more trucks, passengers and cargo, while at the same time providing convenient and secure travel for the people who cross the border each day.

That is why I fully support concepts like public-private-partnerships and other innovative ways to fund infrastructure improvements. Our authorization language makes sure CBP can leverage this important tool well into the future.

And with the second busiest port of entry along the Northern Tier, the Blue Water Bridge, in my district, and the busiest along the Northern border, the Ambassador Bridge just 60 mins to the south, I am keenly interested in the application of public private partnerships to meet the infrastructure and staffing challenges close to home.

I look forward to hearing from our witnesses on how the GSA works collaboratively with CBP on both the Reimbursable Service Agreements and Donation authority provided by this Congress to improve the flow of travel and cargo through the air, land and sea ports.

CBP and GSA owned and leased ports of entry across the nation are in dire need of modernization and expansion. I believe we need to tap into the expertise and willingness of the private sector, and partner with them to come up with better, more cost effective approaches for new port of entry construction, modernization and staffing needs.

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TESTIMONY OF

JOHN WAGNER
Deputy Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
U.S. Department of Homeland Security

BEFORE

House Committee on Homeland Security
Subcommittee on Border and Maritime Security

ON

“A New Approach to Increase Trade and Security: An Examination of CBP’s Public Private Partnerships”

November 4, 2015
Washington, DC

Chairman Miller, Ranking Member Vela, and distinguished Members of the Subcommittee — thank you for the opportunity to discuss U.S. Customs and Border Protection’s (CBP) efforts to partner with our stakeholders to secure and facilitate growing volumes of travel and trade.

CBP is responsible for securing the Nation’s borders at and between ports of entry (POEs). CBP serves as the frontline in defending the American public against terrorists and instruments of terror and protects our economic security while facilitating lawful international travel and trade. CBP takes a comprehensive approach to border management and control, combining national security, customs, immigration, and agricultural protection into a coordinated whole.

The Office of Field Operations (OFO) is the law enforcement entity within CBP responsible for carrying out CBP’s complex and demanding mission at all POEs. Staffing needs at the POEs continue to increase as CBP takes on additional mission requirements and as trade and travel volumes continue to grow. To address this ongoing challenge, we developed a three-part Resource Optimization Strategy that 1) identifies staffing requirements using a Workload Staffing Model; 2) ensures the efficient use of resources by optimizing current business processes; and 3) develops and uses alternative funding mechanisms, such as reimbursement agreements, to support staff increases where appropriate.

The Workload Staffing Model employs a rigorous, data-driven methodology to identify staffing requirements by considering all the activities performed by CBP officers at our POEs, the volume of those activities, and the levels of effort required to carry them out. The staffing model also incorporates processing efficiencies gained through business transformation initiatives such as trusted trader and traveler programs and Automated Passport Control kiosks. The most recent results of this model show a need for 2,624 additional CBP officers through Fiscal Year (FY) 2016.

Thanks to the support of Congress, the *Consolidated Appropriations Act, 2014*, P.L. 113-764, and the *Department of Homeland Security Appropriations Act, 2015*, (P.L. 114-4), included funding for additional CBP officers at the POE. These additional officers were allocated utilizing the Workload Staffing Model and were directed to those ports with the greatest need. While these additional officers will bring significant support to our mission, it is important to note that this is a good down payment, but unfortunately, no POE will be “made whole” by this allocation of officers. Therefore, CBP continues to pursue transformation efforts and, to the purpose of this hearing today, new partnerships with our stakeholders.

There are more people and goods coming through our POE than ever before. Since 2009, we have seen growth in both trade and travel and we expect these trends to continue. Every year, OFO facilitates the travel of tens of millions of international tourists visiting our Nation. In FY 2014, CBP inspected more than 370 million travelers at our air, land, and sea POEs, 12 million more than in FY 2013.

The facilitation and security of lawful travel and trade is a priority for CBP and we are taking steps, working closely with Congress, our stakeholders, and the U.S. General Services Administration (GSA), to improve our POEs and our security and facilitation efforts to try and meet the needs of those stakeholders that drive our economy. At CBP, we view effective and

efficient security as a contributor to facilitation not a barrier. Security measures are vital to protecting travel and trade from the damaging effects of terrorist or other security incidents. Our goals of national security and economic prosperity are fundamentally intertwined.

CBP's role in securing and facilitating international trade and travel is critical to the growth of our economy and the creation of more jobs.¹ CBP's operations entail sophisticated targeting and communication systems, state-of-the-art detection technology, and a cadre of professional law enforcement personnel to identify, screen, and inspect high-risk persons and cargo and maintain an efficient stream of cross-border travel and trade. However, the success of our operational strategy depends heavily on the condition and operational utility of our inspection facilities and the availability of CBP personnel.

When it comes to constructing and sustaining CBP's land port of entry (LPOE) inspection facilities, CBP works in close partnership with the GSA Public Buildings Service, which manages many of the LPOE facilities. Most of our 167 LPOE inspection facilities² were not designed to meet the post-9/11 unified security and operational missions of CBP. Rather, they were built to support the distinct operations of pre-Department of Homeland Security components, such as the U.S. Customs Service, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, and the U.S. Immigration and Naturalization Service.

Furthermore, several POEs along the land borders were built more than 70 years ago and require renovation or replacement to meet present-day operational and security standards. Many constructed as recently as 15 to 20 years ago also require significant modernization to address growing demands for additional processing capacity, new security requirements and enforcement technologies, and the need to maximize the efficiency of existing personnel and resources.

Infrastructure enhancements are critical to the improvement of trade and travel facilitation; these changes are necessary to support current traffic volumes and modern technology. Due to competing demands for limited Federal resources, there has been limited investment from the U.S. Government in modernizing POEs. However, thanks to the support of Congress, CBP received authority to accept certain donations at our POEs.

Partnerships with the Private Sector and Government Entities.

CBP is frequently asked by our stakeholders to provide new or additional services at POEs across the country. We recognize the potential economic impact for new or expanded service, and we very much want to support these endeavors. However, due to limited resources, we are not always able to accommodate these requests.

¹ "The Impact on the U.S. Economy of Changes in Wait Times at Ports of Entry," National Center for Risk and Economic Analysis of Terrorism Events (CREATE), University of Southern California, released April 4, 2013 (dated March 31, 2013).

² LPOEs include all at-grade and bridge land port inspection facilities. These land port inspection facilities fall within the POE definition under 8 CFR § 100.4(a).

A key aspect of CBP's three-pronged Resource Optimization Strategy is the exploration of partnering with the private sector on activities such as reimbursement and donations. As part of CBP's Strategy, CBP received authority to enter into agreements under Section 560 of Division D of the *Consolidated and Further Continuing Appropriations Act, 2013*, P.L. 113-6 (Section 560); and Section 559 of Division F of the *Consolidated Appropriations Act, 2014*, P.L. 113-76 (Section 559).

Under Section 560, CBP received authority allowing the Commissioner of CBP to enter into no more than five agreements, under certain conditions, to provide new or enhanced services on a reimbursable basis in any of CBP's non-foreign operational environments. CBP implemented this authority, entering into agreement with the participating locations³ before the late December 2013 statutory deadline. In January 2014, CBP received additional authority under Section 559, which authorizes CBP to enter into partnerships with private sector and government entities at POEs to reimburse the costs of certain CBP services and to accept donations of real and personal property (including monetary donations) and non-personal services. Further, Section 552 of the *Department of Homeland Security Appropriations Act, 2015*, (P.L. 114-4), amended Section 560 and Section 559(e) to allow for certain additional charges at airports.

These provisions respond to CBP's efforts to find innovative approaches to meet the growing demand for new and expanded facilities and, in particular, the ongoing modernization needs of CBP's LPOE portfolio.

Reimbursable Services Agreements

Section 559(e) expands CBP's authority, under a five-year pilot program, to enter into reimbursable agreements similar to the FY 2013 "Section 560" authority. This new authority allows CBP to support requests for expanded services including customs inspection, agricultural processing, border security services, and immigration inspection-related services at POEs; salaries for additional staff; and CBP's payment of overtime expenses at airports. While there is no limit on the number of agreements CBP can enter into at CBP-serviced seaports or land border ports, only five agreements per year are currently allowed at new or existing CBP-serviced airports for each of the five years the pilot program is authorized. Additionally, the law stipulates that agreements may not unduly and permanently impact existing services funded by other sources.

CBP evaluates each Reimbursable Services Agreement (RSA) proposal based on a single set of objective and carefully vetted criteria to ensure that final recommendations will be most beneficial to CBP, to the requesting parties, and to the surrounding communities. The main factors of consideration include the impact on CBP operations; funding reliability; community and industry concerns; health and safety issues; support from other state, local, and federal law enforcement agencies; local/regional economic benefits; and feasibility of program use.

³ The Section 560 participating partners are the Dallas/Fort Worth International Airport Board, the City of El Paso, Miami-Dade County, the City of Houston Airport System, and the South Texas Assets Consortium.

RSAs enable stakeholders to identify enhanced services needed to facilitate growing volumes of trade and travel at specific POEs, and enables CBP to receive reimbursement so that we can fulfill those requirements. The authority provides stakeholders and CBP the flexibility to meet situational or future demand for extended or enhanced services to secure and facilitate the flow of trade or travel at participating ports. At LPOEs this authority enables CBP to open and staff additional lanes or provide services for extended hours to reduce wait times and expedite commercial and personal traffic. At airports, RSAs enable CBP to staff additional booths on an overtime basis during peak hours. At seaports, RSAs enable CBP to provide additional processing of cruise passengers and commercial cargo, furthering the facilitation of travel and trade.

In the first 21 months of the program, CBP has entered into agreements with 20 stakeholders, providing more than 112,000 additional processing hours at the request of our partners—accounting for the processing of more than 2.7 million travelers and nearly 425,000 personal and commercial vehicles. Among the participating airports, the added hours and supplementary lane openings, in conjunction with other passenger processing initiatives, have helped decrease wait times by an average of almost 30 percent while traveler volume has increased about 7 percent. The program continues to expand as new agreements are signed every year, as authorized by this 5-year pilot program.⁴

Donation Acceptance Authority

Section 559(f), the Donation Acceptance Authority, authorizes CBP and GSA to accept donations of real or personal property (including monetary donations) or non-personal services from private sector or Government entities. Any donation accepted may be used for necessary activities related to the construction, alteration, operation, or maintenance of a new or existing POE, including but not limited to: land acquisition, design, and the deployment of equipment and technologies. These donations are expected to reduce border wait times, support increased traffic flow and volume, and yield other transportation and security-related benefits.

The Donation Acceptance Authority legislation requires that CBP and GSA establish and publish its procedures and criteria for evaluating donation proposals submitted under Section 559.

CBP and GSA coordinated closely to satisfy this statutory requirement by jointly developing the Section 559 Donation Acceptance Authority Proposal Evaluation Procedures & Criteria Framework, which CBP published on October 1, 2014.⁵ This document outlines the robust operational and technical evaluation criteria that CBP and GSA use to determine proposal viability. These criteria include but are not limited to: the impact to CBP operations, increased trade and travel efficiency, economic and community benefits, financial feasibility, and real estate and environmental implications. This document also describes the procedures that CBP

⁴ A full list of current participants is available at <http://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/reimbursable-services-program>.

⁵ http://www.cbp.gov/sites/default/files/documents/DAA%20Proposal%20Evaluation%20Procedures%20%26%20Criteria%20Framework_Public%20FINAL.pdf.

and GSA use to systematically plan, develop, and formally accept proposed donations in close coordination with its public and private sector partners.

On July 24, 2015, CBP announced that proposals submitted during the FY 2015 open season from the following stakeholders had advanced to Phase II: Proposal Planning & Development – The City of Donna/Donna Rio-Bravo LPOE; the City of Pharr/Pharr LPOE; and the City of El Paso/Ysleta LPOE. During this Phase, CBP, GSA and the project sponsor will collaboratively plan and develop these proposals into executable projects that fulfill CBP’s operational needs at an acceptable cost, schedule, and risk.

In sum, CBP is implementing business improvements, thoroughly and systematically analyzing port of entry staffing needs and exploring alternative sources of funding to bridge current and anticipated mission resource gaps. Both the Reimbursable Services Authority and the Donation Acceptance Authority enable CBP to build effective partnerships with stakeholders to address the port requirements necessary to support growing volumes of travel and trade.

Conclusion

The effective security of our Nation and facilitation of international trade and travel rely heavily on the health and operational utility of our inspection facilities. Innovative funding sources, such as the Reimbursable Services Authority and the Donation Acceptance Authority, are critical components of CBP’s Resource Optimization Strategy. CBP views these authorities as an opportunity to proactively work with stakeholders and communities to identify business solutions for a variety of border management needs and generate mutual benefits.

The combination of highly trained personnel, technology, and modernized facilities forms the essential foundation for CBP’s operational strategy, which every POE, large or small, must be able to support. CBP continues to evaluate and optimize its primary business processes and will further develop transformation initiatives to accomplish its mission more effectively and efficiently, through practices such as employing technology to streamline processes, expanding Trusted Traveler/Trader Program enrollment, increasing risk segmentation through enhanced targeting/pre-departure initiatives, and leveraging operational best practices.

Legitimate travel and trade play a critical role in the nation’s economic growth and CBP recognizes its role in sustaining such growth. The number of international visitors and overall cross-border traffic is increasing, and CBP is aggressively working on modernizing our infrastructure and transforming the way we do business to more effectively and efficiently secure our Nation and improve our economy.

Chairman Miller, Ranking Member Vela, and Members of the Subcommittee, thank you for the opportunity to testify today. I am happy to answer any questions you may have.

STATEMENT OF

**MR. MICHAEL GELBER
DEPUTY COMMISSIONER, PUBLIC BUILDINGS SERVICE
U.S. GENERAL SERVICES ADMINISTRATION**

**BEFORE THE HOUSE COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY**

November 4, 2015

Introduction

Good morning Chairman Miller, Ranking Member Vela, and members of the Subcommittee. My name is Michael Gelber, and I am Deputy Commissioner of the U.S. General Services Administration's (GSA) Public Buildings Service. Thank you for inviting me to this hearing on examining the use of public-private partnerships as a tool to increase trade and security.

GSA's mission is to deliver the best value in real estate, acquisition, and technology services to government and the American people. As part of this mission, GSA maintains a close partnership with the Department of Homeland Security's U.S. Customs and Border Protection (CBP) to meet that agency's space needs along our Nation's borders; CBP is our primary partner among the Federal inspection agencies stationed along our land borders.

With constrained Federal funding, GSA has explored and used alternative project delivery methods to support land port projects. I will discuss how GSA has implemented these alternative methods, as well as explain how GSA works with CBP through the traditional budget and appropriations process to plan and execute port projects.

The Vital Role of Land Ports

GSA works closely with CBP to design, construct, maintain, and operate land ports of entry along more than 1,900 miles of border between the United States and Mexico and more than 5,500 miles of border between the United States and Canada. The ports managed by GSA are critical to the nation's trade and security.

On a daily basis, approximately \$2 billion in goods, 289,000 cars, 114,000 pedestrians, and 25,000 commercial vehicles cross the border at one of these 167 ports. From 2000 to 2014, the combined value of trade between the U.S. and Canada and the U.S. and Mexico via surface transport has increased over 80 percent, from \$546 billion in 2000 to \$987

billion in 2014. Safe, secure, and modern land ports along our borders are critical to ensuring an efficient flow of commerce and visitors that support American jobs and our Nation's economy.

Of the 167 land ports of entry (LPOEs) along the U.S. borders, GSA manages 124, of which the Government owns or partially owns 102. GSA's land ports of entry encompass more than 5.5 million square feet of space.

GSA's Ongoing Partnership with CBP in Support of Land Port Investments

Over the past 16 years, GSA has invested more than \$1.8 billion from the Federal Buildings Fund to deliver more than 20 new land ports along our northern and southern borders. In the past five fiscal years, the Administration has requested over \$900 million in support of land port modernization to address the inspection agencies' most pressing needs.

Unfortunately, Congress has provided just over \$600 million of these requests, all of which came in Fiscal Year (FY) 2014 and FY 2015. In the absence of full access to the resources in the Federal Buildings Fund, GSA has been unable to execute critical modernizations and land port upgrades that would enhance the security of our borders and improve the efficient flow of commerce with our partners in Canada and Mexico.

Alternative Resources in Support of Land Port Projects

As a consequence of this funding shortfall, we have seen intense interest in finding alternatives to Federal appropriations to support the delivery of high-priority land port projects. Importantly, when assessing the viability of any project, GSA and CBP look comprehensively at the full life-cycle cost of a port. This analysis includes the site where construction is to take place, the infrastructure that will be needed to support the mission, the funding and source of that funding to operate and maintain the facility, and the sophisticated technology and equipment the Government uses to secure the Nation's borders. If an alternative funding source might be available for any of these items, GSA and CBP still would need to obtain funding to address the other costs associated with the project. Thus, acceptance of what appears to be a "cost-free" donation could ultimately result in additional costs to the Government. At the same time, if the investment is required to address critical commerce and security requirements at the border, a donation would result in lower costs to the Government than if the Government had to make the full investment. When evaluating a donation, GSA and CBP will continue to weigh these various cost implications relative to the opportunity's impact on CBP operations, border security, trade and travel, and local and regional economic benefits.

GSA has longstanding authority to accept unconditional gifts of real and personal property from other public or private entities. GSA has used this authority on occasions when state or local governments, and in a few cases private sector entities, have elected to donate land or other real property to GSA to realize the economic benefit associated with a new or expanded land port of entry.

For example, at the San Luis II port in Arizona, GSA received a donation of land and utilities in support of the site to help advance the modernization of the port. In Donna, Texas, the City donated money for design, land for the site of the port, and 180,000 cubic yards of fill dirt for construction. In Columbus, New Mexico, a private landowner donated approximately 10 acres of land to GSA near the port site for construction and a bypass road for commercial trucks.

Congress has supported these efforts by providing additional statutory authority to receive donations and reimbursable services. In FY 2013, CBP received limited authority to enter into reimbursable service agreements with private sector entities for the provision of certain inspection services.¹ Congress expanded CBP's ability to execute these reimbursable service agreements, while at the same time broadening GSA's and CBP's donation acceptance authorities, through section 559 of the Consolidated Appropriations Act of 2014 (the "Section 559 Donation Acceptance Authority").²

As required by the Section 559 Donation Acceptance Authority, GSA and CBP worked collaboratively to establish robust evaluation criteria, incorporating feedback from a broad range of stakeholders. The jointly developed Donation Acceptance Procedures Framework (the "DAP Framework") outlines the criteria and procedures for evaluating donation proposals. GSA and CBP used the DAP Framework to evaluate seven donation proposals received during the first open submission period, which concluded on December 23, 2014. CBP, with concurrence from GSA, selected three proposals to advance to Phase II: Proposal Planning & Development - The City of Donna/Donna Rio-Bravo LPOE; the City of Pharr/Pharr LPOE; and the City of El Paso/Ysleta LPOE. During this Phase, GSA, CBP, and the project sponsor will collaboratively plan and develop these proposals into executable projects that fulfill CBP's operational needs at an acceptable cost, schedule, and risk. In the event that proposal planning and development results in one or more viable donations that are acceptable to CBP and GSA, the parties will further define their respective responsibilities and funding obligations with respect to the proposed donations. If one or more of these projects are successfully implemented,

¹ *Consolidated and Further Continuing Appropriations Act of 2013*, P.L. 113-6, division D, title V, section 560.

² *Consolidated Appropriations Act of 2014*, P.L. 113-76, division F, title V, section 559.

the Section 559 Donation Acceptance Authority may prove to be an effective alternative financing model for improving our Nation's land ports of entry.

Conclusion

Thank you for the opportunity to testify today about the importance of our land ports for commerce and security, requirements and funding constraints for upgrading this infrastructure, and the opportunities and challenges involved with alternative financing models. I look forward to working with this and other Congressional Committees, other stakeholders and the Federal inspection agencies to make strategic investments in our Nation's land ports of entry. I am happy to answer any questions you may have.

TESTIMONY BY SAM F. VALE
PRESIDENT
SOUTH TEXAS ASSETS CONSORTIUM
PAST CHAIRMAN
BORDER TRADE ALLIANCE
PRESIDENT
STARR-CAMARGO BRIDGE CO., RIO GRANDE CITY, TEXAS

A NEW APPROACH TO INCREASE TRADE AND SECURITY: AN EXAMINATION OF CBP'S PUBLIC PRIVATE
PARTNERSHIPS
BORDER AND MARITIME SECURITY SUBCOMMITTEE
HOUSE COMMITTEE ON HOMELAND SECURITY
NOV. 4, 2015

Chairwoman Miller, Ranking Member Vela and members of the Subcommittee, my name is Sam Vale. I am the president of the Starr-Camargo Bridge Company, a privately owned Port of Entry (POE) in Rio Grande City, Texas. Our bridge spans the Rio Grande and connects two communities of about 20,000 inhabitants each: Rio Grande City and Camargo, Tamaulipas, Mexico. We are one of the smallest passenger and commercial POEs along the Southern Border. In addition to bridge operations, my company and its subsidiaries are involved in a host of businesses related to cross-border trade and commerce in both the U.S. and Mexico.

I appear before you today, however, in my capacity as the president of the South Texas Assets Consortium, or STAC, and as the past chairman of the Border Trade Alliance.

The Border Trade Alliance

For nearly 30 years, the BTA has provided a forum for analysis and advocacy on issues pertaining to the U.S.-Canada and U.S.-Mexico border regions. A network of public and private sector representatives from all three NAFTA nations, our organization has been involved in a number of important border issues, ranging from the implementation of the North American Free Trade Agreement, to the original organization of the Department of Homeland Security to the perennial issue of staffing, infrastructure and trade processes.

The South Texas Assets Consortium

The South Texas Assets Consortium, or STAC, was formed specifically to contract with Customs and Border Protection under Sec. 559 and its predecessor program, Sec. 560. Our members are:

City of Laredo
City of McAllen
City of Pharr
Cameron County
Starr-Camargo Bridge Co.

The members of STAC are also members of the BTA. The BTA is also proud to count the City of El Paso, Texas as a member, which is also a participant in Sec. 560, and which I will touch on in my testimony.

Sections 559 and 560

Section 560 of the Consolidated and Further Continuing Appropriations Act of 2013, and its successor, Section 559 of the Consolidated Appropriations Act of 2014, were, in many ways, the answers to the trade community's ongoing calls for a creative response to consistent concerns over staffing levels at the POEs.

Thanks to innovative thinking within the Department of Homeland Security, CBP, and leaders in Congress like this subcommittee's ranking member, Filemon Vela, and Senator John Cornyn, Congressmen Henry Cuellar, Michael McCaul and John Carter to name but a few, the trade community now has a viable option to work in tandem with CBP to supplement staffing levels and improve infrastructure. Under these reimbursable service agreements, local governments and private sector entities can apply available funds to secure expanded services at their POE to facilitate trade and travel processing. Under the agreements, CBP must exhaust its available budgeted resources before tapping those of its partners.

Section 560 began with five pilot partners; STAC and El Paso were the only two land border entities to enter into the initial five reimbursable service agreements.

Section 559 in 2014 built on Sec. 560's solid foundation by expanding the eligible service offerings to include customs, agricultural processing, border security services, and immigration inspection-related services at POEs. Sec. 559 also opens the possibility of infrastructure improvements under a donation acceptance authority with CBP and the General Services Administration, which allows for the transfer of real or personal property intended for the construction of a new POE or the maintenance of an existing one. STAC transitioned into the Sec. 559 designation and dropped the 560 process, and the program has since welcomed several new partners.

The benefits for STAC under Sec. 559

The members of STAC have employed their Sec. 559 authority to secure overtime hours for CBP officers. This ability has proven especially beneficial during times of peak cross-border activities of both passenger vehicles and commercial trucks.

Holidays in Mexico and border communities, such as *Semana Santa* (Holy Week), the period between Good Friday and Easter, generate a significant spike in private vehicle operations. These are very hard to staff for as traffic ebbs and flows depending on the day of week and time of day.

The Cities of McAllen and Pharr POEs employed their Sec. 559 authority during *Semana Santa* in 2014 and again in 2015. By doubling the primary inspection lanes' staffing levels, wait times were reduced from four hours to two. In McAllen's case, \$50,000 made available to McAllen via the chamber of commerce, economic development authority and the city-owned bridge itself, were used to pay for the overtime hours. The City of Pharr POE paid for its overtime hours directly from bridge tolls.

The city and its partners view their contributions as an investment, with the return on investment evidenced by greater hotel occupancy rates and higher retail sales and restaurant receipts.

Discretion is left to the individual STAC member of how to pay for the expanded CBP services and when to use the authority. STAC members prefer to pay for overtime hours to process commercial cargo, but will also pay for expanded private passenger vehicle services by CBP, such as during holidays.

El Paso

One of the most encouraging aspects of these reimbursable service agreements is the program's flexibility. While STAC has used the program to purchase overtime hours, El Paso has used the program to fund overtime for current CBP officers working to keep all lanes open during peak hours for pedestrian, POV, and commercial truck lanes. In either case, CBP has been a willing partner. El Paso chose to reimburse CBP for overtime to process the backlog of commercial trucks from manufacturers of just-in-time inventory and, to a lesser extent, private vehicle and pedestrian lanes. Since the inception of the Section 560 program, the City of El Paso has helped fund over 19,000 overtime hours at two of the city's ports. The City has reimbursed CBP over \$2 million for these overtime hours since January 2014.

In addition to the application of Sec. 559 and 560 programs, the City of El Paso, in close collaboration with CBP, the Texas Department of Public Safety, manufacturers, and transportation companies among others, is heading efforts to start several improvement projects in an effort to reduce commercial wait times at the Ysleta Port of Entry using Lean Six Sigma methodologies. These efforts began in September 2015 and already a total of 22 potential projects have been identified that can aid in reducing commercial wait times including the use of intelligent transportation systems, several traffic control improvements on both sides of the border, and two pilot programs that will help to more evenly distribute the arrival of commercial trucks throughout the operational day and lessen the impacts of peak crossing hours.

This new option available to STAC and the other Sec. 559 and 560 partners with CBP makes a real, positive difference for border communities and even the nation. The National Center for Risk and Economic Analysis of Terrorism Events at the University of Southern California found in 2013 that the addition of just one CBP officer can inject \$2 million into the U.S. economy and create 33 jobs.¹ Quite simply, trade means jobs. Thirty-eight million jobs depend on international trade²; 6 million on trade with Mexico.³ More importantly, the private sector cannot wait until the government makes the necessary budget corrections to meet the market-driven demands of trade and commerce.

Responding to the skeptics

We occasionally hear from some corners that these reimbursable service agreements have set an unhelpful precedent by shifting to local governments and the private sector responsibilities that should be borne solely by the federal government as part of its obligation to manage the nation's borders.

¹ <http://www.cbp.gov/border-security/ports-entry/new-report-links-cbp-officer-staffing-economic-growth>

² <http://www.tradebenefitsamerica.org/resources/more-one-five-us-jobs-depend-trade>

³ <http://naftamexico.net/mapa/newmap.pdf>

Without this help, though, both the U.S. and Mexican governments would be in violation of their international Diplomatic Notes - agreed upon years in advance – directing when new services were to be funded and operational.

McAllen's Anzalduas International Bridge was to open commercial processing January 1, 2015, but to date has not been opened. The federal governments of both the U.S. and Mexico did not own the land and did not have the budgets to build the required infrastructure. McAllen agreed to pay the cost of road infrastructure in both Mexico and the U.S., as well as donate the needed funds for inspection facilities on U.S. government land. Had a reimbursable service agreement already been in place, the original Anzalduas deadline would have been met.

We are sensitive to critics' arguments and, in a perfect world, would prefer that federal budget allocations were able to keep pace with growing trade volumes. It simply is not in our DNA to pay for what is an obligation of the federal government. But these Reimbursable Services Agreements have given the trade community something it did not have before: choice. Before the law that made these agreements possible went into effect, we had no options to help alleviate the long backups at our ports and had to suffer the consequences and the loss of competitiveness and tax dollars. Now we have the choice to enter into a contract with CBP to augment the agency's services to respond to our most pressing needs and, hopefully, receive a strong return on that investment. We hope our contributions can be replaced when budgets can pay for federally delivered services.

Areas for improvement

The program is still in its infancy, so while it has largely been a positive one for its partners, there are still areas for improvement.

The lack of available regular and specially trained staff within CBP's ranks remains a challenge. In El Paso, the general shortage of CBP agents to keep all lanes open at peak hours is problematic. As to the latter, the Starr-Camargo Bridge Co. would be willing to fund additional hours for CBP Agricultural Specialists. Unfortunately, there is an overall lack of these individuals agency-wide. Our willingness to devote funding to them does little good if they don't exist in the first place.

Also, flexibility for participants in the program is key. CBP does not always have the manpower when we need it and are willing to pay for it. We would recommend the agency investigate the establishment of a pool of officers that could float from port to port and fill overtime needs and not leave a hole behind in the POE that they are assigned to.

Looking ahead

We are optimistic that the program will continue to grow in popularity. While thus far we've seen land border service agreements in Texas where tolled bridge crossings – and thus an existing revenue stream - already exist, states with non-tolled facilities are investigating creative ways to raise funds that could be applied to a Sec. 559 agreement.

We also anticipate growth on the infrastructure side. Once investors have the confidence of the long-term viability of the program will they be more likely to make the financial commitments necessary to bring a project to completion and realize a return.

As an organization, the BTA is supportive of the concept and possible amendment from Chairman McCaul and Congressman Hurd to make the Section 559 program permanent and remove the current five-year limitation. Today, in the case of infrastructure projects that would take longer than five years to repay investors, CBP is authorized to issue an extension for a specific time period for that project only. However, this is not sufficient for very large infrastructure investments like highways to and from the POEs. What could be projected as a 30-year payout could turn into 50 years as circumstances change in the out years that are hard to predict. Thus, no infrastructure projects requiring significant investments have been planned that could secure financing from bonds or investors.

Financial institutions or investors typically object to having any limits on the time frame infrastructure they financed can use to pay the debt. They want the ability to use this infrastructure unconditionally until the debt is fully serviced.

Finally, the private sector needs to work more closely with CBP and Mexican Aduanas to generate an annual study that provides realistic business growth projections over a 3 to 5-year period. Presently, the primary projection data for staffing needs comes from historical data and a new work model. To secure access to private data and growth projections, industry will have to be reassured about their company's data security and preserving anonymity regarding their specific business growth projection plans.

We must resolve the disconnect between CBP and Aduanas on how to operate at the ports of entry, especially regarding hours of service, the allocation of budgeted funds and the qualifications of needed staffing.

We recommend an overall coordination effort that consists of smaller industry sector groups working through their industry's objections and concerns. The outcome would be important to both industry and the public sector operating at our POEs.

We are also optimistic of future opportunities to leverage new resources. For example, regarding our concerns over the lack of specialty personnel within CBP, the state of Texas now has a grant program to which STAC will be able to apply to secure funds that would allow for the hiring of agriculture inspectors by CBP. It is innovative thinking like this at all levels of government that will help our nation keep pace with the demands of global trade.

We believe that private inspectors vetted by CBP can, when CBP lacks funds, participate in pre-inspection programs on the Mexican side of the border for commercial trucks. There are very valuable pilots of pre-inspection programs underway between CBP and Mexican Aduanas, but these are slow to get approved and generate little near term-relief.

The Border Trade Alliance and the South Texas Assets Consortium appreciate this opportunity to testify before you here today. The BTA was proud to have been a vocal advocate for the adoption of these innovative public-private partnerships between CBP and the trade community, and we believe they are proving extremely beneficial both to the nation's security and its economic competitiveness. We look forward to working with the members of the Homeland Security Committee and this subcommittee as we seek new solutions to our border challenges.

Testimony of David A. Garcia

County Administrator - Cameron County, Texas

November 4, 2015

House Committee on Homeland Security Subcommittee on Border and Maritime Security
A New Approach to Increase Trade and Security: An Examination of CBP's Public Private Partnerships

Chairman Miller, Ranking Member Vela, and Members of the Committee thank you for the opportunity to come before the Border and Maritime Security subcommittee today. For the record, I have provided my testimony to the committee staff and look forward to a constructive discussion on trade and security at our ports of entry.

My name is David Garcia and I serve as the County Administrator in Cameron County. I was born and raised in Brownsville, Texas. I have been working on infrastructure, transportation, economic development, trade and security, and many other projects in the region for many years. I understand the border and its uniqueness. In our region we depend heavily on the ability to move traffic efficiently on a daily basis through our Ports of Entry. We believe strongly in the program to allow for Public Private Partnerships within the Department of Homeland Security Customs and Border Protection as well as other federal agencies in which we can take advantage of opportunities to improve our infrastructure and manpower. Cameron County has a history of working on public private partnerships on a variety of projects. So I thank you for the opportunity to come before you today to share our views from a regional perspective.

From 1995 to 2004, I spent ten years as a senior staffer working on trade and commerce affecting Texas and the country and so it definitely is an honor and a privilege to be here to share my perspective from the local government standpoint. I was also here in the Rayburn Building on 9-11 and worked on the legislation creating the Department of Homeland Security. Fourteen years later it still feels like yesterday. And so I applaud the members of this committee as you continue to improve and authorize programs and objectives of the various agencies comprising DHS. We all recognize that protecting the Homeland is the number one national security priority. For us living on the border it is a difficult balancing act and one that we have to contend with daily.

I want to take a few minutes to talk about our county and some of the exciting things happening in South Texas. It is important to highlight these ongoing initiatives because they go hand in hand with what is being discussed here today. We enjoy great collaboration and communication with Customs and Border Protection as well as the Border Patrol and other law enforcement agencies. Working together we have been able to forge ahead despite all the rules and regulations Post 9-11. For us the Rio Grande River is a like a street with water – it separates two sides that happen to be connected by bridges at various points. The population in the Rio Grande Valley including the major cities south of the border hovers around three (3) million. This is a challenge when many of these people are moving through our Ports of Entry daily.

Specifically, Cameron County sits on the southernmost part of Texas and is bordered by the Gulf of Mexico and the beautiful beaches of South Padre Island on one side and the U.S. Mexico border on the other. Cameron County owns and operates three international bridges: the Veterans Bridge at Los Tomates, the Gateway Bridge in downtown Brownsville and the Free Trade Bridge at Los Indios. There is also a private international bridge (B&M) and the Port of Brownsville seaport Port of Entry. In addition, we recently inaugurated the opening of the first international rail bridge built on the U.S.- Mexico border in over 100 years – a public-private partnership between Cameron County and Union Pacific Railroad along with support from federal and state resources.

Due to the level of improvements not only in Cameron County but along the border and the special operations being conducted regularly, adequate staffing of Customs and Border Protection agents as well as other mission critical agencies at our Ports of Entry is essential. The ability for a Port Director to allocate and shift resources and manpower based on traffic patterns, special events, and potential security issues is a valuable deployment tool in the daily activities surrounding local bridge systems like ours. That is why we support the Reimbursable Services and Donation Acceptance Program. We believe it will be beneficial to us long term.

I applaud the members of our delegation including Representative Vela and Senator Cornyn as well as the members of this committee for providing us with another tool in the toolbox as we continue to improve and modernize our Ports of Entry taking full advantage of these important programs. As we grow and strategically plan our future Port of Entries along the border, it is imperative that we have a reassurance and a level of certainty that will allow us to consider as many options as possible when it comes to staffing and infrastructure.

Cameron County is one of the fastest growing and dynamic regions of the country. We are one of the regions of the country with five modes of transportation: maritime, highway, air, rail and pipeline. And soon we will have a sixth; space travel.

In the next year or so we will see monthly rocket launches when SpaceX begins its operations in early 2017. It is estimated that we will attract upwards of 15,000 visitors per launch creating a Rio Grande Valley Space Corridor similar to Cape Canaveral. Many of these visitors will come from Northern Mexico and we have to be prepared at our international bridges for what most likely will be an influx of legitimate international travelers. Our three Valley airports will also see their fair share of increased activity in the days and hours leading to a launch. The Brownsville South Padre Island International airport, the only 24 hour Customs airport facility, will definitely see an increase in traffic. CBP is among the many federal, state, and local agencies coordinating this effort and we will need support as we move into the next phases of the project.

The Port of Brownsville, also considered the Port of South Texas and the Port of Northern Mexico, is working with the U.S. Army Corps of Engineers to deepen their channel to 52 feet to

attract post Panamex vessels. Already home to the premier offshore rig and platform production company servicing the Gulf of Mexico and to the ship dismantling companies certified by the Maritime Administration and the Department of Defense there is an increased level of activity like never before. The County and the Port of Brownsville are also working together on the potential construction of Liquefied Natural Gas plants along the ship channel. Three companies have permits under review and pending before the Federal Energy Regulatory Commission. These multi-billion dollar investments if approved and constructed have the potential to increase the valuation of the county by twenty percent or more.

And just recently the upcoming announcement of a manufacturing plant on the U.S. side in Brownsville has the potential to dramatically increase commercial traffic at our Ports. This project which is backed by a major U.S. company will be another shot in the arm to the local economy. Because of our strategic corridors, proximity to the port, an adjacent rail bridge, as well as our international ports of entry we were an ideal fit and contender. Given this economic growth potential we need to be prepared and continue working with our federal partners to have a plan in place to have the manpower and resources available.

So as we develop and improve our plans along the border we need to take into account the growth on several fronts. For us, we'd like to explore the possibility of CBP manning the commercial operations at one of our Ports of Entry (Veterans Bridge) 24/7. We'd also like to see how we can maximize resources at the only bridge (Free Trade at Los Indios) in South Texas that houses the U.S. Department of Agriculture. If all predictions are correct and if we see an upsurge in traffic due to the fact that shippers can get their fresh produce to market faster by way of the newly constructed Mazatlan to Matamoros highway in Mexico to Texas ports then we need to start the discussion with both CBP and USDA to maximize the potential of this presently under-utilized Port of Entry. Given its history of managing and operating an international bridge system, Cameron County is well positioned to use existing resources and has the ability to find innovative ways to work with Customs and Border Protection and other Department of Homeland Security agencies.

Finally, there is a border master plan that identifies future projects along the U.S.-Mexico border. We have future projects on that list. I would encourage both, Committee staff and agency officials at DHS, to plan proactively as opposed to reactively. I understand the difficulty and challenges in the planning and budget process as more new facilities and bridge expansions get built. But together we need to ensure there is a level of coordination from beginning to end in the development, construction, operations, and maintenance of our Ports of Entry. As we all know the amount of trade in terms of volume and value coming through our borders is in the billions. We cannot afford to ignore the border communities and we need to keep programs like this in place to help keep the viable options available when preparing for the future.

I thank you Chairman Miller for holding this important hearing and I look forward to answering questions from the Committee.