May 18, 2016

Border Station Construction: Minimizing Costs and Leveraging Private Dollars

United States House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management

One Hundred Fourteenth Congress, Second Session

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Michael Gelber
Deputy Commissioner, Public Buildings Service, U.S. General Services Administration
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Eugene Schied
Assistant Commissioner, Office of Administration, U.S. Customs and Border Protection, U.S. Department of Homeland Security
[View pdf]

Gary Gallegos
Executive Director, San Diego Association of Governments, Coalition for America's Gateways & Trade Corridors
[View pdf]

Sam Vale
Chair, Public Policy Committee, Border Trade Alliance
[View pdf]

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Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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Chairman

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Katherine W. Dedrick, Democratic Staff Director

May 13, 2016

SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Economic Development, Public Buildings and Emergency Management
FROM:	Staff, Subcommittee on Economic Development, Public Buildings and Emergency Management
RE:	Subcommittee Hearing on "Border Station Construction: Minimizing Costs and Leveraging Private Dollars"

PURPOSE

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will hold a hearing on Wednesday, May 18, 2016, at 10:00 a.m., in 2253 Rayburn House Office Building to examine and conduct oversight of the construction and upgrades at land ports of entry (LPOEs), also known as border stations. The hearing will focus on the General Services Administration's (GSA) and Customs and Border Protection's (CBP) current and planned land ports of entry projects authorized by the Committee as well as how non-federal and private dollars can be leveraged, including through the Public-Private Partnership (P3) pilot program established in the Consolidated Appropriations Act, 2014 to allow for private donations of real property at LPOEs.

BACKGROUND

GSA's Public Buildings Service

GSA's Public Buildings Service (PBS) acts as the landlord for the federal government and owns or leases over 377 million square feet of space in 9,600 buildings nationwide. Pursuant to law[1], large real estate projects, including new construction, purchases, commercial leases, and repairs and alterations, costing over $2.85 million annually must be authorized by the House Committee on Transportation and Infrastructure (T&I Committee) and the Senate Environment and Public Works Committee (Senate EPW). This is often referred to as the "prospectus process."

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[1] 40 U.S.C.§ 3307

In addition to Committee authorization, funds deposited into the Federal Building Fund (FBF) are subject to appropriation. Given the requirement for both the authorizing and appropriating committees to act, the Administration submits, along with its annual budget, GSA's Capital Investment and Leasing Program (CILP) each year. The CILP provides more detailed prospectuses for each project proposed. The T&I Committee and Senate EPW authorize proposed projects submitted in the prospectuses through a committee resolution.

Land Ports of Entry (Border Stations)

There are 167 land ports of entry (LPOEs) in the United States, 22 of which are leased, 102 are owned by GSA and 43 are owned by CBP. While CBP owns 42% of the LPOEs, GSA owns and manages all of the largest LPOEs particularly along the southern border. Daily, about $2 billion in trade crosses through the border crossings, along with 350,000 vehicles, 135,000 pedestrians, and 30,000 trucks.[2]

LPOEs typically house various federal agencies that have a responsibility for screening people, products, and vehicles crossing the border. Generally, in addition to CBP, other agencies that have a presence at LPOEs include the Department of Transportation's Federal Highway Administration, the U.S. Food and Drug Administration, the U.S. Fish and Wildlife Service, the Centers for Disease Control, the Bureau of Immigration and Customs Enforcement, the Transportation Security Administration, the U.S. Border Patrol, and the Department of Agriculture.

Given the amount of traffic using the Nation's border stations, how critical LPOEs are to commerce and security, and the wide array of federal operations required, addressing the infrastructure requirements at the most heavily used LPOEs is critical.

Recent Proposed and Authorized Projects[3]

Since Fiscal Year 2014, GSA has submitted and the Committee has authorized prospectuses for construction and alteration projects at key LPOEs to address critical infrastructure needs. Key projects have included:

Calexico, California: The space required to accommodate modern inspection requirements and technology was not available so the facility is being expanded. This LPOE is a pedestrian and vehicle inspection facility constructed in 1974. The current project includes the creation of new and expanded pedestrian and private vehicle inspection facilities to include expanded inspection lanes, new administrative space, and security inspection stations. The total estimated project cost is $370 million. The Committee has fully authorized the project.

San Ysidro, California: This LPOE was constructed in 1973 and no longer supported the CBP mission. GSA proposed expansion and reconfiguration to improve pedestrian, non-commercial traffic, and officer safety. The volume of high seizures, arrests and apprehensions made these improvements the highest priority for CBP. This project was proposed in 3 phases. Phase 1 expanded the capacity of the port to process traffic, including construction of new inspection

[2] Land Ports of Entry, GSA Public Buildings Service Brochure.
[3] This section cover projects authorized or proposed since FY2014 only.

booths, new secondary screening and main head house, and a new pedestrian facility. Phase 2 replaces the processing buildings, constructs a new administration and pedestrian processing building, and a central holding facility. Phase 3 would include a new southbound connection and new inspection facilities. The total estimated project cost for all three phases is $741 million. More than 71% of the project has been authorized.

Laredo, Texas: The facilities at this LPOE were old and outdated. GSA proposed construction to expand and modernize two of the four LPOE facilities to improve efficiency, safety and security for vehicular and pedestrian traffic. The total estimated project cost is $61 million. The Committee has fully authorized the project.

Alexandria Bay, New York: The existing LPOE does not meet the operational needs of the inspection agencies at the port, including the lack of an adequate commercial cargo inspection facility, inadequate queuing area, and the existing building barely has enough space to unload a single truck. The proposed project includes two phases. Phase 1 includes the construction of a commercial inspection warehouse, commercial inspection lanes, a new veterinary services building, an impound lot, a portion of elevated parking, and the acquisition of two parcels of land. Phase 2 will include construction of an administration building, a new inspection facility, non-commercial lanes, and a non-commercial secondary inspection plaza. The total estimated project cost is $226 million. The Committee has fully authorized the project.

Columbus, New Mexico: This LPOE was built in 1989. Since that time, there has been a significant increase in traffic and additional growth is expected. The proposed project would construct a new replacement LPOE to expand the facilities and incorporate site improvements to address significant storm water drainage issues. The total estimated project cost is $96 million. The Committee has fully authorized the project.

Pembina, North Dakota: Submitted as part of FY2017 CILP, GSA proposes construction of a new facility for the Department of Agriculture Animal and Plant Health Inspection Service (APHIS) at the Pembina, ND LPOE. A new facility would address concerns with the current use of a temporary modular trailer, improve the traffic configuration, place all APHIS operations on the U.S. side of the U.S./Canada border and eliminate lease payments of approximately $317,000 annually. The total estimated project cost is $5.7 million.

Public Private Partnerships

Section 559 of the Consolidated Appropriations Act, 2014 (Public Law 113-76) established a pilot program to allow CBP and GSA to enter into P3's to allow for donations to provide for certain services, equipment, and real property at LPOEs. Real property donations can only be accepted at new or existing GSA-owned LPOEs and existing CBP-owned LPOEs and may include new facilities, existing facility improvements, and real estate. Since passage of the 2014 law, three donation proposals involving real property have been approved, including:

- **City of Donna, Texas**: The city proposes to donate an inspection booth and related infrastructure.
- **City of El Paso, Texas:** The city proposes to remove traffic medians leading to primary commercial inspections to streamline the flow of traffic.

- **City of Pharr, Texas:** The city proposes to donate two commercial inspection booths and related infrastructure.

In addition to the P3 language enacted as part of the 2014 appropriations act, more recently, P3 language was included as part of another bill, H.R. 3586, the Border and Maritime Coordination Improvement Act, referred to the Committee on Homeland Security and the Committee on Transportation and Infrastructure. H.R. 3586 passed the House on April 13, 2016. The provisions included in H.R. 3586 would further refine and focus the P3 pilot program and extend the real property donation pilot program another five years.

CONCLUSION

The hearing will focus on current and planned land ports of entry projects as well as how non-federal and private dollars can be leveraged.

WITNESS LIST

Mr. Michael Gelber
Deputy Commissioner
Public Buildings Service
U.S. General Services Administration

Mr. Eugene Schied
Assistant Commissioner
Office of Administration
U.S. Customs and Border Protection
U.S. Department of Homeland Security

Mr. Gary Gallegos
Executive Director
San Diego Association of Governments
Coalition for America's Gateways & Trade Corridors

Mr. Sam F. Vale
Chair, Public Policy Committee
Border Trade Alliance

STATEMENT OF

MR. MICHAEL GELBER

DEPUTY COMMISSIONER, PUBLIC BUILDINGS SERVICE

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

"Border Station Construction: Minimizing Costs and Leveraging Private Dollars"

May 18, 2016

Introduction

Good morning Chairman Barletta, Ranking Member Carson, 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 land ports of entry (LPOEs) construction.

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 – 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 America's land borders.

Successful execution of these land port of entry projects improves trade and commerce, creates jobs, and bolsters our Nation's security. GSA works to deliver these land ports to accomplish these objectives while minimizing costs.

GSA's Ongoing Partnership with CBP

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.

On a daily basis, approximately 380,000 people cross the U.S.-Canada border. From 2000 to 2014, the combined value of trade between the U.S. and Canada and the U.S. and Mexico via surface transport increased by 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 people that support jobs and economic growth.

Of the 167 land ports of entry 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. Additionally, CBP operates 40 primarily smaller locations, mostly in remote, rural areas; these land ports of entry encompass approximately 477,000 square feet.

The Department of Agriculture – Forest Service controls one land port of entry, and the Department of the Interior - National Park Service controls two ports.

Minimizing costs to deliver these critical land ports of entry begins with effective targeting of resources at the highest priority projects. GSA looks to CBP's priorities, which are developed using multiple factors and analyses.

CBP's prioritization process includes gathering data through a Strategic Resource Assessment planning progress, scoring identified needs at each port, conducting a sensitivity analysis on the initial ranking of needs, assessing project feasibility and risk, and establishing an executable capital investment plan.

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. Since 2013, GSA has requested over $1 billion in support of land port modernization, including GSA's FY2017 request of $248,213,000 to reconfigure and expand the land port of entry in Calexico, California, and $5,749,000 for design and construction of a new animal inspection facility for the U.S. Department of Agriculture Animal and Plant Health Inspection Service at the Pembina, North Dakota land port of entry. Of these requests, Congress has provided approximately $700 million through FY 2016.

GSA works closely with CBP to ensure CBP's priority projects are integrated into GSA's larger multiyear priority plan. To this effect, GSA places at least one land port of entry in each fiscal year's priority planning list.

CBP and GSA consult with stakeholder agencies at the onset of project planning and continue this relationship throughout project development and execution. CBP and GSA are partners in the border master planning process on the U.S. - Mexico border. In addition to coordination with state and local agencies, the border master planning process also includes Mexican federal, state and local government entities as well as other Federal agencies including State Department, Department of Transportation (Federal Highway Administration, Federal Motor Carrier Safety Administration, etc.) and when appropriate, private partners as well (railroads, for example). The resulting Border Master Plan is a listing of project priorities that state and local governments rank regionally and provide guidance to help CBP and GSA rank projects nationally.

With respect to land ports at the northern border, GSA again works closely with the Department of State to coordinate with government offices at all levels in Canada.

Without the full funding requested in the President's annual budget, GSA cannot execute the land port upgrades that are critically needed.

Alternative Resources in Support of Land Port Projects

GSA's ability to fund land ports of entry has historically been supported by the appropriations provided by Congress. GSA has seen greater interest in finding alternatives to Federal appropriations to support the delivery of high-priority land port projects, including donations through GSA and CBP authorities.

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 funding amount and source of that funding to operate and maintain the facility. If an alternative funding source might be available to construct a land port of entry, GSA and CBP still may 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.

The Section 559 Program

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.

Congress has supported efforts to find land port of entry funding alternatives by providing CBP additional statutory authority to receive donations and reimbursement from State, local, and private entities. 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. Under this program, projects are being further assessed and developed in the Cities of Donna, El Paso, and Pharr, Texas. In Donna and Pharr, for example, the cities seek to donate inspection booths and related infrastructure; while in El Paso, the City would like to remove medians near the inspection stations to streamline the flow of traffic. In all three cases, the Programs of Requirements are complete or near completion, meaning that the projects may be soon ready for construction, pending agreement of relevant stakeholders.

[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.*

GSA and CBP are currently in the process of reviewing DAP fiscal year 2016 proposals, which may provide additional investment in, and expedition of, infrastructure and technology improvements at ports of entry. We expect the announcement to be made in coming weeks.

Cost-Effective Project Delivery

GSA has a consistent track record of delivering capital projects on time and on budget; in FY15 we achieved 98% on time and 99% on budget and 78% of our projects are obligated within one month of the projected obligation date.

Our success is the result of leveraging our project resources across regions, ensuring the best available team is assigned to the projects. This risk based project team assembly along with consistent application of industry best practices such as: proactive project and market risk identification and management; selection of a delivery method that matches those project and market risk conditions; and a collaborative team posture has contributed to the success of projects.

Conclusion

Thank you for the opportunity to speak with you today about GSA's ongoing partnership with CBP to cost-effectively improve the Nation's infrastructure along America's borders. I welcome the opportunity to discuss GSA's commitment to strategic investment in the Nation's land ports of entry, and am happy to answer any questions you may have.

TESTIMONY OF

EUGENE SCHIED
Assistant Commissioner
Office of Administration

U.S. Customs and Border Protection
U.S. Department of Homeland Security

BEFORE

House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management

ON

"Border Station Construction: Minimizing Costs and Leveraging Private Dollars"

May 18, 2016
Washington, DC

Introduction

Chairman Barletta, Ranking Member Carson, and distinguished Members of the Subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) progress in maintaining and enhancing inspection facilities to secure and facilitate lawful trade and travel at our Nation's ports of entry (POEs).

As America's unified border agency, CBP protects the United States against terrorist threats and prevents the illegal entry of inadmissible persons and contraband, while facilitating lawful travel and trade. Every year, at 328 POEs nationwide and 16 Preclearance locations internationally, CBP facilitates the travel of hundreds of millions of international visitors to our Nation. In Fiscal Year (FY) 2015, CBP inspected more than 382 million travelers at our air, land, and sea POEs, an increase of 2 percent from the previous year, and an increase of 12.5 percent since FY 2011. CBP also processed more than $2.4 trillion in imports in 2015, while enforcing U.S. trade laws that protect the Nation's economy and the health and safety of the American public.

Resource demands, including staffing and infrastructure, at the POEs continue to increase as trade and travel volumes continue to grow. Effective and efficient POE infrastructure is critical to CBP's mission to secure and facilitate lawful trade and travel – a mission that is critical to the growth of the U.S. economy and the creation of more jobs. CBP works closely with our stakeholders, Congress, and our Federal partners to maintain and modernize POE facilities, and to enhance our security and facilitation efforts.

Land Border Ports of Entry Modernization

Of the Nation's 328 official POEs, 110 are land ports of entry (LPOE) responsible for operating 167 separate crossings along our borders with Mexico and Canada. Most of the LPOE inspection facilities were not designed to meet the post-9/11 security and operational missions of CBP. Rather, they were built to support the distinct operations of legacy DHS 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.

Today, 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 the inspection facilities and the availability of CBP personnel.

Several LPOEs 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. To construct and sustain CBP's LPOE inspection facilities, CBP works in close partnership with the General Services Administration's (GSA) Public Buildings Service, which manages many of the LPOE facilities.

As the facility operator at all LPOEs, including those owned or leased by GSA, CBP works in close coordination with GSA to identify long-term future investments for funding through the GSA Federal Buildings Fund. Through this collaborative project team approach, both agencies work to ensure that the available federal funding is directed to the areas of greatest need within the GSA portfolio in accordance with the capital investment plan.

CBP employs a multi-step process to plan for all LPOE modernization investments, whether planned for a CBP-owned or a GSA facility. This process includes gathering data using the Strategic Resource Assessment (SRA) process, evaluating identified needs at each POE location, conducting a sensitivity analysis on the initial ranking of needs, and assessing project feasibility and risk. The culmination of this process is a final prioritization of proposed modernization projects and the development of a capital investment plan in coordination with GSA. This capital investment plan divides the project list into feasible annual work plans that reflect the analytical conclusions and incorporate project phasing and funding requirements. CBP and GSA update the capital investment plan annually, taking into account any changes in DHS's mission and strategy, changing conditions at the LPOEs, and any other factors discovered in the course of projects already under way.

Infrastructure enhancements are critical to the improvement of trade and travel facilitation; these changes are necessary to support current traffic volumes and modern technology. Although stimulus funding appropriated under the *American Recovery and Reinvestment Act* (ARRA), Pub. L. No. 111-5, enabled CBP and GSA to fund many large-scale LPOE capital construction and facility improvement projects, significant additional investment is necessary to modernize the entire LPOE portfolio. Thanks to the support of Congress, CBP received authority to partner with government and private sector entities to develop innovative approaches to meet the growing demand for new and expanded facilities and, in particular, the ongoing modernization needs of CBP's LPOE portfolio.

Partnerships with the Private Sector and Government Entities

While modernizing POE infrastructure and facilities is strategically assessed and executed on a national level, CBP is frequently asked by our stakeholders to provide new or additional services and infrastructure at specific POEs across the country. We recognize the potential economic impact for new or expanded service and infrastructure, and we very much want to support these endeavors. However, due to budget restraints and limited resources, we are not always able to accommodate these requests.

In January 2014, CBP received additional authority under Section 559 of Division F of the *Consolidated Appropriations Act, 2014*, Pub. L. No. 113-76, which authorizes CBP to enter into partnerships with private sector and government entities at ports of entry to reimburse CBP for the costs of certain CBP services and to accept donations of real and personal property (including monetary donations) and non-personal services.

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. Donations accepted under Section 559(f) 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. Effective use of these donations will reduce border wait times, support increased traffic flow and volume, create jobs, and meet critical operational and regional border master plan infrastructure and technology priorities across the United States.

The Donation Acceptance Authority requires that CBP and GSA establish and publish their 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 (Section 559 Framework), which CBP published on October 1, 2014.[1] This document outlines the harmonized and agreed upon operational and technical evaluation criteria that CBP and GSA use to evaluate the overall viability of each proposal, which typically entails a mixture of real and personal property improvements and/or staffing enhancements. 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 and GSA undertake to systematically plan, develop, and formally accept proposed donations in close coordination with its public and private sector partners, while also preserving GSA's role in managing CBP's real property needs.

In order to implement their statutory authorities, in FY 2015, CBP and GSA stood up the Donation Acceptance Program (DAP), which is dedicated to exploring, fostering and facilitating partnerships for POE infrastructure and technology improvements. Last year, CBP and GSA entered into partnerships with the City of Donna, Texas, the City of El Paso, Texas, and the City of Pharr, Texas and are currently coordinating with each to plan and develop their respective conceptual proposals into executable projects, some of which are expected to be completed this year or early next. CBP and GSA anticipate announcing a new round of viable and mutually beneficial partnerships later this month, bringing the approximate dollar value of planned private and public sector investment in U.S. POEs since program launch to $43 million.

Furthermore, on April 29, 2016, CBP announced a new process for accepting and evaluating donation proposals that are valued at $3 million or less on a year-round basis. The Small-Scale Donation Proposal Process is a more streamlined and simplified avenue for stakeholders

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

interested in investing in and expediting small-scale, high-impact border infrastructure, technology, and other related improvements – improvements that when completed, will lend themselves to a more secure, more efficient, and more reliable border transportation network

Conclusion

Legitimate travel and trade play a critical role in the nation's economy and economic growth. CBP recognizes its vital role in sustaining and growing the economy. In coordination with GSA, CBP will continue to thoroughly and systematically analyze and prioritize POE infrastructure needs and explore alternative sources of funding to bridge current and anticipated resource gaps. Through public-private partnerships, such as the DAP, CBP is building effective partnerships with stakeholders to address the port requirements necessary to support growing volumes of travel and trade that are so critical to the U.S. economy.

Chairman Barletta, Ranking Member Carson, and Members of the Subcommittee, thank you for the opportunity to testify today. We are happy to answer any questions you may have.

Coalition for America's Gateways and Trade Corridors

TESTIMONY OF

Gary Gallegos
Executive Director
San Diego Association of Governments

Board Member
Coalition for America's Gateways and Trade Corridors

REGARDING

Border Station Construction: Minimizing Costs and Leveraging Private Dollars

BEFORE

House Committee on Transportation & Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management

MAY 18, 2016

AECOM
Alameda Corridor-East Construction Authority
Cambridge Systematics, Inc.
Canaveral Port Authority
Cascadia Center
CenterPoint Properties Trust
Chicago Metropolitan Agency for Planning
City of Chicago
City of Industry, A Municipality
COMPASS – Community Planning Association of Southwest Idaho
Dewberry
Economic Development Coalition of Southwest Indiana
Florida Department of Transportation
Florida East Coast Railway
Florida Ports Council
Freight Mobility Strategic Investment Board (Washington State)
Gateway Cities Council of Governments
HERZOG
HNTB Corporation
Illinois Soybean Association
Intermodal Association of North America
Jacobs Engineering
Kootenai Metropolitan Planning Organization
Los Angeles County Metropolitan Transportation Authority
Majestic Realty Co.
Maricopa Association of Governments
Memphis Chamber of Commerce
Metropolitan Transportation Commission
National Railroad Construction and Maintenance Association
NASCO – North American Strategy for Competitiveness
Northwest Seaport Alliance
Ohio Kentucky Indiana Regional Councils of Government
Orange County Transportation Authority
Oregon Department of Transportation
Parsons
Parsons Brinckerhoff
Port Authority of New York & New Jersey
Port Newark Container Terminal
Port of Hueneme
Port of Long Beach
Port of Los Angeles
Port Miami
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Port of Portland, OR
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Port of Seattle
Port Tampa Bay
Port of Vancouver USA
Puget Sound Regional Council
RAILCET
SANDAG - San Diego Association of Governments
Southern California Association of Governments
Supply Chain Innovation Network of Chicago- SINC
Tennessee Department of Transportation
Washington State Department of Transportation
West Coast Corridor Coalition
Will County Center for Economic Development
Xerox State and Local Solutions

1120 20th Street, NW Suite 500 North Washington, DC 20036
202-828-9100 phone 202-797-0020 fax www.tradecorridors.org

Chairman Barletta, Ranking Member Carson, and members of the Subcommittee, thank you for holding this hearing today to discuss the growing importance of utilizing innovative financing strategies to implement critically-needed improvements along the United States border. Today's fiscal environment requires strategic investments in border infrastructure that maximize limited resources and incentivize leveraged partnerships. I appreciate the opportunity to testify today on the unique financing approaches we are exploring in San Diego to develop the infrastructure needed to safely and efficiently move people and goods across the U.S. – Mexico border.

Today I am representing both the San Diego Association of Governments (SANDAG) and the Coalition for America's Gateways and Trade Corridors (Coalition).

SANDAG serves as the forum for regional decision-making for the 18 cities and county government in San Diego, California. Situated along the United States – Mexico border, with a combined border population of 5.1 million[1], the San Diego – Baja California border region offers many distinct opportunities, particularly economic opportunities in terms of crossborder manufacturing, trade, commerce, and tourism. As the federally-designated Metropolitan Planning Organization for San Diego, SANDAG works closely with federal, state, local, and binational partners to address the comprehensive transportation needs of this dynamic region, including the implementation of border infrastructure projects.

In my capacity as Executive Director of SANDAG, I am proud to serve as a Board Member of the Coalition, a diverse coalition of more than 60 public and private organizations dedicated to increasing federal investment in America's multimodal freight infrastructure. The Coalition works to bring national attention to the needs of the U.S. multimodal system and educate members of Congress and the public on the need to develop consensus for federal investment policy that supports intermodal connectors, trade corridors, freight facilities and gateway access.

Background

The San Diego region currently has three land Ports of Entry (POEs): San Ysidro, Otay Mesa, and Tecate. The San Ysidro Land POE is known as the busiest international border crossing in the western hemisphere while the Otay Mesa POE is the main commercial gateway for international trade between California and Mexico. Land border crossings like these are facing rising commercial traffic and congestion throughout the country as a result of increased international trade

The North American Free Trade Agreement (NAFTA), which was signed 22 years ago, accelerated trade between the U.S., Mexico, and Canada. Today, Canada serves as the number one trading partner with the United States, with $1 million in goods and services crossing the U.S. northern border every minute.[2] Mexico is the third largest trading partner with the U.S. and ranks as the top export market for 25 states, including California.[3] In 1995, surface trade between the United States and Mexico was approximately $100 billion per year. By 2012, it had quadrupled to $400 billion per year. Over the last ten years, our exports have nearly doubled in value. In fact, over the last 30 years, international trade growth has increased at a faster rate than overall economic growth.[4] These trends have major implications for America's border crossings, as well as the overall freight transportation system.

A majority of goods move between the three countries on truck, but international freight rail volumes also have seen increases since NAFTA was signed. In 2014, more than two million loaded rail containers and eight million loaded truck containers crossed the U.S. northern and southern borders.[5] Meanwhile, shifting trade patterns also are putting further strain on land border points of entry. Reshoring (the practice of bringing outsourced personnel, services, and manufacturing back to the United States) and nearshoring (the practice of bringing these same services to a nearby

[1] US Census Bureau American Community Survey (2013)

[2] The White House, United States – Canada Beyond the Border; A Shared Vision for Perimeter Security and Economic Competitiveness (2011)

[3] San Diego Association of Governments, 2007 Update: Economic Impacts of Wait Times in the San Diego Baja California Border Region (2007)

[4] United States Department of Transportation, National Freight Strategic Plan (2015)

[5] United States Department of Transportation, National Freight Strategic Plan (2015)

country, such as Canada and Mexico) is happening with increased frequency. Nearshoring and reshoring are positive trends for NAFTA trade and have major implications for the future of freight infrastructure investment.

The Mexican state of Baja (adjacent to San Diego County) recently published a State Development Plan that promotes the prioritization of industrial parks throughout the region that are close to the U.S. – Mexico border. This initiative likely will lead to an increased demand for commercial crossings through San Diego County. In addition, Canada is in the midst of its largest federal infrastructure investment program in the nation's history. The program is prioritizing gateways, making use of public-private partnerships, and focusing on projects that enhance economic growth. Without strategic investment in the personnel, information technology, and brick and mortar facilities that are needed to facilitate multinational trade, the ever-growing trade volumes between Mexico, Canada and the United States will continue to strain the limited capacity of our existing border crossings.

Steadily growing traffic volumes, constrained infrastructure, and limited staff capacity at existing land Ports of Entry cause significant delays at the border, and have led to economic impacts. To illustrate, a 2007 study conducted by SANDAG found that border traffic congestion and delays between San Diego County and the Baja Peninsula cost the U.S. and Mexican economies an estimated $7.2 billion in gross output and more than 62,000 jobs. That is a monetary loss equivalent to 18 Super Bowls and an annual job loss equivalent to four companies the size of Google[6].

Otay Mesa East Land Port of Entry

With this in mind, SANDAG, in cooperation with the California Department of Transportation (Caltrans), U.S. Customs and Border Protection (CBP), the U.S. General Services Administration (GSA), counterpart agencies in Mexico, and other project stakeholders, is working on developing a new Port of Entry approximately two miles east of the existing Otay Mesa border crossing that will provide a third major border crossing along the San Diego - Tijuana border. Recognizing the limited federal resources available to implement a new border crossing, it was determined that a new approach to financing border infrastructure improvements was needed.

Following the deliberative approach described below, SANDAG identified the use of a variable tolling system at the border as a plausible source of funding for implementation of the project. Future toll revenues collected by SANDAG on the road network leading to and from the Port of Entry could be used to underwrite bond sales for initial construction of the Port of Entry. Upon completion, the facility could then be transferred to the federal government via the recently available Section 559 gift agreement tool.

In order to facilitate this new financing model, state legislation was passed in 2008[7] that authorizes SANDAG to issue bonds for the acquisition, construction, and completion of transportation facilities and to impose tolls and user fees for the use of the State Route 11/Otay Mesa East corridor. Under this strategy, SANDAG will be able to maximize public investment in the Port of Entry by utilizing publicly-generated tolling revenues to leverage other state and federal funding. Further, this innovative public-public partnership helps to minimize costs by facilitating developmental and implementation efficiencies through early and ongoing collaboration between the various governmental stakeholders.

As a result, construction of the Otay Mesa East Land Port of Entry and its associated transportation network, State Route (SR) 11, will help to improve the region's border crossing capacity by providing fast, predictable, and secure crossings via tolled roads that serve both personal and commercial vehicles. The goal is to operate the new Port of Entry with a 20-minute border wait time.

The vision for this 21st century border crossing will decrease dependency on federal dollars by focusing on:

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[6] San Diego Association of Governments, 2007 Update: Economic Impacts of Wait Times in the San Diego Baja California Border Region (2007)

[7] California Senate Bill 1486 (2008)

- Partnership approaches to planning designing, financing, and building the project which mesh together the needs and skills of the federal partners along with the needs and skills of the regional transportation agencies
- A variable tolling system that serves as both a revenue collection tool and a transportation demand management tool
- A border wait time detection system that provides advanced traveler information
- A system-wide approach to managing traffic congestion at the major Ports of Entry along the San Diego-Baja California border
- Approach roads on both sides of the border that integrate seamlessly with regional highway systems

The total cost for facilities on both sides of the border is estimated to be around $900 million. This estimate is based in part on a baseline POE configuration with 20 northbound inspection lanes – 10 for passenger vehicles and 10 for commercial trucks. The ultimate northbound and southbound lane configuration will be determined by an innovation analysis study.

Financing the Otay Mesa East Land Port of Entry

The unique nature of the Otay Mesa East Land POE project required SANDAG to engage a wide range of professional services experts, including construction management firms, investment banks, federal transportation partners, and tolling experts, during the early project development phase to collect information about similar projects and identify potential financing opportunities and obstacles in project development and delivery. In addition, a review of project delivery strategies utilized by other agencies in California, Arizona, and Texas was conducted and a preliminary Investment Grade Traffic and Revenue Study was launched to gauge financial feasibility.

This deliberative process resulted in the following findings that have been used to help shape the project's financial strategy and approach.

Finding #1: SANDAG anticipates being able to cover most capital costs with toll-generated funds; however, ongoing coordination with U.S. Customs and Border Protection is needed to ensure an appropriate level of staffing and operating costs will be made available. Preliminarily estimates indicate operation costs will be nearly $100 million for the first 5 years of operation.

Finding #2: To enable this new model, engaging the services of a financial advisor, investment banker, and legal counsel early in the process is crucial to a successful toll-based financing strategy. The financial advisor is compensated when the transaction is completed; whereas the investment banker is compensated at the time the toll financing is completed.

Finding #3: Other innovative financing tools will need to be explored to help SANDAG leverage the expected tolling revenues. These may include: introducing value-added services near the border, seeking federal credit assistance through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program under the U.S. Department of Transportation, or engaging other assistance from entities like the North American Development Bank.

Investment Grade Traffic and Revenue Study

In June 2014, SANDAG completed an Investment Grade Traffic and Revenue (T&R) Study[8] for the Otay Mesa East Land Port of Entry project. The purpose of the study was to estimate the potential traffic (passenger and commercial vehicles) forecasted to use the Port of Entry and associated toll revenues that would be generated over a 40-year period of operations. While the T&R Study focused on the toll revenue generating capacity of the project, a study to estimate the potential capital and operations costs for a third border crossing is under way.

[8] http://www.sandag.org/uploads/projectid/projectid_56_19522.pdf

The roadway systems supporting the new border crossing are being designed to enable a smoother flow through the Port of Entry so that the traveler's experience is both managed and predictable. Demand management, necessary to provide this level of service, will be instituted through varying toll rates to control demand and the length of the passenger or commercial vehicle line. Once opened, the new POE is projected to attract approximately 20 percent of the overall passenger vehicle traffic crossing the border and approximately 75 percent of the overall commercial vehicle traffic crossing the border. Over time, as the demand to cross the border increases, toll rates will be adjusted to manage the rising demand.

Based on demand estimates and the likely behavioral responses of drivers to the increased capacity and higher level of service, the study estimates that the new Port of Entry could generate toll revenues of $4.2 billion (in constant 2012 dollars) over a 40-year period of operation. About 75 percent of the revenue would come from passenger vehicle tolls and the remaining 25 percent would come from commercial vehicle tolls. Nearly 90 percent of the toll revenue collected at the proposed POE would come from northbound vehicles; the remaining 10 percent would be collected from southbound vehicles.

Concept of Operations

In 2014, a Concept of Operations (ConOps) was completed and circulated to stakeholders for review and comment. The following six key objectives shaped the development of the ConOps:

1) Achieve sufficient revenue in order to provide funds to cover debt service as well as toll and other key operations
2) Minimize capital and operations costs, particularly for the initial deployment
3) Enhance safety, security, and efficiency by applying lessons learned by project stakeholders for other border crossings
4) Provide an enhanced customer experience that supports perceptions of reliability, efficiency, and progressive processing of border-crossing traffic
5) Develop a cooperative binational model for a new type of border crossing within a regional binational framework that supports ongoing operations of the new border crossing
6) Reduce greenhouse gas emissions through reduced border region wait times and more efficient movement of cross-border traffic

In addition, the following themes were incorporated throughout the ConOps document to help maintain a focus on leveraging resources and cost-savings:

- Leverage existing and planned Intelligent Transportation System (ITS) resources on both sides of the border to avoid "reinventing the wheel" for the needs of this project.

- Focus on operational requirements and efficiency rather than on a specific vendor or technology solution. This will allow the project to utilize cost-effective technologies and avoid functionality gaps. Maintaining this approach over the 40-year horizon of the program will support technology advancements that improve the efficiency and safety of the border crossing.

Leveraging Local, State and Federal Resources

To date, more than $125 million in state funding has been invested in the Otay Mesa East Land Port of Entry project to leverage $286 million in federal funding. SANDAG continues to seek additional funding through discretionary programs at both the state and federal levels that will further leverage these past investments. In particular, SANDAG worked with the California Department of Transportation to submit applications this year under both the TIGER and FASTLANE grant programs for components of the Port of Entry project. In addition, SANDAG has committed $25 million in *TransNet* (local sales tax revenues) as another leveraging source in the project.

The Otay Mesa East Project also was accepted into the U.S. Department of Transportation Build America Transportation Investment Center (BATIC) in 2015 which was created to drive efficiencies and further financing optionality for projects in a shorter timeframe. Finally, the project's inclusion as a high priority under the High Level Economic Dialogue between the United States and Mexico has helped to advance its development, leading to planning and cost efficiencies.

Federal Role

The newly-created FASTLANE grant program could be an important resource for projects like the Otay Mesa East Land Port of Entry. That being said, the Coalition for America's Gateways and Trade has long-advocated for a minimum of $2 billion annually in dedicated, sustainable, and flexible funding for multimodal freight projects, including port of entry projects. The FAST Act is a down payment on our infrastructure needs, but much more is needed in order to keep pace with growing trade trends and maintain and improve aging and insufficient infrastructure. A failure to invest hinders the efficient movement of goods and people, resulting in increased transportation costs and reduced air quality. A concentrated effort to improve border facilities, personal, and information technology will improve goods movement and ultimately, U.S. economic competitiveness.

Border congestion is more than a hindrance to economic growth and productivity – it also is a threat to public health and safety. Congestion from any mode of transport diminishes air quality and in so many instances, local communities are bearing the environmental and social burden of nationally-significant freight movement, but they are unable to foot the bill on large-scale infrastructure projects that would alleviate negative impacts. The benefits of freight movement accrue nationally, and as such, there is a federal responsibility to be a partner in making improvements, and in many instances, there is an opportunity for private sector contributions. State and local governments cannot shoulder the burden alone, nor can this lift be expected entirely by the private sector.

Without a campaign of strategic investment to expand capacity and increase efficiency, U.S. productivity and global competitiveness will suffer, costs will increase and investment will lag. Cross border mobility – on all modes – requires added capacity and improved efficiency to keep pace with growing demands. As Congress considers steps to meet these needs, we respectfully ask the follow steps be considered:

- **Develop a national strategy that guides long term planning**: A national "vision" and investment strategy that shapes and guides the nation's freight infrastructure system with active coordination among states, regions, localities – and indeed, our neighbors to the North and South – is needed. The Department of Transportation's National Freight Strategic Plan currently lacks sufficient attention to growing international trade patterns, such as trade with Canada and Mexico; these relationships are expected to continue their upward trajectory. A new office focused on multimodal freight should be established within U.S. Department of Transportation's Office of the Secretary to administer the new freight mobility program with a particular focus on projects of national significance that aid in the movement of commerce. Project planning horizons for freight needs extend over multiple decades, therefore planning and financing approaches must be facilitated to support these long-term projects that enable economic growth, both domestically and internationally.

- **Dedicated, sustainable, and flexible funding**: Federal funding should incentivize and reward state and local investment and leverage the widest array of public and private financing. In addition to current programming, a minimum annual investment of $2 billion dedicated to multimodal freight infrastructure, and distributed through a competitive grant program is needed. Such a program is necessary for funding large-scale infrastructure projects, which are frequently multimodal and cross jurisdictional and international borders. While economically significant, such projects are difficult to fund through traditional distribution methods such as formula programs.

- **A set of merit-based criteria for funding allocation**: A goods movement funding program, such as the FASTLANE grant program, should select projects through merit-based criteria that identify and prioritize projects with a demonstrable contribution to national freight efficiency. Long-term funding must be made available to ensure that, once a project is approved, funds will flow through to project completion. Funds would be available to support multi-jurisdictional and multi-state projects, regardless of mode, selected on the basis of objective measures designed to maximize and enhance system performance, while advancing related policy objectives such as environmental improvement.

- **A partnership with the private sector:** Private participation in the nation's freight infrastructure is vital to system expansion. Federal funding should leverage private participation and provide transportation planners with the largest toolbox of financing options possible to move freight projects forward quickly and efficiently. The establishment of an advisory council made up of freight industry members and system users could assist and partner with USDOT in order to foster such partnering with the private sector.

Next Steps

The San Diego region is firmly committed to improving safe, secure and efficient border crossings. We further believe that economic competitiveness and efficiency can both be achieved at the new Otay Mesa East Land Port of Entry. SANDAG, in coordination with our federal, state, and local partners, continues to work with representatives from Mexico on options to maximize toll revenues as well as additional opportunities to align project schedules on both sides of the border to enable cost-savings. The goal is to have the facility open to traffic by 2018-19 at which time SANDAG would begin to administer and operate the toll road.

Again, I would like to thank you for the opportunity to speak before your Subcommittee today. We appreciate your interest in exploring innovative ways to finance critically-needed infrastructure improvements along the border.

TESTIMONY BY SAM F. VALE
CHAIR
BORDER TRADE ALLIANCE PUBLIC POLICY COMMITTEE
PRESIDENT
SOUTH TEXAS ASSETS CONSORTIUM
PRESIDENT
STARR-CAMARGO BRIDGE CO., RIO GRANDE CITY, TEXAS

BORDER STATION CONSTRUCTION: MINIMIZING COSTS AND LEVERAGING PRIVATE DOLLARS
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
MAY 18, 2016

Chairman Barletta, Ranking Member Carson, and members of the Subcommittee, my name is Sam Vale. I appear before you today, in my capacity as the Chairman of the Public Policy Committee of the Border Trade Alliance. I am also the President of the South Texas Assets Consortium, or STAC, and we participate in the 559 Public Private Partnership Program.

I am also 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 related companies are involved in a host of businesses related to cross-border trade and commerce in both the U.S. and Mexico.

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 Section 559 of the Consolidated Appropriations Act of 2014 and its predecessor program, Section 560 of the Consolidated and Further Continuing Appropriations Act of 2013. Members are comprised of five communities operating 11 international bridges:

City of Laredo (4 international bridges)
City of McAllen (2 international bridges)
City of Pharr (1 international bridge)

Cameron County (3 international bridges)
Starr-Camargo Bridge Co. (1 international bridge)

The members of STAC are also members of the BTA. The BTA is also counts the City of El Paso, Texas as a member, which is also a participant in Sec. 560.

Border infrastructure that leads to fewer delays, less congestion

The U.S.-Canada and U.S.-Mexico borders are challenging environments for those of us whose daily livelihoods depend on cross-border trade. Most U.S. citizens also benefit from this trade.

Staffing levels by our inspection agencies, specifically Customs and Border Protection, are not commensurate with today's trade volumes. Despite funding provided by the fiscal year 2014 budget to hire 2,000 new CBP officers, 40 percent of those allocated positions remain unfilled.

In a recent hearing of the Border and Maritime Subcommittee of the House Homeland Security Committee, CBP acknowledged the agency's 18-month hiring process proves challenging to its recruitment efforts.[1]

I can assure you, if those of us in the private sector took 18 months to recruit new talent, we would soon be suffering economic pain.

Aging, outmoded infrastructure is also a major challenge for the trade community. Land border ports of entry average 40 years in age, many built before the North American Free Trade Agreement was even a consideration.[2] As a result, their configurations are oftentimes not well suited to the throngs of commercial trucks they must process on a daily basis.

The trade community's concerns over staffing levels and infrastructure are not mutually exclusive. Both must be addressed if we are to realize the full benefits of international trade.

For example, Nogales, Arizona's Mariposa Port of Entry is home to one of the nation's busiest commercial ports for produce, specifically winter fruits and vegetables grown in Mexico.

In order to keep pace with the Mariposa port of entry's ever-growing trade volumes, the General Services Administration in fall 2014 officially completed an eight-year-long $250 million reconfiguration of the port campus that doubled from four to eight the number of commercial lanes. The port was originally constructed in 1973 and was not suited to process the nearly 4,000 trucks that make their way through it each day.

Unfortunately, the port is not reaching its full potential due to CBP's struggles to staff the port at full capacity during peak traffic periods, which leads to lane closures.[3] As you can imagine, a remodeled Mariposa port of entry that is not fully operational is a source of frustration for the produce community and Nogales-area stakeholders.

[1] https://mcsally.house.gov/media-center/press-releases/us-rep-mcsally-leads-hearing-border-infrastructure-manning-needs
[2] http://www.bloomberg.com/news/articles/2013-05-15/border-delays-cost-u-s-7-8-billion-as-fence-is-focus
[3] http://tucson.com/news/local/border/staffing-shortages-keep-expanded-port-of-entry-partly-closed/article_6bd41f7e-6304-5d43-b259-3dfda6daca96.html

Similarly, the growth in South Texas ports of entries from manufacturing to produce was predictable 10 years ago when Mexico started making significant infrastructure improvements like new transnational highways and the construction of the world's highest suspension bridge.

We would encourage the committee, as you consider future border station construction, to work closely with your colleagues with oversight over CBP staffing, federal and state highway needs, Department of Transportation and state DOT inspection staffing issues, in order to ensure that precious taxpayers dollars pay dividends to our citizens and the businesses that drive our economy.

Leveraging private sector resources to improve border crossings: Sections 559 and 560

Section 560 and its successor, Section 559, are, in many ways, part of the answers to the trade community's ongoing calls for a creative response to consistent concerns over border port infrastructure challenges, while also an acknowledgement that federal budgets are tight and that we must fund future construction in new ways.

Thanks to innovative thinking within the Department of Homeland Security, CBP, and leaders in Congress, the trade community now has a viable option to work in tandem with state and federal partners to supplement staffing levels and improve infrastructure to support secure international trade.

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.

An opportunity for infrastructure improvements under Sec. 559

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.[4]

STAC transitioned into the Sec. 559 designation and dropped the 560 process, and the program has since welcomed new partners.

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[4] https://www.cbp.gov/newsroom/blog/meeting-challenge-alternative-funding-helps-cbp-serve-stakeholders

Flexibility and ROI: Making the DAP attractive

While we applaud the Donation Acceptance Program, or DAP, between CBP and GSA, two big ideas must drive the program: a commitment to flexibility, and recognition that a demonstrable return on investment will be critical to attract private dollars.

Flexibility

CBP and GSA must be flexible in their project scoping and design processes if the DAP is going to prove successful. If DAP proves to be bureaucratically cumbersome or if the agencies demonstrate a rigidness that repels potential private sector partners, then the program will be underutilized.

I would also urge CBP and GSA to consult the Department of State on how the DAP will fit within the presidential permit process.

Anyone who has attempted to undertake infrastructure improvements at a land border port of entry is intimately aware of the Department of State's expensive, time consuming permit process. I can tell you from personal experience that the permitting process is not an easy one. While our thoughts on ways to improve the permitting process are more suitable for another forum, potential private sector participants in a real estate donation should have a clear understanding of each department's requirements.

Return on investment

To be blunt, real estate investors and members of the international trade community are not charities. CBP should be prepared to demonstrate the financial upside for a private sector participant in the DAP, including increased trade throughput, whether by value of commodities or traffic volumes.

A nimbler public-private partnership

We are encouraged that CBP appears to be taking concerns over flexibility to heart, as evidenced by the agency's recent announcement of a DAP geared specifically at smaller projects.

According to CBP, the Small-Scale Donation Proposal Process is a more streamlined and simplified avenue for stakeholders interested in investing in and expediting small-scale, high impact border infrastructure, technology and other related improvements.[5]

Partners interested in submitting a proposal may do so on an ongoing basis, with CBP claiming it will act on proposals 60-70 percent quicker than the regular DAP intended for medium to large-scale projects.

This a positive step and CBP should be applauded for it.

Push inspections away from the border

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[5] https://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/donation-acceptance-program

Not all border communities need to meet their challenges to trade processing with major infrastructure overhauls or dramatic staffing upgrades. The BTA is very supportive of efforts by the U.S. and our border neighbors to conduct cargo inspections in the country of origin rather than at the port of entry.

We are very encouraged that President Obama and Canadian Prime Minister Trudeau made improving trade efficiencies a major topic of the prime minister's White House visit in March. To that end, we support the preclearance of Buffalo-bound cargo on the Canadian side of the border in Ft. Erie Ontario[6] and are encouraged by the outcomes of last year's pilot test.[7]

Our support for pre-inspection extends to the U.S.-Mexico border as well, including pilot programs in Laredo, Texas; Otay Mesa, California; and at a major electronics facility outside Cd. Juárez.[8]

Avoid infrastructure agreements with foreign government that lead to ongoing U.S. financial commitments

The BTA acknowledges that there is a significant debate over whether and how to construct a new span across the Detroit River connecting Detroit, Michigan and Windsor, Ontario.

Without delving into the years-long conflict, we do maintain deep concerns over any agreement between state and foreign governments to construct a new bridge that could result in ongoing commitments for CBP or any other agency that are not congressionally deliberated and appropriated.

Committing the U.S. federal government to some future performance without congressional deliberation and authorization authorization raises serious concerns over accountability and risks an unnecessary diversion of resources. U.S.-Canada trade is down, U.S.-Mexico trade is up. What are the justifications for scarce staffing resources being committed when projection trends do not justify it?

Responding to the skeptics

We occasionally hear from some corners that increased private sector participation in border facility infrastructure development represents an unwelcome assumption of responsibilities that should really be borne solely by the federal government as part of its obligation to manage the nation's borders.

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, Texas' 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

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[6] http://www.wgrz.com/news/local/pre-clearance-program-at-peace-bridge-introduced/76629472
[7] http://www.buffalonews.com/city-region/west-side/peace-bridge-pre-inspections-reveal-outdated-customs-effort-20150202
[8] https://www.texastribune.org/2015/06/09/us-reps-arming-american-agents-mexico-right-move/

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 costs of the inspection facilities on U.S. government land with staged or phased construction as needed. 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 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.

Looking ahead

There is a role for the private sector to play in border station construction and we anticipate participation growth. Once investors have the confidence in the long-term viability of the offerings under Sec. 559 will they be more likely to make the financial commitments necessary to bring a project to completion and realize a return.

Confidence is the key. 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 difficult to predict. Thus, no infrastructure projects requiring significant investments have been planned that could secure financing from bonds or investors.

The Border Trade Alliance appreciates 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 Transportation and Infrastructure Committee and this subcommittee as we seek new solutions to our border challenges.