

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

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON  
BORDER AND  
MARITIME SECURITY**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

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

**Wednesday, November 4, 2015**

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

The subcommittee met, pursuant to call, at 10:01 a.m., in Room 311, Cannon House Office Building, Hon. Candice S. Miller [Chairwoman of the subcommittee] presiding.

Present: Representatives Miller, Barletta, Hurd, McSally, Vela, and Torres.

Mrs. MILLER. The Committee on Homeland Security, the Subcommittee on Border and Maritime Security, will come to order.

The subcommittee is meeting today to examine U.S. Customs and Border Protection's public-private partnerships. We will call them P3s.

So we are very pleased to be joined today by Mr. John Wagner, who is the deputy assistant commissioner of the Office of Field Operations at CBP; Mr. Michael Gelber, who is the deputy commissioner for the public buildings service at GSA; and Mr. Sam Vale, president of the South Texas Assets Consortium; and Mr. David Garcia, who is the county administrator for Cameron County, Texas.

I will introduce them more formally in just a moment, but we certainly welcome them all to the subcommittee today.

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

Despite the importance of POEs to the Nation's economic health, modernization efforts have been significantly underfunded, and CBP staffing has not kept pace with growing demand. While CBP is frequently asked to provide new or additional services at POEs across the country, it is often unable to accommodate these requests due to staffing shortages or other revenue constraints.

Over the past few years, this Congress has appropriated more than \$2 billion for POE construction, but that is dwarfed by what we estimate we actually need, which is \$4 billion to \$6 billion, to really modernize our POEs.

Air-passenger volumes are growing at a rate of 4 to 5 percent a year. The Nation has experienced a 24-percent increase in cargo containers since the Great Recession. More cars and trucks transit the land POEs 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 Nation-wide. 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 very hard-pressed to find the billions of dollars needed to fix our failing infrastructure and to fund additional officers, so we need to be creative. We need to explore new opportunities and new approaches, certainly, to fund the great need across our Nation.

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

Congress provided such authority in section 559 for the Fiscal Year 2014 Approps Act. This authority established a pilot program allowing them to enter into public-private partnerships, these P3s, to pay for additional officer hours and accept donations of real and personal property such as new inspection booths or computers or scanning equipment.

From everything that this committee has heard thus far, these pilots are working well to meet the immediate needs of land, air, and sea POEs across the Nation. We certainly look forward to hearing from our witnesses today about how these can be improved.

Today, actually, 19 POEs have entered into reimbursable service agreements with CBP that will pay for additional officer hours when those air, land, and sea ports need it most. The need for this type of agreement has been very clearly demonstrated. So far, CBP has been reimbursed for over \$12.9 million, almost \$13 million, in expanded overtime.

In one case study, it was found that, despite increases in travel volumes at the Dallas/Fort Worth Airport, which they have experienced an estimated 45 percent decrease, actually, on its average wait times as a result of the partnership that they entered into with CBP. So great news there.

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

This is why the full committee, through a very 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 POE or significant expansion. Congressional appro-

priations alone are appropriate for such large-scale projects of National importance.

As our economic and security requirements grow, our POEs must be able to accommodate more trucks, more passengers, and more cargo, while at the same time providing convenient and secure travel for people who cross the border each and every day. That is why I fully support concepts like P3s and other innovative ways to fund infrastructure improvements. Our authorization language makes sure CBP can leverage this important tool well into the future.

With the second-busiest border port of entry along the Northern Tier, the Blue Water Bridge, in my district, as well as the busiest POE across the Northern Tier, the Northern Border, which is the Ambassador Bridge, which is about an hour to the south of my district in Detroit, I am very interested in the application of P3s to meet the infrastructure and staffing challenges close to home on both the Northern and the Southern Border.

So, again, we look forward to hearing from our witnesses on how GSA works with CBP on both the reimbursable service agreements and donation authority provided by the Congress to improve the flow of travel and cargo.

CBP- and GSA-owned and -leased POEs across the Nation are in dire need of modernizing themselves and expansion, as well. We certainly need to tap into the expertise and willingness of the private sector and to partner with them to come up with better, more cost-effective approaches for the new port-of-entry construction, modernization, and staffing needs of the future.

[The statement of Chairman Miller follows:]

STATEMENT OF CHAIRMAN CANDICE MILLER

NOVEMBER 4, 2015

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 Nation-wide. 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 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 minutes 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.

Mrs. MILLER. At this time, I would now recognize the Ranking Member of the subcommittee, the gentleman from Texas, Mr. Vela, for any statement that he may have.

Mr. VELA. Thank you, Chairman Miller. I would also like to thank you for holding today's hearing examining the U.S. Customs and Border Protection's public-private partnerships, otherwise known as P3s.

I would also like to thank you and the committee staff for inviting two of our witnesses from the Rio Grande Valley, who are with us today, Mr. Vale and Mr. Garcia, and just say that one of the things we have learned since working with you on this committee is that we recognize how important the Northern Border is to this country, and so thank you for allowing us to invite our south Texas representatives.



As a Member representing a border district, I understand and have seen first-hand the importance of maintaining infrastructure and adequate staffing at our ports of entry. I am pleased to have Mr. David Garcia, the county administrator from Cameron County, Texas, in my Congressional district, joining us for this hearing today.

The Rio Grande Valley is made up of four counties—Cameron, Hidalgo, Starr, and Willacy—with a combined population of 1.3 million people who share a border with almost 2 million citizens of Mexico. Within this 99-mile span of deep-south Texas lie 11 international bridges, many of which participate in the South Texas Assets Consortium, which was the brainchild of Mr. Vale and is an organized effort by participating bridge communities to take advantage of the public-private partnerships offered by CBP.

These ports of entry help drive cross-border commerce and travel in my district and across the region. The services rendered by Customs and Border Protection officers at our ports of entry impact not only border communities but also the Nation's economy as a whole.

According to CBP's data, on a typical day in fiscal year 2014, officers processed over 1 million passengers and pedestrians at air, land, and sea ports of entry, as well as inspected over 70,000 truck, rail, and maritime containers. Those numbers represent billions of dollars a day in trade and travel that drive the growth of our local, State, and National economies.

Meanwhile, our ports of entry are aging. Their infrastructure often cannot accommodate the volume of trucks, vehicles, and pedestrians that cross on a daily basis, contributing to increased wait times. Also, many of these facilities cannot be retrofitted to accommodate post-9/11 security technology.

CBP previously estimated it would need \$6 billion over 10 years to modernize existing ports of entry to meet its current operational requirements, but funding has fallen far short of this need. Staffing shortages also continue to be a problem, as CBP remains thousands of officers short of the number necessary to staff our ports of entry properly. This shortage also contributes to growing wait times, costing the U.S. economy and American consumers billions of dollars.

CBP's private-public partnership program was established to allow for alternative funding sources to meet the growing demand for Federal services at ports of entry. This program can be beneficial in providing a short-term solution to a shortage of funding for staffing and infrastructure. However, it is not a long-term solution.

CBP operations and infrastructure improvements are government functions that have traditionally been funded by Federal appropriations and user fees. Under this model, ports of entry with greater resources could access more CBP services than ports of entry with equal need but fewer resources.

I understand the number of applications for reimbursable service agreements and donation proposals submitted by non-Federal partners is growing. This clearly illustrates that there is a strong demand for more CBP Officers and modern infrastructure at our ports of entry. But we must ensure that we as a Nation continue to fund security and facilitation needs at ports of entry.

Today, I would like to hear from our Federal witnesses about how P3 proposals are prioritized and how these programs are affecting the allocation of our limited border security resources.

I am also looking forward to hearing from our witnesses representing Texas border communities about their perspective on these programs and what they predict the future impact of these programs may be for the region. I understand the appeal of these programs, given current resource limitations, but maintain that Congress has a responsibility to provide CBP the resources to fulfill its mission.

I thank the witnesses for joining us today, and I look forward to your testimony.

[The statement of Ranking Member Vela follows:]

STATEMENT OF RANKING MEMBER FILEMON VELA

NOVEMBER 4, 2015

As a Member representing a border district, I understand and have seen firsthand the importance of maintaining infrastructure and adequate staffing at our ports of entry. I am pleased to have Mr. David Garcia, county administrator from Cameron County, Texas, in my Congressional district, joining us for the hearing today.

The Rio Grande Valley is made up of four counties—Cameron, Hidalgo, Starr, and Willacy with a combined population of 1.3 million people who share a border with almost 2 million citizens of Mexico. Within this 99-mile span of deep South Texas lie 11 international bridges—many of which participate in the South Texas Asset Consortium—an organized effort by participating bridge communities to take advantage of the public-private partnerships offered by CBP. These ports of entry help drive cross-border commerce and travel in my district and across the region.

The services rendered by Customs and Border Protection Officers at our ports of entry impact not only border communities, but also the Nation's economy as a whole. According to CBP's data, on a typical day in fiscal year 2014, officers processed over 1 million passengers and pedestrians at air, land, and sea ports of entry as well as inspected over 70,000 truck, rail, and maritime containers. Those numbers represent billions of dollars a day in trade and travel that drive the growth of our local, State, and National economies. Meanwhile, our ports of entry are aging.

Their infrastructure often cannot accommodate the volume of trucks, vehicles, and pedestrians that cross on a daily basis, contributing to increased wait times. Also, many of these facilities cannot be retrofitted to accommodate post-9/11 security technology. CBP previously estimated it would need \$6 billion over 10 years to modernize existing ports of entry to meet its current operational requirements, but funding has fallen far short of this need.

Staffing shortages also continue to be a problem, as CBP remains thousands of officers short of the number necessary to staff our ports of entry properly. This shortage also contributes to growing wait times, costing the U.S. economy—and American consumers—billions. CBP's Public-Private Partnership program was established to allow for alternative funding sources to meet the growing demand for Federal services at ports of entry. This program can be beneficial in providing a short-term solution to a shortage of funding for staffing and infrastructure. However, it is not a long-term solution.

CBP operations and infrastructure improvements are Government functions that have traditionally been funded by Federal appropriations and user fees. Under a "pay-to-play" model, ports of entry with greater resources could access more CBP services than ports of entry with equal need but fewer resources. I understand the number of applications for reimbursable service agreements and donations proposals submitted by non-Federal partners is growing. This clearly illustrates that there is a strong demand for more CBP Officers and modern infrastructure at our ports of entry.

But we must ensure that we as a Nation continue to fund security and facilitation needs at ports of entry. Today, I would like to hear from our Federal witnesses about how P3 proposals are prioritized and how these programs are affecting the allocation of our limited border security resources. I am also looking forward to hearing from our witnesses representing Texas border communities about their per-

spective on these programs and what they predict the future impact of these programs may be for the region.

Again, I understand the appeal of these programs given current resource limitations, but maintain that Congress has a responsibility to provide CBP the resources necessary resources to fulfill its mission.

Mrs. MILLER. I thank the gentleman very much for his comments.

Other Members of the committee are reminded that opening statements can be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

NOVEMBER 4, 2015

I want to touch on an issue that may not seem related to the issue before subcommittee, but in fact is. This week, the House is considering a highway bill that proposes to increase Customs Users Fees and direct the funding not to staffing or infrastructure at our ports of entry, but to unrelated transportation projects. The very fact that we are here today discussing having local communities and private entities pay for what has traditionally been a Government responsibility speaks to the needs at America's ports of entry.

I strongly oppose diverting homeland security fees to a non-security purpose, and believe that revenue must continue to be used for CBP operations at ports of entry. That is why I have joined with the Ranking Members of the Committee on Ways and Means and the Appropriations Committee Subcommittee on Homeland Security in submitting an amendment to the highway bill striking this diversion of much-needed border security funds.

It is my hope that other more appropriate revenue streams will ultimately be utilized for the highway fund because the needs at ports of entry continue to be great. Indeed, CBP previously estimated it would need about \$6 billion over 10 years to modernize its land port of entry inventory to meet its operational requirements.

That figure does not even include staffing needs, and we know that CBP continues to be thousands of officers short by its own staffing model. Clearly, these shortages are the impetus for CBP's Public-Private Partnership program. While I recognize the interest in finding an alternative means of funding additional staffing and infrastructure at ports of entry in the absence of other revenue sources, I am concerned that the "pay-to-play" aspect of the program may make it difficult for certain ports of entry to compete.

I understand, for instance, that the use of reimbursable service agreements at land ports of entry has decreased recently, likely in part due to their inability to pay for additional services. Meanwhile, use of these agreements at airports, which often have deeper pockets, continues to be strong. This disparity may not be in our interest when it comes to ensuring security and facilitation at all of America's 328 ports of entry.

So, while CBP's Public-Private Partnership programs may have their place, I have some questions for the witnesses before us about how the programs operate, how they can be improved, and what must be done to ensure appropriate staffing and resources for all ports of entry.

I am particularly interested in hearing from our local witnesses today about their viewpoints on the program, and what their unique staffing and infrastructure needs may be currently and over the longer term. CBP's Public-Private Partnership program may be a good Band-Aid for addressing our needs at ports of entry, but I doubt it is a cure.

Mrs. MILLER. Again, we are pleased to be joined by four very distinguished witnesses. Let me more formally introduce them today as they are going to be talking about this important topic.

Mr. John Wagner, deputy assistant commissioner for U.S. Customs and Border Protection's Office of Field Operations. He formerly served as executive director of admissibility and passenger programs, with responsibility for all traveler-admissibility-related policies and programs, including the Trusted Traveler program, the

Electronic System for Travel Authorization, and Immigration Advisory Program, and the Fraudulent Document Analysis Unit.

We were talking just before we came in here, I think this is your eighth time before this subcommittee and 14, I believe is what you said—I forget 12 or 14—before the full committee. So you are a frequent traveler here, and we certainly appreciate your coming back. We have to get you a desk here.

Mr. Michael Gelber is the deputy commissioner for public buildings service at the U.S. General Services Administration. The Public Buildings Service is one of the largest public real estate organizations in the world, operating more than 9,000 owned and leased properties across the United States. Mr. Gelber began his career at GSA in 1988 and has held several leadership positions, including service at the Northwest and the Great Lakes Regions.

So we welcome you to the committee, as well.

Mr. Sam Vale is the president of the South Texas Assets Consortium and is the past chairman of the Border Trade Alliance. Mr. Vale also serves as the president of the Starr-Camargo Bridge Company, an international bridge port of entry connecting Rio Grande City, Texas, with the city of Camargo, Mexico. In his time in the private sector, Mr. Vale has participated in several P3s with the U.S. Government.

So we welcome you. Thanks so much for traveling to Washington, DC, to join with us today.

Then Mr. David Garcia is the county administrator for Cameron County, Texas. In this role, he directs and supervises the day-to-day operations of all non-elected county departments and agencies that are under the direct oversight of the Commissioners' Court. Prior to Cameron County, Mr. Garcia served for 10 years on the staff of U.S. Congressman Solomon Ortiz here in Washington, DC.

I didn't realize that, but I served with Solomon on the House Armed Services Committee and traveled to the border with him, actually, several times. So he was really a real value-add here.

The witnesses' full written statements will appear in the record.

The Chair now recognizes Mr. Wagner to testify.

**STATEMENT OF JOHN WAGNER, DEPUTY ASSISTANT COMMISSIONER, OFFICE OF FIELD OPERATIONS, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. WAGNER. Chairman Miller, Ranking Member Vela, and Members of the subcommittee, thank you for the opportunity to appear today to discuss the use of U.S. Customs and Border Protection's public-private partnerships to meet the challenge of growing volumes of trade and travel to the United States.

The Office of Field Operations is CBP's front-line entity responsible for securing and facilitating international trade and travel at our Nation's 300-plus ports of entry. Each year, we process nearly 30 million cargo containers and approximately 370 million passengers in the land, sea, and air environments, and trade and travel volumes continue to rise.

While the continued increase in lawful cross-border commerce is a welcome benefit for the economy, it also presents several complex

challenges for an organization whose front line strength does not expand at the same rate.

To keep pace with the growth in international trade and travel in an austere budget environment, we developed a three-part resource optimization strategy that identifies staffing requirements using a workload staffing model, streamlines business processes, and promotes opportunities for public-private partnerships to support staff increases and facility improvements. It is this last item that I wish to highlight for you today.

Thanks to the support of Congress, CBP recently received limited statutory authority to collaborate with private-sector and Government partners through the Reimbursable Services Program and the Donation Acceptance Program to address port-specific needs for enhanced CBP services and infrastructure improvements that would not otherwise be possible.

It is common practice for private enterprise to pay for police services for special events or for a local government to pay for additional police presence during seasonal peaks in tourism or business. Similarly, CBP is frequently asked by our stakeholders to provide additional or enhanced services at ports of entry across the country.

We recognize the positive impacts that accompany enhanced CBP services at the ports, and we very much want to support our stakeholders in these endeavors. However, with finite resources, we are not always able to accommodate these requests.

The Reimbursable Services Program, initially authorized with section 560 of the Consolidated and Further Continuing Appropriations Act of 2013 and expanded with section 559 of the Consolidated Appropriations Act of 2014, allows CBP to support requests from stakeholders for expanded services, including customs, agriculture processing, border security services, and immigration-inspection-related services at the ports of entry.

The program enables stakeholders the means to work within their budgets and business plans and provides CBP the flexibility to meet situational or future demand for extended or enhanced services at specific ports of entry.

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 processing of more than 2.8 million travelers and nearly 425,000 personal and commercial vehicles.

Among the participating land ports of entry—El Paso, for example—during periods when CBP provided enhanced services, private vehicle volume increased by 26 percent while wait times remained constant. Pedestrian volume increased by 16 percent while average wait time decreased by 36 percent.

Similar benefits have been realized by the South Texas Assets Consortium during peak travel periods such as Eastertime. Among the participating airports, the added hours and supplementary lane openings, in conjunction with other passenger processing initiatives, have helped decreased wait times by an average of almost 30 percent while traveler volume has increased about 7 percent.

This past May, we surveyed the 10 stakeholders that we partnered with during the first calendar year of the Reimbursable

Services Program to gain insight into how stakeholders feel about the program and to identify areas for improvement. Respondents gave the program an overall satisfaction score of 4.4 out of 5. Ninety-four percent of the responses indicated the program has had a positive impact on the stakeholder, their goals, and the community.

The program continues to expand as new agreements are signed every year, as authorized by this 5-year pilot program.

It is important to note that it is not CBP's intention, nor does the law allow, for any agreement for reimbursable service to either reduce or otherwise affect existing CBP services funded by other sources.

Growing volumes of travel and trade, along with increasing stakeholder requests for additional service, present another challenge for CBP infrastructure. More than half of the Nation's ports of entry are located at our land borders, and most were built to support the distinct and independent operations of pre-DHS components.

Furthermore, several land ports were built more than 70 years ago. Even those constructed as recently as 15 years ago require renovation to accommodate our consolidated operations technology and present-day security standards.

The donation program provides CBP and GSA the opportunity to consider donation proposals and address local port-of-entry infrastructure needs—needs that, because we have had to prioritize improvements on a Nation-wide level, would not otherwise have been addressed.

Accepted donations may be used for any necessary activity related to construction, alteration, operation, or maintenance of a new or existing port, including the land acquisition and technology. We worked very closely to develop robust procedures and criteria to collaboratively and systemically evaluate these proposed donations. Already, we have coordinated to select three donation proposals for planning and development.

So thank you for the opportunity to appear here today, and I am happy to answer any of your questions.

[The prepared statement of Mr. Wagner follows:]

PREPARED STATEMENT OF JOHN WAGNER

NOVEMBER 4, 2015

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 front line 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 2016.

Thanks to the support of Congress, the Consolidated Appropriations Act, 2014, Pub. L. 113–764, and the Department of Homeland Security Appropriations Act, 2015 (Pub. 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 fiscal year 2014, CBP inspected more than 370 million travelers at our air, land, and sea POEs, 12 million more than in fiscal year 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.<sup>1</sup> 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 facilities<sup>2</sup> 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.

<sup>1</sup>“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).

<sup>2</sup>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).

## 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.

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, Pub. L. 113-6 (Section 560); and Section 559 of Division F of the Consolidated Appropriations Act, 2014, Pub. 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 locations<sup>3</sup> 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 (Pub. 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 on-going modernization needs of CBP's LPOE portfolio.

*Reimbursable Services Agreements*

Section 559(e) expands CBP's authority, under a 5-year pilot program, to enter into reimbursable agreements similar to the fiscal year 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 5 agreements per year are currently allowed at new or existing CBP-serviced airports for each of the 5 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.

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 aver-

<sup>3</sup>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.



age 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.<sup>4</sup>

#### *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.<sup>5</sup> 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 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 fiscal year 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.

<sup>4</sup>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>.

<sup>5</sup>[http://www.cbp.gov/sites/default/files/documents/DAA%20Proposal%20Evaluation%20Procedures%20%26%20Criteria%20Framework\\_Public%20FINAL.pdf](http://www.cbp.gov/sites/default/files/documents/DAA%20Proposal%20Evaluation%20Procedures%20%26%20Criteria%20Framework_Public%20FINAL.pdf).

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.

Mrs. MILLER. Thank you very much.

The Chair now recognizes Mr. Gelber for his testimony.

**STATEMENT OF MICHAEL GELBER, DEPUTY COMMISSIONER,  
PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES AD-  
MINISTRATION**

Mr. GELBER. Good morning, Chairman Miller, Ranking Member Vela, and Members of the subcommittee. Thank you for inviting me to this hearing.

Our mission at GSA 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 Customs and Border Protection to meet that agency's space needs along our Nation's borders, which stretch over 64,000 miles.

CBP is our primary partner among the Federal inspection agencies stationed along America's land borders. As such, GSA works closely with CBP to design, construct, maintain, and operate 124 of America's 167 land ports of entry, which 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 our Nation's land ports. The combined value of trade between United States and Canada and Mexico via surface transport totaled nearly \$1 trillion in 2014. Clearly, safe, secure, and modern land ports along our borders are critical to supporting America's jobs and our Nation's economy.

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 borders. However, CBP has identified over \$5 billion in needs to recapitalize the land-ports-of-entry inventory.

In the absence of full access to the resources in the Federal Buildings Fund, GSA has been unable to execute critical modernization and land-port upgrades that would enhance the security of our borders and improve the efficient flow of commerce with our neighbors in Canada and Mexico.

With constrained Federal funding, GSA has explored and used alternative project delivery methods to support land-port projects. GSA has a 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 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 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 land owner 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, most recently through section 559 of the fiscal year 2014 Appropriations Act.

As required by section 559, GSA and CBP worked together to establish a donation evaluation framework, incorporating feedback from a broad range of stakeholders. The jointly-developed Donation Acceptance Procedures Framework was used by GSA and CBP to evaluate 7 donation proposals last year. GSA and CBP selected three of these proposals for further planning and development, which we are hopeful will result in executed projects that will increase security and improve trade.

GSA is encouraged by the results of this program and hopes its continued availability provides another useful tool for GSA to support Federal operations along our Nation's border.

Thank you for the opportunity to testify today, and I look forward to your questions.

[The prepared statement of Mr. Gelber follows:]

PREPARED STATEMENT OF MICHAEL GELBER

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 United States and Canada and the United States 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 ON-GOING 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 5 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 2014 and fiscal year 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 long-standing 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 fiscal year 2013, CBP received limited authority to enter into reimbursable service agreements with private-sector entities for the provision of certain inspection services.<sup>1</sup> 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").<sup>2</sup>

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 7 donation proposals received during the first open submission period, which concluded on December 23, 2014. CBP, with concurrence from GSA, selected 3 proposals to advance to Phase II: Proposal Planning & Development—The City of Donna/Donna RioBravo 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, the Section 559 Donation Ac-

<sup>1</sup> *Consolidated and Further Continuing Appropriations Act of 2013*, Pub. L. 113–6, division D, title V, section 560.

<sup>2</sup> *Consolidated Appropriations Act of 2014*, Pub. L. 113–76, division F, title V, section 559.

ceptance 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.

Mrs. MILLER. Thank you very much.

The Chair now recognizes Mr. Vale for his testimony.

**STATEMENT OF SAM F. VALE, PRESIDENT, STARR-CAMARGO BRIDGE COMPANY**

Mr. VALE. Chairman Miller, Ranking Member Vela, and Members of the subcommittee, it is a pleasure to be here with you today. We are very familiar with the Blue Water Bridge and the Ambassador Bridge and sometimes the Peace Bridge. We work closely with them whenever we can.

Private partnerships are not new for us. We did our original bridge in 1965 with totally private funding. All the facilities have been built with private funds. We are glad to see that the rest of the country is catching up with the old style that we did in Texas.

Section 559 and 560, in many ways, had the answer to the trade community's on-going call for a creative response to consistent concerns over staffing levels at the ports of entry. Thanks to innovative thinking within the Department of Homeland Security, CBP, and leaders in Congress, like this subcommittee's Ranking Member Vela, plus Senators John Cornyn, Congressmen Henry Cuellar, Michael McCaul, and John Carter, to name but a few, we have this opportunity today.

We must point out that CBP must exhaust its available budget before it taps into our funds. They are not allowed to switch the funds. So that is something that we watch very closely, and they are very careful in how they budget their overtime moneys so that we can be an extra, an add-on, as opposed to a substitute.

It has been particularly beneficial during peak hours. CBP referred to holy week, Semana Santa. Those are times it is very difficult to staff for, because you have unknown peaks and valleys, days of the week during the holidays that big events can draw certain people sometimes, other days not; it is raining, it is not. Many things affect that, and it is virtually impossible to staff for it.

The cities of McAllen and Pharr took advantage of this in 2014 and 2015. They put up \$50,000 each. Now, the city of McAllen got it from the chamber of commerce, primarily the business community, and their economic development organizations, and the bridge company itself. Pharr paid for it out of bridge tolls. So we have flexibility in how we go about doing what we have to do to reimburse. But it was very successful. The reference was made that it shortened wait times from 4 hours to 2. That makes a big difference to the tourists coming in to spend their money.

These contributions are looked at as investments, with a return on investment. For example, the chamber of commerce was very interested in the retail sales, the hotel occupancy, and the restaurant

sales. So was the community, the city, because they got tax moneys in return for those expenditures in their community.

El Paso has been quite a sterling example because they are actually hiring full-time equivalents in El Paso, plus using overtime funds. The city has funded over 19,000 overtime hours since 2014, and they have paid over \$2 million to CBP in reimbursable funds.

These options are made available because we have proven that it really works for the country. 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 1 CBP Officer can inject \$2 million into the U.S. economy and create 33 jobs. Those are very good returns on investment. Thirty-eight million jobs in the United States depend on international trade. Six million of those are associated with Mexico. More importantly, the private sector can't wait until the Government makes the necessary budget arrangements.

We are looking forward to working with all of the Members of the subcommittee to expand upon this, to provide new and better ideas on how we are going to go forward in funding these activities. We would like to have better studies and projections of how growth is going to take place, not just looking at history and an excellent work model they have developed but actually convincing the private sector that they can securely provide information about their business plans so that we know in advance where the business is going to come from and help assign staffing on that basis.

There are many other ideas that are worth bringing up; we will leave that to some other time and place.

Thank you.

[The prepared statement of Mr. Vale follows:]

PREPARED STATEMENT OF SAM F. VALE

NOVEMBER 4, 2015

Chairman 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 United States 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 on-going 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 4 hours to 2. 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.<sup>1</sup> Quite simply, trade means jobs. Thirty-eight million jobs depend on international trade;<sup>2</sup> 6 million on trade with Mexico.<sup>3</sup> 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.

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 United States 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 United States, 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.

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

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

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



## 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 5-year limitation. Today, in the case of infrastructure projects that would take longer than 5 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.

Mrs. MILLER. Thank you very much.

The Chair recognizes Mr. Garcia for his testimony.

**STATEMENT OF DAVID A. GARCIA, COUNTY ADMINISTRATOR,  
CAMERON COUNTY, TEXAS**

Mr. GARCIA. Chairman Miller, Ranking Member Vela, and Members of the subcommittee, thank you for the opportunity to come before you today. For the record, I provided my written testimony to the committee, and I look forward to a constructive discussion on trade and security at our ports.

Cameron County has a history of working on public-private partnerships on a number of infrastructure projects. So I thank you for the opportunity to come before you today to share our views from our perspective.

In our region, we depend heavily on the ability to move traffic efficiently on a daily basis. We believe strongly in the program to allow for public-private partnerships within the Department of Homeland Security's Custom and Border Protection, as well as the other Federal agencies. We are always looking to take advantage of opportunities to improve our infrastructure and resources.

I applaud the Members of this committee for continuing to find ways to improve and authorize programs and objectives for the various agencies comprising DHS. We all recognize that protecting the homeland is the No. 1 National security priority.

For us, living on the border, it is a difficult balancing act when it comes to trade and security but one that we know we have to contend with daily. Despite the challenges, improving the economic conditions is a fundamental priority for us.

Cameron County owns and operates three international bridges, there is a private bridge, and the Port of Brownsville port of entry. We also expanded our Veterans Bridge recently. Not too long ago, we inaugurated the first international rail bridge on the U.S.-Mexico border in over 100 years—a true public-private partnership between Cameron County and Union Pacific Rail.

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 initiatives because they go hand-in-hand with what is being discussed today.

But, first, I would like to point out that we enjoy great collaboration and communication with CBP, 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.

Due to the level of enhancements and improvements 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 such as the Department of Agriculture, is essential. For example, the ability for a port director to allocate and shift resources is a valuable tool in the daily operations affecting local bridge systems like ours. That is why we support programs that are being discussed here today.

I applaud the members of our delegation—Representative Vela, Senator Cornyn—as well as Members of this committee for providing us with another tool in the toolbox as we continue to improve and modernize our ports of entry. As we grow and strategically plan our future, 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 long-term staffing and infrastructure funding.

In south Texas, we are getting ready to launch rockets, and thousands of visitors will come to south Texas, including those from Mexico. Our area airports will see their fair share of increased activity, and Customs and Border Protection is among the various agencies leading in the coordination efforts.

Our Port of Brownsville, also considered the Port of South Texas, is working to deepen their channel to attract post-Panamax vessels. There are at least three LNG permits before the Federal Energy Regulatory Commission, multibillion-dollar investments that have the potential to increase the county's valuation by more than 20 percent.

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 proper manpower and resources available.

For us, we would like to explore possibilities at our bridges, including the possibility of staffing at our bridges and working with GSA and the Department of Agriculture at the Free Trade Bridge in Los Indios. In Mexico today, shippers are pushing to get their fresh produce to market faster utilizing the Mazatlan-to-Matamoros Highway. We need to ensure we have the discussions with CBP and USDA on how we maximize this to our full potential.

Given our history of managing and operating international bridge systems, Cameron County is well-positioned to find innovative ways to work with Customs and Border Protection and other DHS agencies to plan for the future.

Finally, there is a border master plan that identifies future projects along the border. I would encourage both committee staff and agency officials to work together to plan proactively in this process. This will help us overcome the difficulties and challenges as new facilities come on-line.

Together, we need to ensure there is a level of coordination from beginning to end in the development of these ports. As we all know, the amount of trade, in terms of volume and value, is in the billions, and programs like this one need to be kept in place so viable options can be considered by local governments.

I thank you, Chairman Miller, for holding this important hearing, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Garcia follows:]

PREPARED STATEMENT OF DAVID A. GARCIA

NOVEMBER 4, 2015

Chairman Miller, Ranking Member Vela, and Members of the subcommittee thank you for the opportunity to come before you today. For the record, I have provided my written 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. Cameron County has a history of working on public-private partnerships on a number of infrastructure projects. So I thank you for the opportunity to come before you today to share our views from a regional perspective.

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. We are always looking to take advantage of opportunities to improve our infrastructure and manpower.

I applaud the Members of this committee for continuing to find ways to improve and authorize programs and objectives of the various agencies comprising DHS. We all recognize that protecting the homeland is the No. 1 National security priority. For us living on the border it is a difficult balancing act when it comes to trade and travel but one that we know we have to contend with daily. Despite the challenges, improving the economic conditions is a fundamental priority for us.

Cameron County borders the Gulf of Mexico on one side and the U.S.-Mexico border on the other. The county owns and operates three international bridges. There is also a private international bridge (B&M) and the Port of Brownsville Port of

Entry. In addition, we recently inaugurated 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 with funding support from Federal and State agencies.

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 on-going initiatives because they go hand-in-hand with what is being discussed here today.

But first I'd like to point out that we enjoy great collaboration and communication with Customs and Border Protection as well as the Border Patrol and other law enforcement agencies in our area. Working together we have been able to forge ahead despite all the rules and regulations post-9/11.

Due to the level of enhancements and improvements along the border and the special operations, northbound and southbound, being conducted regularly, adequate staffing of Customs and Border Protection agents as well as other mission-critical agencies at our Ports of Entry like the Department of Agriculture is essential.

I will say that 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 tool in the daily operations affecting local bridge systems like ours. That is why we support the programs being discussed here today. We believe it will be beneficial to us long-term.

I applaud the members of our delegation—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. As we grow and strategically plan our future 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 long-term staffing and infrastructure funding.

For us the Rio Grande River is a like a street with water—it separates two international communities that are truly intertwined and connected via a transportation artery. The population in the Rio Grande Valley on both sides continues to climb which poses a growing challenge when facilitating trade and travel on a daily basis.

As it pertains to South Texas, we are one of the fastest-growing and dynamic regions of the country.

When SpaceX begins its operations in Cameron County in early 2017, it is estimated that we will attract upwards of 15,000 visitors per launch creating a South Texas Space Corridor similar to Cape Canaveral. Many of these visitors will come from Northern Mexico.

Our area airports will also see their fair share of increased activity in the days and hours leading to a launch. Customs and Border Protection is among the various agencies leading in the coordination efforts and we will need their 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-Panamax vessels. There is undoubtedly an increased level of activity like never before.

Cameron 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 pending before the Federal Energy Regulatory Commission. If approved, these multi-billion dollar investments have the potential to increase the valuation of the county by 20 percent or more. Another project on the horizon could potentially increase commercial traffic dramatically at our ports.

Because of our strategic corridors, proximity to the deep water port, an adjacent rail bridge, a new interstate and our international ports of entry we are regarded as an ideal location for many new ventures.

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 proper manpower and resources available.

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 then we need to start the discussion with both CBP and USDA on how we maximize this presently under-utilized port of entry.

Given its 50-year history of managing and operating an international bridge system, Cameron County is well-positioned to find innovative ways to work with Cus-

toms and Border Protection and other Department of Homeland Security agencies to plan for the future.

Finally, there is a border master plan that identifies future projects along the U.S.-Mexico border. I would encourage both, committee staff and agency officials at DHS, to work together to plan proactively in this process. This will help us overcome the difficulties and challenges as new facilities come on-line.

Together we need to ensure there is a level of coordination from beginning to end in the development, construction, operation, and maintenance of our Ports of Entry. As we all know, the amount of trade in terms of volume and value is in the billions. Programs like this need to be kept in place so viable options can be considered by local governments.

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

Mrs. MILLER. Thank you, Mr. Garcia.

I thank all of the witnesses for their testimony.

I was taking a couple of notes while you were all talking.

Mr. Wagner, you were saying that some of the POEs are actually 70 years old. I don't want to keep going on about the Northern Border, but I will mention that the Ambassador Bridge is actually, I think, over 80 years old.

You know, I mentioned the Northern Border, and I appreciate Mr. Vale taking about it, because, actually, Canada is our largest trading partner by a long way—I mean, bigger than China. You know, we are all watching all these container ships come into all of our POEs, our ports and everything; it is Canada who is really our largest trading partner.

But as we look at our various POEs, not only are they old and antiquated, really, certainly pre-9/11, we weren't really thinking in terms of the security, the design. If you look at some of the various configurations of the POEs, you think, my gosh, what were they even thinking about? Well, we weren't thinking, right? As a Nation, we were thinking about how you expedite travel and passenger travel and trade and all of this, so we weren't really thinking so much in terms of security.

Now I wanted to mention and sort of dig down into the weeds a little bit about this entire program, this P3 program that we are talking about.

Mr. Wagner, you were mentioning some of the various things. I would just ask you, if the Congress were to restrict this program, as you have mentioned some of the successes that you had—because it is a 5-year pilot program, so we are already 2 or 3 years into the program. Right now, the way that we have it set, you have to have the appropriators actually put language in the appropriation bill every year to extend it.

Now, Mr. Hurd's bill is going to give it permanence, which our committee, passing that, thought that was a very important thing. So I guess I am just sort-of looking for a bit of your thoughts on that.

Also, not only the permanence but the caps of these pilot programs. I mean, if it is good in the—you know, right now, have a 5-year cap, I think. I know Judge Carter, Mr. Carter—Mr. Vale mentioned him—on the Appropriations Committee is looking at extending that to 10.

So those are all good thoughts, I suppose, but I guess I would just ask for a little bit more fleshing this out.

I will start with Mr. Wagner, what you think about the permanency of a program for the P3s and the caps and those kinds of things.

Mr. WAGNER. Thank you.

We would support any legislative effort to make this authority permanent. We think we have a very good relationship built with GSA and with our stakeholders to implement this. We will continue to survey the stakeholders in this to make sure we are meeting their needs.

But, as far as the caps go, we would also look to remove the limitations on that. As long as this remains a voluntary program, that the stakeholders come to us voluntarily, and as long as we are constrained by not reducing the level of service we are providing today—that is an important part for us, that we are not just shifting this into a pay-to-play scheme, or things we are providing services now that we shift to just a reimbursable model.

But if we can maintain the current level of service but then, upon request, we are able to, without limitation, review these requests and accommodate these requests, I think we would support any legislative efforts to do that.

Mrs. MILLER. I am looking for the other gentlemen to respond, as well, but, before they do, I think that is a very important point. Because I think you might have some municipalities or private citizens or whoever saying, why am I going to give CBP money here—if the funds are all fungible, they are just going to then take the money that should be spent here and spend it somewhere else, right? I mean, you have to make sure that that is not happening.

Mr. Gelber, what is your thought?

Mr. GELBER. GSA shares CBP's perspective on this matter. Obviously, if Congress were to pass the statute and the President were to sign it into law, GSA would abide by its conditions. In the constrained resource environment that we currently operate in, this type of flexibility is helpful for us as we support the Federal inspection agencies at the land ports.

Mrs. MILLER. Mr. Vale, do you have any comments on the current pilot programs and how we ought to change them or improve them?

Mr. VALE. Yes, ma'am. We totally support Chairman McCaul and Congressman Hurd's initiative to make it permanent. You cannot build very expensive programs if you do not have a long term to be able to recoup the investment. That is particularly true when you are trying to get access roads to the ports of entry. We don't have any of those type of projects that will come on stream, primarily because the financial institutions and the bond holders will not take a project that is going to have a limit on them when they can get paid. If it doesn't happen, who pays the difference? So that is a problem when we start deep down this road.

Now, it is not in our DNA to pay for services the government should be providing. However, we look at it as an investment, and we hope that, as you go down the road, not only the Congress but the agencies will see these investments are paying off. They look for their particular budget appropriations, and then we are able to keep the program so that our moneys can be invested in additional items and pilot these things.

Texas is right now—believe it or not, they have passed a law that allows the agriculture department to subsidize Federal agriculture inspections at the ports of entry. It is a pilot, but that is the kind of thinking we have to do. It is a 50/50—we have to match it 50/50.

But these are things that we encourage are the best way to move forward in a tight economy, particularly in the budget world.

Mrs. MILLER. Mr. Garcia.

Mr. GARCIA. Thank you, Chairman.

From a staffing standpoint, we agree with what the agencies are saying. From a development standpoint, you know, these projects take a number of years to get off the ground and through construction. So to have a certain amount of certainty with these programs helps us out in planning.

I will give you an example. On our West Rail project, we had a Presidential permit, and we didn't build our project until 12 years later. Then, in addition to that, because we were utilizing Federal funds from different Federal agencies, we had to conduct three separate environmental studies for each agency. So that takes a lot of time, money, and effort.

So being able to have these programs in place to make sure that on the development side, with GSA or whoever we are working with, will help us greatly.

Mrs. MILLER. Thank you.

The Chair recognizes my Ranking Member, Mr. Vela.

Mr. VELA. Thank you.

Mr. Wagner, first of all, I would really like to thank you and your agency for the good work that your agents do. Over the course of the last year, probably about 30 to 40 Members of Congress and U.S. Senators have been at the West Rail Bridge and the Pharr Bridge and some of the other bridges. You know, it is one thing to sit up here in a committee hearing and listen to testimony, but it is a far different thing to go down and watch what your agents do, you know, when they are cutting through tons and tons of produce. Just thank you for accommodating those visits. I think it really helps.

Mr. Gelber, I would like to thank you, as well, for your work in Donna, Texas, in, you know, helping them through the 559 process. That has been a very important piece of work, as well.

My question for you, Mr. Wagner, is: We funded 2,000 CBPOs in the last session of Congress. Can you give us an idea of where we are on that?

Mr. WAGNER. I believe we still are just shy—just a little bit over 800 short of that goal.

We have been doing a lot of recruiting efforts, revamping our recruiting efforts, revamping our hiring process, looking into the different parts of that hiring process, reordering the different things. It has been a struggle to meet the 2,000. You know, we have really put a lot of effort into changing how we do this. We have a lot of people failing the backgrounds, is what it amounts to.

But we are continuing to push forward on it and look at, you know, different opportunities with the universities, with veterans coming out of the service, and looking for better ways to do it. But we are still a little over 800 short of where we want to be.

Mr. VELA. Is there anything you see that we can do to help?

Mr. WAGNER. I don't believe at this time. We need to just continue to push forward with the right recruiting efforts and get the right people into these jobs. We need to make sure our process is streamlined, that we can get people timely cleared with the right clearances into these positions. So I think the action is more on us at this point.

Mr. VELA. I am not sure about either your involvement or Mr. Gelber's involvement in this project, but recently I visited the airport at the San Diego-Tijuana border, and it is a fascinating project.

Are you in a position to elaborate on, you know, that process, what is taking place, and, you know, how soon that is set to open?

Mr. WAGNER. The cross-border terminal?

Mr. VELA. Yeah, where you can park on this side of the border and pass through the tunnel.

Mr. WAGNER. It is a unique arrangement where you can park in the United States, cross over a land bridge into Tijuana, and use the airport there and fly out of Mexico to your destination. When you come back, you land in Tijuana, you cross back over the bridge and clear CBP to enter back into the United States. So it is really a land bridge connecting the airport with parking in the United States.

It is a user-fee arrangement, so all of our staffing costs will be covered as we do at the user-fee airports, but this will be a user-fee land-border crossing. So the number of officers that we will have there will be fully funded by the stakeholder to do that.

They are building the facility right now, and I believe it is scheduled to open early next calendar year, at this point.

Mr. VELA. Well, that is great work, and I congratulate all of the agencies involved in pushing that project forward.

Mr. Vale, I think you might have wanted to elaborate on the agricultural crossings. You know, what more would you like to say about that?

Mr. VALE. What is driving this is the diet of the American people. It is the American housewife who is demanding higher-quality fruits and vegetables year-round. So we have products that I call generally—because I can't even identify many of them—Asian fruits and vegetables, and they are grown in Mexico now.

The Texas legislature made a determination that it was important to Texas, because of the jobs it creates in the State of Texas in the distribution to go around the country, to provide some pilot moneys to see how well it could generate additional growth. They are putting up about \$600,000 or \$700,000, to be matched 50/50 by the members of the 559 program so that, then, with that, we would be able to go out and actually even hire agriculture specialists, to provide funds to CBP for a period of years to hire them and get them going.

There is a big shortage. Because it doesn't matter if you have the money if you don't have the people. You can't hire over time, you can't put people to work if they are not there. That is the problem we are seeing with CBP.

When we got those 2,000 officers, we forgot to get money to hire the people to hire the people. They were overwhelmed with what



they had to do in the background checks. We should have provided some special revenues to help them in that area.

He may not say that, but I know the real problem is they ain't got enough guys to take lie-detector tests with. That is a problem.

So we are looking forward to experimenting with these ideas. Pre-inspections, which are not clearances, but helping to identify the risk assessment as a new, valid way of looking at it.

The preclearance programs are very interesting, what they just opened up in Laredo, which is a plane can be loaded, Mexican customs is there, U.S. customs are there, they are cleared, and they fly anywhere they want in Mexico when they take off. They don't have to go back through Customs.

They are doing other programs. I think they have some out in the Otay Mesa area they are working on and some in the El Paso area.

So we would like to see many of these things at least put into implementation form, and then they can judge how valuable they are after that.

Mr. VELA. Well, my time has expired, but thank all of you for your good work, and thanks for being with us today.

Before concluding, Chairman Miller, I would like to submit for the record a statement from Anthony Reardon, the National president of the National Treasury Employees Union.

Mrs. MILLER. Without objection.

[The information follows:]

STATEMENT OF ANTHONY M. REARDON, NATIONAL PRESIDENT, NATIONAL TREASURY  
EMPLOYEES UNION

NOVEMBER 4, 2015

Chairman Miller, Ranking Member Vela, distinguished Members of the subcommittee, thank you for the opportunity to provide this testimony. As president of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 25,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists stationed at 328 land, sea, and air ports of entry (POEs) across the United States as well as at 16 Preclearance POEs.

The purpose of this hearing is to explore the expanded role of public private-partnerships as a mechanism to fund additional CBP Officers. NTEU applauds the subcommittee for recognizing that there is no greater roadblock to legitimate trade and travel efficiency than the lack of sufficient staffing at the ports. Understaffed ports lead to long delays in our travel and commercial lanes as people and cargo wait to enter the United States to long delays in our travel and commercial lanes as people and cargo wait to enter United States. NTEU strongly supported funding to hire an additional 2,000 new CBP Officers at the air, sea, and land ports of entry provided in the fiscal year 2014 Omnibus bill. NTEU also strongly supports increasing immigration and Customs user fees and indexing these user fees to inflation to fund the hiring of additional CBP Officers as identified by CBP's Workforce Staffing Model.

In any examination of CBP's public-private partnerships, NTEU recognizes first and foremost the role that user fees play to pay for passenger processing, trade enforcement, and facilitation inspection services provided by CBP to international traders and travelers. NTEU strongly supports increasing and indexing to inflation all user fees collected by CBP and depositing these indexed fees into designated user fee accounts to fund the hiring of additional CBP Officers as identified by CBP's fiscal year 2015 Workforce Staffing Model. According to CBP's fiscal year 2016 Congressional Justification for Salaries and Expenses, despite an increase in appropriated funding for the hiring of 2,000 new CBP Officers, CBP still faces a staffing shortage of 2,700 CBP Officers in fiscal year 2016 and beyond.

For years, NTEU has maintained that delays at the ports result in real losses to the U.S. economy. According to the U.S. Department of the Treasury, more than 50 million Americans work for companies that engage in international trade and, according to a University of Southern California (USC) study, "The Impact on the

Economy of Changes in Wait Times at the Ports of Entry”, dated April 4, 2013, for every 1,000 CBP Officers added, the United States can increase its gross domestic product by \$2 billion, which equates to 33 new private-sector jobs per CBP Officer added. This analysis was supplemented by USC in its update entitled “Analysis of Primary Inspection Wait Times at U.S. Ports of Entry” published on March 9, 2014. This study found that by adding 14 CBP Officers at 14 inspection sites at 4 international airports, the potential total net impact would increase annual Gross Domestic Product (GDP) by as much as \$11.8 million.

#### CUSTOMS USER FEES

CBP collects Customs User Fees (CUFs) which include CUFs authorized by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to recover certain costs incurred for processing, among other things, air and sea passengers, and various private and commercial land, sea, air, and rail carriers and shipments. The source of these user fees are commercial vessels, commercial vehicles, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs brokers, and barge/bulk carriers.

COBRA fees are deposited into the Customs User Fee Account and are designated by statute to pay for services provided to the user, such as 100% of inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. Of the 23,775 CBP Officers currently funded, COBRA fees fund 2,859 full-time equivalent CBP Officers.

The administration proposed in both its fiscal year 2015 and fiscal year 2016 budget requests, an increase of \$2 in CUFs. If enacted, a \$2 increase in CUFs would support the hiring of 900 new CBP Officers. According to NTEU’s calculations indexing CUFs to inflation and depositing that increase into the Customs User Fee Account would support the hiring of approximately 600 new CBP Officers.

#### DIVERSION OF CUSTOMS USER FEES

Any increases to the Customs User Fee Account should be properly used for much-needed CBP staffing and not diverted to unrelated projects. Indexing COBRA user fees to inflation would raise \$1.4 billion over 10 years—a potential \$140 million per year funding stream to help pay for the hiring of additional CBP Officers to perform CBP’s National security, law enforcement, and trade and travel facilitation missions.

The Senate-approved highway bill, H.R. 22, includes a provision, Section 52202, that indexes CUFs to inflation, but diverts this funding from the Customs User Fees Account to the General Fund to pay for unrelated infrastructure projects. Again, indexing CUFs to inflation and directing the additional funding to the Customs User Fee Account would support the hiring of new CBP Officers to address the current 2,700 CBP Officer staffing shortage. If H.R. 22 is enacted with no change to Section 52202, CUF payers would pay \$140 million a year in additional COBRA fees, but CBP would not receive one additional dime to fund much-needed new CBP Officer personnel.

If Congress is serious about job creation, wait times, international tourism, trade enforcement and facilitation, Congress should reject Section 52202 of H.R. 22 and instead authorize indexing the COBRA portion of CUFs to inflation and use the increased fees to improve border security and processing.

#### IMMIGRATION USER FEES

CBP collects immigration inspection user fees (IUFs) from air and sea passengers traveling to the United States. Increasing and indexing the IUF will allow CBP to better align air passenger inspection fee revenue with the costs of providing immigration inspection services. Of the 23,775 CBP Officers currently funded, IUFs fund 4,190 CBP Officer positions.

According to CBP’s fiscal year 2016 Congressional Justification, IUF collections will remain stagnant in comparison to immigration costs. In fiscal year 2015, IUFs raised about \$630 million, while CBP’s actual costs to provide immigration inspections totaled about \$830 million—thereby allowing CBP to recover only 76% of total costs. IUF rates were last increased from \$6 to \$7 in November 2001. The fiscal year 2016 budget requests a \$2 increase in the IUF. The additional revenue generated by this \$2 fee increase would support over 1,400 new CBP Officers.

#### REIMBURSABLE SERVICE AGREEMENTS (RSA)

In recent years, in order to find alternative sources of funding to address serious CBP Officers and Agriculture Specialist staffing shortages, CBP received authoriza-

tion and has entered into reimbursable service agreements (RSAs) with the private sector as well as with State and local government entities. These organizations reimburse CBP for additional inspection services including overtime pay and the hiring of new personnel that in the past has been paid for entirely by user fees or appropriated funding. According to CBP, since the program began in 2013, CBP has entered into agreements with 21 stakeholders, providing more than 112,000 additional processing hours for incoming commercial and cargo traffic at a cost of nearly \$13 million to these public and private-sector partners.

Section 560 of the fiscal year 2013 DHS appropriations bill authorized CBP to enter into 5 reimbursable fee agreements for a 5-year term with the city of El Paso land port of entry, the city of Houston airport system; Dallas/Fort Worth International Airport; Miami-Dade County; and the South Texas Assets Consortium (STAC.) It should be noted that agricultural inspectional services are not eligible for reimbursement under the Section 560 program, as it is limited to “customs and immigration” inspectional services such as salaries, benefits, relocation expenses, travel costs, and overtime as necessary at the city of El Paso land ports and solely to overtime at the 3 air ports of entry.

An expansion of the Section 560 RSA CBP pilot program was authorized by Section 559 of the Consolidated Appropriations Act of 2014, Pub. L. 113–76. Section 559 expanded on the Section 560 RSAs by allowing for increased services at newly selected ports, to include customs, immigration, agricultural processing, and border security services. Because of the need for CBP Agriculture Specialists to process incoming produce, STAC quit the 560 program and applied for the 559 program. Under Section 560, RSAs were limited to CBP Officer overtime and staffing, except in the air environment where only CBP Officer overtime reimbursement is allowed. Under both Section 560 and 559, reimbursement for the hiring of additional CBP Officer and CBP Agriculture Specialist positions is allowed at sea and land ports, but only overtime reimbursement is allowed at airports.

The new Section 559 has no restriction on the number of RSAs for sea and land ports and no limits on the terms of agreement for customs, agricultural processing, border security services and immigrations inspection-related services. These costs may include salaries, benefits, administration, transportation, relocation expenses, and overtime expenses incurred as a result of the services requested.

#### NTEU’S RSA CONCERNS

NTEU believes that the RSA program would be unnecessary if Congress authorized user fees collected to be indexed to inflation and the additional funding provided by indexing be used as set forth in existing statute. Diverting the difference in the amount of CUFs collected currently and the additional amount indexed to inflation to non-CBP related projects will both increase the cost to the private sector by escalating the current level of CUFs paid over the next 10 years, and by compelling the private sector to separately fund, through these RSAs, CBP inspectional staffing and overtime.

NTEU also believes that the RSA program is a Band-aid approach and cannot replace the need for Congress to either authorize an increase in COBRA and immigration user fees indexed to inflation or to authorize increased appropriations to hire additional new CBP Officers to adequately address CBP staffing needs.

Further, NTEU strongly believes that CBP should not enter into a RSA if it would negatively impact or alter services funded under any Appropriations Acts, or services provided from any Treasury account derived by the collection of fees. RSAs simply cannot replace CBP appropriated or user fee funding—making CBP a “pay-to-play” agency. NTEU remains concerned with CBP’s new preclearance expansion program that also has a “pay-to-play” component in its implementation.

NTEU also believes that the use of RSAs to fund CBP staffing shortages raises significant equity and other issues, which calls for an engaged Congress conducting active oversight.

For example:

- How does CBP insure that RSAs are not only available to ports of entry with wealthy private-sector partners? (When RSAs were first considered, there was a proposal to require 30% of the total RSA funds collected be reserved for ports with greatest need, not just those that have partners with the greatest ability to pay.)
- How does CBP ensure that RSA funds pay for the hiring of new CBP Officer and Agriculture Specialist personnel and are not simply used to pay for relocating existing CBP personnel from other ports (robbing from Port A to staff Port B without hiring additional staff)?

- How does CBP ensure a long-term public-private funding stream? (When RSAs were first considered, there was a proposal to have RSA paid up front for 10 years over 3 installments.)

There are also some port locations where staffing shortages are so severe currently, that even entering into a RSA program may be problematic. In 2009, there were approximately 10.7 million international travelers processed at New York's John F. Kennedy Airport (JFK). By the end of 2015, it is estimated that JFK will process 14.5 million passengers, a 30% increase in mission-critical work over a 6-year period. Over this same period, NTEU estimates that there has been a net gain of approximately 100 officers to process over 3.5 million additional travelers.

For the last 2 years JFK management has received overtime cap waivers for CBP Officers compelling these officers to work 12-, 13-, or 15-hour shifts day after day for months on end. Officers were required to come in hours before their shifts, to stay an indeterminate number of hours after their shifts (in the same day) and compelled to come in for more overtime hours on their regular days off as well.

The majority of CBP Officers are already working all allowable overtime, much of which is involuntary. All CBP Officers are aware that overtime assignments are an aspect of their jobs. However, long periods of overtime hours can severely disrupt an officer's family life, morale, and ultimately their job performance protecting our Nation.

CBP is currently negotiating separate RSAs with British Airways and American Airways at JFK. In this situation where existing Officers' overtime at JFK is already stretched beyond their limits, the RSA should be restricted to hiring new CBP Officers, and not to simply expanding overtime hours.

Another concern is that CBP continues to be a top-heavy management organization. In terms of real numbers, since its creation, the number of new managers has increased at a much higher rate than the number of new frontline CBP hires. According to CBP's own numbers, a snapshot of CBP workforce demographics in September 2014 showed that the Supervisor to Frontline employee ratio was 1 to 5.9 for the CBP workforce, 1 to 6.1 for CBP Officers and 1 to 6.9 for CBP Agriculture Specialists.

The tremendous increase in CBP managers and supervisors has come at the expense of National security preparedness and front-line positions. Also, these highly-paid management positions are straining the CBP budget. With the increased use of RSAs to fund additional CBP Officer new hires, NTEU urges that CBP return to a more balanced supervisor to front-line employee ratio.

#### RECOMMENDATIONS

Funding for additional CBP staff must be increased to ensure security and mitigate prolonged wait times for both trade and travel at our Nation's ports of entry. The use of RSAs as an alternate source of funding is merely a Band-aid approach and cannot replace the need for Congress to authorize an increase in CUFs and immigration user fees by indexing these fees to inflation or to provide sufficient appropriations to hire 2,700 new CBP Officers to adequately address CBP staffing needs.

Therefore, NTEU urges the committee to:

- support legislation to authorize funding through appropriations and a user fee increase indexed to inflation for the needed 2,700 new CBP Officers;
- engage in robust oversight of RSAs to ensure that this program does not replace primary funding sources or result in inequitable distribution of CBP Officer resources;
- reject the provision in the Senate-approved highway bill that diverts needed Customs user fee funding from CBP staffing and overtime to unrelated projects.

The more than 25,000 CBP employees represented by NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade, while ensuring that legal trade and travelers move expeditiously through our air, sea, and land ports. These men and women are deserving of more resources to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the committee on their behalf.

Mrs. MILLER. The Chair now recognizes the gentleman from Pennsylvania, Mr. Barletta.

Mr. BARLETTA. Thank you, Madam Chair.

First of all, I want to say that I am a big supporter of public-private partnerships. I Chair a subcommittee on T&I, and we are

doing some great things at looking at P3s with Federal properties. I really want to focus on the real property part of the pilot program.

Mr. Gelber, can you please tell me what you have learned from the evaluation of the real property donation authority pilot program in the omnibus? What has worked well and not so well, and what should we change?

Mr. GELBER. I think the key advantage for GSA is our partnership with CBP on this matter. Our primary responsibility is to respond to their mission requirements, and having the statute allows us a formal framework to have that conversation with CBP.

As we have reviewed the various proposals, it is not clear if people may have misunderstood the limitations of the statute, but some of the proposals received were not in compliance with the statute. I think, as we begin to educate, if you will, or inform the user base around this issue, I think the types of proposals will get, maybe, more positive and responsive to CBP's needs.

GSA, as the Federal real property manager, is very interested in this program, primarily because of the limitations, as, Congressman, I am sure you are aware of, on the usage of the Federal Buildings Fund. As I said, this particular program is a way for us to support CBP given those funding limitations.

Mr. BARLETTA. Do you agree that, since none of the three projects within the pilot program have even entered into the construction phase, it should be important that we allow the pilot program to continue gathering information about how the donation authority really will work with real property?

Mr. GELBER. Completely agree. When individuals and companies are making improvements on a real property, it is very important that what is designed is actually what is constructed and that the construction lives up to the specifications of the facility that is proposed.

To date, as you point out, we have yet to actually complete a process around this particular program. Evaluating ensuring that what is proposed is actually what is delivered is a key part of this program for GSA.

Mr. BARLETTA. GSA is the Government's landlord, and CBP is a law enforcement agency. I believe CBP should not be distracted with administrative duties, spending time and money managing properties, when this is what GSA does for the Federal Government. These agents, in my view, are critically important and should be focused on enforcing our laws, not creating duplicative administrative bureaucracy.

Mr. Wagner, yes or no, it is just a yes-or-no answer: Does CBP seek to expand its real property authority over ports of entry? Yes or no, do you support the current division of real property responsibilities between CBP and GSA under the current law in the pilot program?

Mr. WAGNER. Yes, we support the current arrangement we have built under this pilot authority.

Mr. BARLETTA. Mr. Gelber, yes or no, do you support granting additional real property authority to the CBP?

Mr. GELBER. GSA believes it is the appropriate Federal agency to handle real property authority, so we would prefer to retain that authority within GSA's purview.

Mr. BARLETTA. Mr. Wagner and Mr. Gelber, do you both commit to work with me to develop revised legislative language that keeps the real property authorities with GSA and maintains the real property pilot program until we have a chance to evaluate it?

Mr. WAGNER. Yes, we would commit to working with you to do that and building a framework that allows the operational requirements to be articulated and discussed and evaluated in conjunction with GSA. So absolutely.

Mr. GELBER. We would also agree. Again, our key role and our key mission is to support CBP and its operations. We need to ensure the real property we provide responds to their mission needs.

Mr. BARLETTA. Okay. Thank you.

Thank you, Madam Chair.

Mrs. MILLER. I thank the gentleman.

The Chair now recognizes the gentlelady from California, Mrs. Torres.

Mrs. TORRES. Thank you, Madam Chair.

Thank you to the panel for being here.

Mr. Wagner, CBP's expansion of preclearance to Abu Dhabi was controversial in part because it involved a foreign government to pay for our security operations. Planned new preclearance operations will follow this model, as well. With public-private partnerships, CBP is also having other entities, whether it is local governments, bridge operators, or airport terminals, pay for its operation.

CBP's immigration, customs, and agricultural activities at ports of entry are a Federal responsibility, is it not?

Mr. WAGNER. Yes, but by having the reimbursable mechanism, it allows us to expand, to provide those services that people are requesting from us. In a case like preclearance—

Mrs. TORRES. So does it make sense to have private partners pay for these services on a rather ad hoc basis over the long term?

Mr. WAGNER. Well, they have paid for a number of years through user fees and other fees for services. So this is really just an extension of longstanding authorities and practices to supplement what is appropriated for us to be able to provide.

Mrs. TORRES. So, while it is Federal responsibility, to you, it is appropriate to have airports and local governments and other entities, on a case-by-case basis, pay for these services. Is that what you are saying?

Mr. WAGNER. I would say it allows us to provide those services in a way we would say no before.

Mrs. TORRES. But you think it is appropriate?

Mr. WAGNER. Well, it allows us to provide the service.

Mrs. TORRES. "Do you think it is appropriate?", is the question. Yes or no?

Mr. WAGNER. I have no comment as to whether it is appropriate or not.

Mrs. TORRES. You are refusing to answer my question.

The vast majority of funding CBP has received under reimbursable service agreements has been from airports, with airports pay-

ing over \$10.3 million of just under \$13 million paid by all participants. Why do you think this is?

Mr. WAGNER. It allows us to provide the cost to work into their business model to see if it is something they want to pursue, whereas otherwise the answer might have been, no, we could not provide that service.

Mrs. TORRES. Do you think additional CBP staffing should be based solely on ability to pay, or should security and facilitation needs be factored in?

Mr. WAGNER. Absolutely, security and facilitation needs need to be factored in.

Mrs. TORRES. Thank you.

Mr. Vale, in your testimony, you speak to problems created by an overall shortage of CBP Officers. You state that, even when you are willing to pay for additional staffing, there are sometimes not enough CBP Officers to fulfill the need.

How often does this happen? What more needs to be done to expand the ranks of CBP Officers to ensure proper staffing at ports of entry?

Mr. VALE. Well, it happens quite a bit when you have sudden surges in certain types of commodities, particularly the agricultural imports that are surging dramatically, coming in from Mexico. We put in requests for overtime, and the Agricultural Specialists are just nonexistent. I mean, they reach their limit that they can work under the law, and then you can't make them—and you can't replace them. You have to have those guys there.

So we need more of them, and we would be glad to pay for it because it is good business practice. We don't like paying for them; we object to it. But if you leave a truck at the port of entry overnight, 10 percent of its value disappears.

Mrs. TORRES. Absolutely.

It is my understanding from CBP that use of reimbursable service agreements by land ports of entry has dropped off considerably. Why do you think this is? What challenges do land ports of entry have in funding additional staffing under this program?

Mr. VALE. Well, I think the challenges are that we need to get the money and the people where they need to be.

We think that we ought to have more of a business-type model to where you even have people that are designed to be moved around, whether short distances from ports of entry, to fill a need instead of having to go through the normal TDY process that they do now. They can do it now, but it really is budgetarily restricted. We need to have more people that we can have flexibility with how CBP manages.

Remember, it is their people. We don't get to hire them. We don't get to give them instruction. They are the boss. We just put up the money.

Mrs. TORRES. In public-private partnerships, how many public-private partnership contracts have been awarded to woman- and minority-owned businesses since Congress authorized this type of partnership?

Mr. VALE. I don't know, but I am a minority.

Mrs. TORRES. Well, I am not talking about you specifically.

Mr. WAGNER. I will have to look at that and get back to you on that one.

Mrs. TORRES. Thank you.

I yield back my time.

Mrs. MILLER. Thank you.

The Chair now recognizes the gentleman from Texas, Mr. Hurd.

Mr. HURD. Thank you, Chairman. I appreciate you holding this hearing, which is an important topic.

I appreciate all the witnesses being here today.

Commissioners Wagner and Gelber, I appreciate your willingness to serve on such a unique panel. Mr. Vale and Mr. Garcia, I don't think you all recognize the uniqueness of this panel. It is rare to get members of the public and the private sector on the same panel. So, since this was the hearing topic, I appreciate Department of Homeland Security agreeing to this.

This is an incredibly important issue for my district. I have over 820 miles of the U.S.-Mexican border. Many of the border communities I represent have seen a record increase in international trade and travel over the past decade and are looking to capitalize on this growth to their economies.

As Chairman Miller mentioned, you know, our average land port of entry being over 40 years old, it is clear the Federal Government needs to do a better job at prioritizing funding for modernization and expansion. Despite \$2 billion in investment since 2006, there remains a gap of about \$4 billion in funding necessary to modernize the land ports of entry. I recognize that traditional appropriations have not kept pace with funding needs, and that is why in tough fiscal times we need innovative funding programs like P3s.

To that end, this committee has taken steps to try to promote programs like the 559 and provide some stability by codifying these pilot programs. There is a bit of a discussion up here in this House on this program, and I just want to be clear.

Commissioner Wagner, you are not seeking and CBP is not seeking any additional real property authorities. Is that correct?

Mr. WAGNER. That is correct. We are not.

Mr. HURD. Okay. I don't think anybody wants you all to get in the managing-buildings business.

Commissioner Gelber, is CBP, under the 559 program, getting involved in real property?

Mr. GELBER. Through our partnership with CBP, CBP focuses on their mission requirements regarding these donations; GSA is interested and looks at the real property implications of possibly accepting a donation. But we have discussions on both topics to ensure GSA is meeting CBP's needs.

Mr. HURD. If we made this pilot program permanent, would that change any of that arrangement or agreement?

Mr. GELBER. It would depend what the specific language of the statute would be, but, as it is currently structured, no donation can proceed unless GSA and CBP together decide to accept the donation.

Mr. HURD. That is helpful and clear. I will be cutting that video and passing it along to some of my colleagues to make sure that



we are clear on that topic, because this is something that we need to do.

When we talk about border security, we can secure our border and facilitate the movement of goods and services at the same time. In an increasingly challenging environment with budgets and money, you know, one way to grow our economy is to increase trade, and we are doing that on our Northern and Southern Border.

Mr. Vale, can you tell the committee what expanding these programs would specifically mean for ports of entry like the ones you work with every day?

Mr. VALE. Well, it means we do more business and we generate more tax revenue for the country and we enjoy a better quality of life in the United States.

Mr. HURD. Amen, brother.

Commissioner Gelber, have there been any instances where you feel as though there has been a conflict between GSA and CBP or where CBP has overstepped its bounds when it comes to these P3 agreements?

Mr. GELBER. None that GSA has been involved in.

Mr. HURD. Excellent.

Commissioner Wagner, we spent time today discussing donation authority. You have seen the donation authority language in H.R. 3586, I believe. Do you have any problems with the way it is constructed?

Mr. WAGNER. No, I think we support that section of it.

Mr. HURD. Excellent.

This is an important issue, and I would like to ask, open it up to all four of you all, do you have any particular concerns with providing long-term stability of these programs?

I would like to let the record reflect that everybody shook their head.

Mr. VALE. I didn't understand the question.

Mrs. MILLER. None at all.

Mr. HURD. Do you have any particular concerns that, if this program was long-term, that you would have any problems with these programs becoming long-term programs?

Mr. VALE. No. That would be a very good thing.

Mr. HURD. Excellent.

Madam Chairman, I yield back.

Mrs. MILLER. I thank the gentleman very much.

The Chair now recognizes the gentlelady from Arizona, Ms. McSally.

Ms. MCSALLY. Thank you, Madam Chair.

Thank you, gentlemen, for your testimony today.

As was noted, the average port of entry, land port of entry, is 40 years old. The one in the city of Douglas, Arizona, is 82 years old, built in 1933. Renovated 22 years ago, but, still, it is pretty old, and it really needs to be updated. Sixty-four-thousand commercial trucks in 2014; \$4 billion worth of trade; a total of 8.3 million people in two-way traffic. It is expected to continue to grow at 5 percent.

In 2007, GSA determined through a feasibility study there is needed expansion at the Douglas port of entry. The Arizona De-

partment of Transportation in 2013 determined that the existing Douglas port of entry will not adequately allow CBP to do its mission there. So we need a new port of entry in Douglas.

I know, in 2003, GSA and CBP worked together to come up with a multi-year program for modernizing our land ports of entry. I know there is the \$4 billion gap, but how many projects have been done on that list? How did you prioritize that list?

Mr. GELBER. On prioritization of projects, GSA responds to CBP's 5-year plan surrounding land ports of entry. CBP obviously can speak to the actual mechanics of that plan, but it focuses on the age of the facility, the usage of the facility, and the future out-year plans for that facility.

GSA's goal is to, again, respond to CBP's need but ensure the facilities we construct are adequate for their mission needs.

Ms. MCSALLY. So, Commissioner Wagner, where is the Douglas port of entry on that list right now?

Mr. WAGNER. I will have to check and get back to you.

But I know we are looking at the list this past year, we are reprioritizing the list. We go through a structured evaluation, looking at the operational considerations, the workload, the workload projected growth, the age of the facility, condition of the facility, can we operate our technology in the space, and the requirements that are there.

So it is a big portfolio to go through, but it is prioritizing into that, into a 5-year plan.

Ms. MCSALLY. Great. We would really like to see where Doug is on that list.

Mr. WAGNER. Yes.

Ms. MCSALLY. The best-case scenario, we would, obviously, like to see appropriated funds used as a high priority to build a new port of entry there for the benefits that were all mentioned here today, for the increased opportunities for security.

But this little town is dependent on this port, as well. I mean, this is a small, rural town, and it is dependent on that cross-border trade. It not being able to really wait any longer, it tried to figure out a way to use this new 559 to come up with a program. Literally, this town is willing to mortgage its future with tens of millions of dollars to invest in the land, invest in the infrastructure in order to make this happen. But it didn't meet the narrow definition, and it was rejected, because it didn't meet the narrow definition of the current P3 partnership.

What else can we do and what else can the town of Douglas do and what can we do? When they are willing to do everything it takes and mortgage through a bond program their future to build a new port of entry, what other authorities and how can we adjust this program so that we can move forward and get this thing done?

Mr. GELBER. Specifically towards the donation that was proposed by the city of Douglas—

Ms. MCSALLY. No, I know why it was rejected, but I am looking forward. What do we need to do to get it done?

Mr. GELBER. I think that the key issue would be that it would be a true donation to the Government and there would not be out-year costs that would affect either the budgets of CBP or GSA, to be a true donation.

Ms. MCSALLY. Okay. But is there a way that we could modify the program? Because you currently pay leases for land in other places, right?

Mr. GELBER. That is correct.

Ms. MCSALLY. They were simply asking for a very modest amount of money to be leased back, as, again, this city is willing to, you know, invest significantly.

Is there not a way for us to modify this program that even allows for those leases? Because you currently lease land in other places.

Mr. GELBER. Under the terms of the 559 program, it needs to be a true donation. So the—

Ms. MCSALLY. The current program.

Mr. GELBER. The current program.

Ms. MCSALLY. But we are the Congress, so we can adjust things. So if we were to adjust that and change that legislative authority, is that something that would maybe increase opportunities across the country and also the Douglas port of entry?

Mr. GELBER. The concern GSA would have regarding a donation surrounding a lease program would be that the donation may not be, again, a true donation. The primary concern that we have is that, if something is a donation, it is, “free” to the Government. If it is a donation with out-year costs, that is a concern to GSA.

Ms. MCSALLY. Got it.

Are you guys willing to sit down with us and Douglas to try and figure out a way forward on this?

I mean, we have to be innovative, and whether that includes changes in legislative authorities—I mean, we have a willing partner here, and we have to figure out how to get this done. So are you willing to sit down with us and do that?

Mr. GELBER. GSA is always willing to sit down with members of the border community to discuss this particular topic or any other topic your office or other offices may have.

Ms. MCSALLY. Great.

Mr. WAGNER. Yes, I would agree, as well, for CBP.

Ms. MCSALLY. Great. Thank you.

Moving on to the manning situation, you referenced that you are still 800 short. My first bill signed into law a couple weeks ago, the Border Jobs for Veterans Act, directing you guys to streamline actively recruiting veterans, streamlining their background clearances, this is a win-win situation. I would like to know how quickly you are going to be able to implement that.

What other barriers are there? Somebody mentioned after that bill that you have an age limit of 37. So if somebody retires after 20 years of service, they actually are not eligible. Sure, you know, a retired master sergeant is still pretty able-bodied and might be able to be, you know, a good asset in those positions.

I have also heard that the polygraphs being, you know, across the board versus potentially case-by-case; or the drug use in the last 3 years, you know, not being—it is being a one-size-fits-all versus looking at it case-by-case.

Are there any other barriers that need to be lifted in order to fill your positions?

I know I am over my time, so if you could answer quickly.

Mr. WAGNER. Yeah, I mean, we are fully supportive of the bill you referenced. I will be meeting with senior DOD officials tomorrow—

Ms. MCSALLY. Great.

Mr. WAGNER [continuing]. To start to work on that. We are highly supportive of that. I am very confident we could find 800 veterans—

Ms. MCSALLY. Yes.

Mr. WAGNER [continuing]. That can fit our requirements so we can get them into these positions.

Ms. MCSALLY. Exactly.

Mr. WAGNER. So thank you for supporting that and really pushing us and DOD to come to the table and work that out. The reciprocity is a big thing, like you mentioned.

Ms. MCSALLY. Okay. Great.

We can follow up later for the record if any of those other limitations I mentioned—I don't know if those are internal policy issues or statutory, but we want to do what we can in order to streamline getting good people into these jobs because of the impact it is having on our security and our economy.

So thanks for your time.

Thank you, Madam Chair. I yield back.

Mrs. MILLER. Thank you very much.

Before we conclude—and I think it has been an excellent hearing and, certainly, great testimony from the witnesses. We appreciate the public and the private sector both being here testifying today.

Let me just throw this out. Is there any question that we didn't ask you that we should ask you? Sometimes we don't think of the right questions here. Something that in the public sector you are really dealing with that is a specific challenge that we should know about that we didn't ask you about? In the private sector, as well? I mean, if somebody came to you and said, what is your biggest challenge with this? Is there anything that we didn't ask you?

Mr. Wagner.

Mr. WAGNER. No, I think we covered it. Really, it is the opportunity to sit down with our stakeholders, to be able in a formal structure to provide them our costs so they can calculate that into their business model to see if it makes sense. This authority simply allows them to do that.

Mrs. MILLER. Mr. Gelber.

Mr. GELBER. From GSA's perspective, the primary challenge we face is having full access to the Federal Building Fund. If we were to have that access, we would be able to allocate more resources to land ports of entry on the Northern and Southern Borders. That would most likely be the greatest assistance to GSA. The 559 program is helpful, but the access to full funding would truly be a step in the right direction to assist CBP.

Mrs. MILLER. Mr. Vale.

Mr. VALE. I would say that, you know, we have never seen so many Republicans in south Texas since these programs passed. We have a lot of people coming down to see how it is working. We think that we need—

Mrs. MILLER. This is a bipartisan hearing, I just want to tell you that.

Mr. VALE. No, I understand that, but it is mostly Democrats down there.

Anyway, but it is important for us to be able to take the successes and not leave them as just being supported by non-Governmental budgets. They need to be turned into budgets and then leave the moneys to be new pilots and new ventures with new ideas in the future so that we can stay ahead of it instead of always dealing from the behind. That is that problem.

Mrs. MILLER. Thank you.

Mr. Garcia.

Mr. GARCIA. Madam Chair, I mentioned in my testimony the flexibility for our local port officials to have that flexibility to move people around. It is important to us.

You know, we go through training exercises probably once or twice a year with all the Federal agencies, figuring out whether or not, you know, an issue comes up at one of our bridges. For a port director to have that flexibility is important to us, when we are moving just-in-time cargo through our ports, through the Port of Brownsville, which is growing tremendously.

So I am thankful for coming before you today and sharing our thoughts, and I appreciate all the work that you all are doing. Thank you.

Mrs. MILLER. Well, thank you, gentlemen, all of you, very much. Again, we appreciate you sincerely coming here. Those of you that traveled long distances, it certainly was very beneficial for us; I hope for you, as well. We appreciate that.

With that, pursuant to committee rule VII(E), the hearing record will be held open for 10 days in case there are any Members of the committee that might have some additional questions for the witnesses. We will try to get those responses in writing.

Without objection, the committee stands adjourned.

[Whereupon, at 11:14 a.m., the subcommittee was adjourned.]

