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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 OAKLAND DIVISION

	)	
	)	Case Number: 17-5273 KAW
14 SIERRA CLUB,	)	
	)	
15 Plaintiff,	)	
	)	<b>FIRST AMENDED COMPLAINT</b>
16 v.	)	<b>FOR DECLARTORY AND</b>
	)	<b>INJUNCTIVE RELIEF</b>
17 U.S. DEPARTMENT OF	)	
18 HOMELAND SECURITY and	)	
19 U.S. CUSTOMS AND BORDER	)	
20 PROTECTION,	)	
	)	
21 Defendants.	)	

1 Plaintiff Sierra Club, through counsel, alleges as follows:

2 **INTRODUCTION**

3 1. Sierra Club brings this case under the Freedom of Information Act to  
4 obtain timely disclosure of agency documents regarding the Trump  
5 Administration's controversial plans to expand or replace the border wall along the  
6 United States-Mexico border.

7 2. On January 25, 2017, President Trump signed an Executive Order,  
8 entitled "Border Security and Immigration Enforcement Improvements," directing  
9 the Secretary of Homeland Security to vastly expand the existing walls along the  
10 roughly 1,900-mile southern border that spans California, Arizona, New Mexico,  
11 and Texas. On February 20, 2017, the Department of Homeland Security  
12 accordingly directed the U.S. Customs and Border Protection to

13  
14 immediately begin planning, design, construction and maintenance of a wall,  
15 including the attendant lighting, technology (including sensors), as well as  
16 patrol and access roads, along the land border with Mexico in accordance with  
17 existing law, in the most appropriate locations and utilizing appropriate  
18 materials and technology to most effectively achieve operational control of the  
19 border.

20 The Department further directed U.S. Customs and Border Protection to  
21 "immediately identify and allocate all sources of available funding" for the  
22 planning, designing, constructing, and maintaining of the border wall.

23 3. Sierra Club is concerned about and seeks documentation of the  
24 potential environmental impacts associated with border wall planning, construction,  
25 and operation. For example, the Secretary of Homeland Security invoked a  
26 statutory waiver to exempt border wall construction during the George W. Bush  
27 administration. The act of waiving federal statutes like the Clean Water Act,  
28 Endangered Species Act, and National Environmental Policy Act put wildlife and

1 the public health of local communities at risk. Habitat set aside for endangered  
2 species, including the ocelot, jaguar, and Sonoran pronghorn, has been fragmented  
3 and will be damaged even further by building new wall segments.

4 4. The human cost of new walls would also be immense, dividing border  
5 communities, destroying private land, impeding water flow, harming human health,  
6 and causing unnecessary deaths.

7 5. The Trump Administration has called for \$1.7 billion in development  
8 funds for 60 miles of new border wall construction in fiscal year 2017, and \$2.8  
9 billion in fiscal year 2018. If built, the new walls would bifurcate the Santa Ana  
10 National Wildlife Refuge in the southern tip of Texas, and harm other sensitive  
11 areas along the border. The Santa Ana National Wildlife Refuge provides habitat  
12 for a diverse of array of rare wildlife species, including the ocelot, an endangered  
13 cat of which there are only about 50 remaining in the United States. Expanded walls  
14 and related infrastructure also threatens to undermine the tourist economy of the  
15 surrounding communities.

16 6. Sierra Club is the nation's oldest grassroots environmental  
17 organization, and has long advocated to protect and preserve the cultures of the  
18 borderland communities, as well as the region's land, wildlife, and environment. As  
19 part of this advocacy, and in line with its longstanding interest in government  
20 accountability and transparency, the Sierra Club has filed several requests under the  
21 Freedom of Information Act with U.S. Customs and Border Protection to obtain  
22 documents regarding plans to expand or replace the border wall along the U.S.-  
23 Mexico border. The Sierra Club's Borderlands Grassroots Network Team has been  
24 organizing around border issues for many years, and its advocacy has become more  
25 urgent in light of President Trump's recent activities.  
26  
27  
28

1           7.     The Department of Homeland Security and U.S. Customs and Border  
2 Protection (the Agencies) have violated the Freedom of Information Act by failing  
3 to make a “determination,” and failing to produce any documents in response to  
4 Sierra Club’s 2016 and 2017 record requests, and a 2013 Sierra Club request that  
5 was remanded back to the Agencies after Sierra Club successfully appealed the  
6 final determination.

7           8.     The Agencies have also violated the Freedom of Information Act by  
8 failing to conduct an adequate search for records and wrongfully withholding  
9 records.

10          9.     Sierra Club brings this lawsuit to hold the Agencies accountable under  
11 the law and respectfully requests that the Court order the Agencies to expeditiously  
12 produce all non-exempt documents responsive to Sierra Club’s records requests.

13          10.    Timely disclosure is imperative. The controversial border wall is a  
14 matter of significant public interest and concern; yet, in secret, the Agencies are  
15 actively planning, designing, and preparing for construction and maintenance of the  
16 wall. Given the significant threat the wall poses to communities and the  
17 environment, the public must have timely information about the Trump  
18 Administration’s plans, including the potential impacts on communities, lands, and  
19 wildlife.  
20

21  
22           **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

23          11.    This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28  
24 U.S.C. § 1331.

25          12.    Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B)  
26 because Plaintiff Sierra Club has its principal place of business in Oakland,  
27

1 California.

2 13. For the same reason, intradistrict assignment is proper in the Oakland  
3 Division. *See* N.D. Cal. L.R. 3-2.  
4

5 **PARTIES**

6 14. Plaintiff Sierra Club is incorporated in the State of California as a  
7 nonprofit public benefit corporation with headquarters in Oakland, California. The  
8 Sierra Club is a national organization with 67 chapters and more than 825,000  
9 members dedicated to exploring, enjoying, and protecting the wild places of the  
10 earth; to practicing and promoting the responsible use of the earth's ecosystems and  
11 resources; to educating and enlisting humanity to protect and restore the quality of  
12 the natural and human environment; and to using all lawful means to carry out these  
13 objectives. Sierra Club is a leading non-governmental organization seeking to  
14 educate and mobilize the public on issues of climate change, habitat destruction,  
15 and the myriad of human and environmental impacts of the Trump Administration's  
16 proposed Border Wall. Sierra Club's Borderlands Grassroots Network Team has  
17 been organizing around border issues for many years. To support the Borderlands  
18 Team's efforts and to further Sierra Club's longstanding interest in government  
19 accountability and transparency, Sierra Club submitted the records requests at issue  
20 in this case.  
21

22 15. Sierra Club brings this action on its own behalf and on behalf of its  
23 members. Sierra Club and its members have been and continue to be injured by the  
24 Agencies' failure to provide requested records on matters of great public interest  
25 and urgency within the timeframes mandated by the Freedom of Information Act.  
26 Absent this critical information, Sierra Club cannot advance its mission to educate  
27  
28

1 the public about the proposed expansion of the border wall and its impacts on  
2 communities and the environment. The requested relief will redress this injury.

3 16. Defendant U.S. Department of Homeland Security is a department of  
4 the executive branch of the U.S. government headquartered in Washington, D.C.,  
5 and an agency of the federal government within the meaning of 5 U.S.C.  
6 § 552(f)(1). It has in its possession and control the records sought by Sierra Club,  
7 and as such, is subject to FOIA pursuant to 5 U.S.C. § 552(f).

8 17. Defendant U.S. Customs and Border Protection (CBP) is an agency  
9 within the U.S. Department of Homeland Security and is also headquartered in  
10 Washington, D.C. U.S. Customs and Border Protection has possession, custody,  
11 and control of the records that Sierra Club seeks.

### 12 **STATUTORY FRAMEWORK**

13 18. The Freedom of Information Act (FOIA) requires federal agencies to  
14 promptly release to a public requester, documents and records within the possession  
15 of the agency, unless a statutory exemption applies. 5 U.S.C. § 552(a)–(b).

16 19. Agencies must make reasonable efforts to search for records in a  
17 manner that is reasonably calculated to locate all records that are responsive to the  
18 FOIA request. *Id.* § 552(a)(3)(C)–(D).

19 20. The agency must make a determination whether to disclose records  
20 within twenty business days of an agency’s receipt of a FOIA request. *Id.*  
21 § 552(a)(6)(A)(i).

22 21. If an agency determines that it will comply with the request, it must  
23 “promptly” release responsive, non-exempt records to the requester. *Id.*  
24 § 552(a)(6)(C)(i).

1           22. The Act recognizes that in certain, limited instances, records may be  
2 withheld as exempt from FOIA's broad disclosure mandate, and thus the Act  
3 identifies nine categories of exemptions. *Id.* § 552(b).

4           23. FOIA places the burden on the agency to prove that it may withhold  
5 responsive records from a requester. *Id.* § 552(a)(4)(B).

6           24. If an agency makes a final determination to withhold or partially  
7 withhold documents, the requester is entitled to appeal the adverse decision to the  
8 agency within a period of time "that is not less than 90 days after the date after such  
9 adverse determination." *Id.* § (a)(6)(A)(i)(III)(aa).

10           25. An agency must make a determination on any appeal within twenty  
11 business days of receipt. *Id.* § (a)(6)(A)(ii).

12           26. If the agency fails to comply with the statutory time limits to respond  
13 to a FOIA request or appeal, the requester is deemed to have exhausted her  
14 administrative remedies. *Id.* § 552(a)(6)(C)(i).

15           27. District courts have jurisdiction to enjoin an agency from withholding  
16 agency records and "order the production of any agency records improperly  
17 withheld." *Id.* § 552(a)(4)(B).

18           28. The Freedom of Information Act provides a mechanism for  
19 disciplinary action against agency officials who have inappropriately withheld  
20 records. Specifically, when requiring the release of improperly withheld records, if  
21 the Court makes a written finding that "the circumstances surrounding the  
22 withholding raise questions whether agency personnel acted arbitrarily or  
23 capriciously," a disciplinary investigation is triggered. *Id.* § 552(a)(4)(F)(i).

**FACTS**

***Sierra Club's 2013 FOIA Request for Border Wall Documents and Appeal***

29. On April 10, 2013, Sierra Club submitted a FOIA request to U.S. Customs and Border Protection seeking access to the following records:

The Sierra Club requests records dating from January 1, 2010 to the present pertaining to the construction of border fencing (also commonly referred to as the border wall, pedestrian fence, and tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas. These sections of border fencing will be built in the Border Patrol's Rio Grande Valley sector have been designated O-1, O-2, and O-3. Very little information has been released to the public regarding these sections of border fencing, despite a great deal of local public interest. The Sierra Club is particularly interested in the impact of these fencing sections on the Lower Rio Grande Valley National Wildlife Refuge and the potential for the impedance of flood waters that may accompany the erection of fencing in the Rio Grande flood plain.

Responsive documents should include (but not be limited to) internal CBP discussions, memos, meeting notes, presentation materials such as Powerpoints and handouts, and reports regarding fencing sections O-1, O-2, and O-3. Any contracts that have been prepared and/or put out for bid and/or granted for these sections should be included. Documents should also include consultations, interactions, and discussions with the Army Corps. of Engineers, the International Boundary Water Commission, US Fish and Wildlife, the State Department, and local government officials and residents regarding these fencing sections.

*See Exhibit A.*

30. Customs and Border Protection assigned Sierra Club's request with tracking number CBP-2013-016845.

31. On September 4, 2015, Customs and Border Protection's FOIA Division stated that CBP-2013-016845 was currently being processed.

32. After repeated requests for updates by Sierra Club, in January 2016,



1 the FOIA request CBP-2013-016845 disappeared from the online queue at  
2 FOIAonline, a federal website dedicated to processing FOIA requests.

3 33. On January 29, 2016, a new tracking number appeared in Sierra Club's  
4 online queue, CBP-2016-018165, corresponding to the same April 10, 2013 FOIA  
5 request.

6 34. On December 9, 2016, Customs and Border Protection determined that  
7 the requested documents were partially releasable, and asserted that FOIA  
8 exemptions (b)(4) and (b)(5) applied to Sierra Club's request.

9 35. Also on December 9, 2016, Customs and Border Protection provided  
10 Sierra Club with 10 documents, but those documents were redacted almost in their  
11 entirety. *See* Exhibit B.

12 36. On February 3, 2017, Sierra Club filed a timely administrative appeal  
13 to Custom and Border Protection's determination on CBP-2013-016845/CBP-  
14 2016-018165. *See* Exhibit C.

15 37. On March 16, 2017, Customs and Border Protection's Chief of the  
16 FOIA Appeals, Policy and Litigation Branch, replied to Sierra Club's February 3,  
17 2017 appeal of the 2013 FOIA request in part with:

18  
19 In this case, the FOIA Division released certain redacted documents to you  
20 but it does not appear as if the FOIA Division searched for a number of other  
21 agency records you identified in your appeal. In this respect, your appeal  
22 specifically identifies various reports, presentations, plans, and other  
23 documents that were requested in your initial FOIA submission. However, as  
24 it appears as if the FOIA Division did not search for these records, there is  
an incomplete administrative record for us to review on appeal in this case.

25 Accordingly, we are remanding your request to the FOIA Division for  
26 processing with instructions that the request should be processed within  
27 twenty (20) days from the date of this letter. . . . As mentioned above, you  
28 may immediately challenge the FOIA Division's failure to respond to your

request in district court.

See Exhibit D.

38. On April 14, 2017, Customs and Border Protection stated:

Please be advised this case has been remanded to the FOIA Division to complete additional searches for responsive records. An additional 30 business days from the date of this letter are needed for the program office to complete a comprehensive search of records. Once the searches have been completed, you will receive additional correspondence with a projected time frame for the completion of the remand.

See Exhibit E.

39. As of the date of this filing, the Agencies have not made any further determination on Sierra Club's 2013 request or released any additional documents.

***Sierra Club's 2016 FOIA Requests for Border Wall Documents***

40. On November 19, 2016, Sierra Club submitted a FOIA request to Customs and Border Protection seeking access to the following:

The Sierra Club trying to understand the scope of work that LMI (the Logistics Management Institute) did for Customs and Border Protection regarding border fencing and related tactical infrastructure. According to LMI's website this work was quite expansive, and LMI and its employees repeatedly pop up in FOIA documents that we have received from CBP and other agencies. LMI employees appear to have played an important role in the Secure Border Initiative Program Management Office. We have received some SBI PMO meeting minutes from 2007 and 2008 that indicate that meetings were held at LMI's McLean, Virginia office.

The Sierra Club specifically seeks documents, including SBI PMO and other meeting minutes and notes, as well as emails, memos, and reports, that involve and/or relate to the participation of LMI employees in the Secure Border Initiative Program Management Office, and meetings at

LMI's McLean, Virginia office from January 2006 through the present.

Please include emails, letters, call logs, and other communications regarding these meetings. Customs and Border Protection discussions, reports, updates, presentation materials such as Powerpoints, etc., that pertain to these meetings should be included.

See Exhibit F.

41. Customs and Border Protection assigned the request tracking number CBP-2017-011338.

42. The Agencies have not made any further determination on Sierra Club's 2016 request, CBP-2017-011338, and have not released any documents.

***Sierra Club's 2017 FOIA Request for Border Wall Documents***

43. On May 4, 2017, Sierra Club submitted a FOIA request to Customs and Border Protection seeking access to the following:

1. All records related to the Border Wall referred to on p. 32 of the Administration's FY 2017 supplemental appropriations request (*see* Exhibit A), including, but not limited to:
  - a. the 14 miles of new Border Wall and 14 miles of replacement Border Wall near San Diego, CA; and
  - b. the 28 miles of levee-Border Wall in the Rio Grande Valley Sector; and
  - c. the 6 miles of new Border Wall proposed in South Texas, hereinafter ("Border Wall Proposals").
2. All maps and related documents that identify all locations considered or planned for border fencing/tactical infrastructure described in the FY 2017 Appropriations legislation passed in May 2017 (*see* Exhibit B, p. 69), including but not limited to:
  - a. Replacement of primary pedestrian fencing in high priority areas - 20 miles; and
  - b. Replacement of vehicle fencing with primary pedestrian fencing in high priority areas - 20 miles; and
  - a. Gates for existing barriers- 35 gates.

3. All bids submitted by vendors to Customs and Border Protection (“CBP”) and/or the Department of Homeland Security (“DHS”) related to the Border Wall Proposals; and
4. All communications between CBP and/or DHS and vendors related to Border Wall Proposals; and
5. All communications between CBP and DHS related to the Border Wall Proposals, including, but not limited to: funding, timetables, and vendor selection; and
6. All existing and/or proposed timetables for the execution and construction of the Border Wall Proposals; and
7. All communications between CBP and/or the DHS with the White House that relate to the Border Wall Proposals; and
8. All communication between CBP and/or DHS and any other Federal Agencies that relate to the Border Wall Proposals.

*See Exhibit G.*

44. Customs and Border Protection assigned the request tracking number CBP-2017-054695.

45. On August 11, 2017, three months after Sierra Club’s initial request, Customs and Border Protection sent Sierra Club a letter notifying it that the average time to process a request related to “travel/border incidents” was a minimum of 3 to 6 months.

46. On August 29, 2017, Sierra Club received an email from Customs and Border Protection with an attached letter, dated August 30, 2017, stating:

[W]e have determined that your request is too broad in scope or did not specifically identify the records which you are seeking. . . . Whenever possible, a request should include specific information about each record sought, such as the event that would have created the record, a date range for the request, and subject matter of the records.

The letter directed Sierra Club to “narrow the scope of your request,” noting that “a search for records responsive to your request in it’s [sic] present state could

1 potentially return a massive amount of documents which would create an  
 2 reasonable [sic] burden on the agency.” The letter went on asking Sierra Club to  
 3 “please provide a time frame for items 4 through 8 of your request.” The letter  
 4 concluded with “[t]his is not a denial of your request for records.” *See* Exhibit H.

5 47. On September 11, Sierra Club sent Customs and Border Protection an  
 6 email and letter, explaining that CBP-2017-054695 provides sufficient information  
 7 for Customs and Border Protection to perform a limited search with a “reasonable  
 8 amount of effort,” including “the event that would have triggered the record, the  
 9 subject matter, scope, and a reasonable date range.”

10 48. Without acknowledging Sierra Club’s response, Customs and Border  
 11 Protection closed the May 2017 FOIA request on September 12. That day,  
 12 Customs and Border Protection sent Sierra Club an email, stating:  
 13

14 On August 30, 2017, U.S. Customs and Border Protection (CBP) Freedom of  
 15 Information Act (FOIA) Division sent you an email via your FOIAonline  
 16 account asking you to narrow the scope of your request, 2017-054695, and  
 17 provide a time frame for records search. Pursuant to 6 C.F.R. Part 5 § 5.3(b)  
 18 of the DHS FOIA regulations, you must describe the records you are seeking  
 19 with as much information as possible to ensure that our search of appropriate  
 20 systems of records can find them with a reasonable amount of effort. To date  
 21 we have not received a response and are unable to continue processing items  
 22 1, 2, 4, 5, 6, 7, and 8 of your request. Pertaining to item number 3 of your  
 23 request: “All bids submitted by vendors to Customs and Border Protection  
 24 (“CBP”) and/or the Department of Homeland Security (“DHS”) related to the  
 25 Border Wall Proposals”. CBP has determined that the records sought are  
 26 part of ongoing government procurements and consist of contractor bid or  
 27 proposal information or source selection information that CBP is prohibited  
 28 from releasing pursuant to Title 5 U.S.C. §552 (b)(3), Other Disclosure  
 Statutes; specifically 41 U.S.C. § 2102(a)(1), Procurement Integrity Act; and  
 41 U.S.C. § 4702(b), Prohibition on release of contractor proposals, therefore  
 the records will be withheld in full.



1 paragraphs as though fully set forth herein.

2 57. Sierra Club properly requested records within the Agencies' control.

3 58. Section 552(a)(6)(A)(i) of the Freedom of Information Act requires  
4 that an agency make a determination as to a records request within twenty business  
5 days after receipt of the request.

6 59. More than twenty business days have passed since the Agencies  
7 received Sierra Club's May 4, 2017 records request, CBP-2017-054695.

8 60. The Agencies have failed to provide Sierra Club with a final  
9 determination in violation of the Freedom of Information Act.

10  
11  
12 **COUNT III**

13 **Violation of the Freedom of Information Act**

14 **Failure to Comply with Mandatory Determination Deadline**

15 61. Sierra Club re-alleges and incorporates by reference all the foregoing  
16 paragraphs as though fully set forth herein.

17 62. Sierra Club properly requested records within the Agencies' control.

18 63. Section 552(a)(6)(A)(i) of the Freedom of Information Act requires  
19 that an agency make a determination as to a records request within twenty business  
20 days after receipt of the request.

21 64. On March 16, 2017, the U.S. Customs and Border Protection Chief of  
22 the FOIA Appeals replied to Sierra Club's February 3, 2017 appeal of the April 10,  
23 2013 FOIA request, and remanded the request back to the FOIA Division with  
24 instructions that "the request should be processed within twenty (20) days from the  
25 date of this letter."  
26  
27









Dated: \_\_Dec. 12\_\_, 2017      Respectfully submitted,

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# **Exhibit A**



**Submitted via email, fax, and certified mail to:**

**U.S. Customs and Border Protection  
Office Diversity and Civil Rights  
Freedom of Information Act (FOIA) Division  
90 K Street NE, 9th Floor  
Washington DC 20229-1181  
Fax Number: (202) 325-0230  
E-mail: [CBPFOIA@dhs.gov](mailto:CBPFOIA@dhs.gov)**

## **Freedom of Information Act Request**

Dear FOIA Officer,

The Sierra Club makes this request for records, regardless of format, medium, or physical characteristics, including electronic records and information, email, audiotapes, videotapes, and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq. and Department of Homeland Security ("DHS") regulations, 6 C.F.R. Part 5.

The Sierra Club requests records dating from January 1, 2010 to the present pertaining to the construction of border fencing (also commonly referred to as the border wall, pedestrian fence, and tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas. These sections of border fencing will be built in the Border Patrol's Rio Grande Valley sector have been designated O-1, O-2, and O-3. Very little information has been released to the public regarding these sections of border fencing, despite a great deal of local public interest. The Sierra Club is particularly interested in the impact of these fencing sections on the Lower Rio Grande Valley National Wildlife Refuge and the potential for the impedance of flood waters that may accompany the erection of fencing in the Rio Grande flood plain.

Responsive documents should include (but not be limited to) internal CBP discussions, memos, meeting notes, presentation materials such as Powerpoints and handouts, and reports regarding fencing sections O-1, O-2, and O-3. Any contracts that have been prepared and/or put out for bid and/or granted for these sections should be included. Documents should also include consultations, interactions, and discussions with the Army Corps. of Engineers, the International Boundary Water Commission, US Fish and Wildlife, the State Department, and local government officials and residents regarding these fencing sections.

Please search responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, e-mail, audiotapes, videotapes, and photographs. Our request includes telephone messages, voice mail messages, e-mail, daily agenda and calendars, information about scheduled meetings and/or discussions regarding the aforementioned topics, whether in person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, and transcripts, notes and/or minutes from any such meetings and/or discussions.

If it is your position that any portion of the requested records is exempt from disclosure, the Sierra Club requests that you provide it with an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA." Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must "describe each document or portion thereof withheld, and for **each**

withholding it must discuss the consequences of supplying the sought-after information.” King v. U.S. Department of Justice, 830 F. 2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’” Id. At 224 (citing Mead Data Central v. U.S. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977)).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonable segregable non-exempt portions of the requested records. See 5 U.S.C § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

### **Request for Expedition**

Pursuant to 5 U.S.C. §552(a)(6)(E)(i) and DHS regulations, 6 CFR §5.5(d), the Sierra Club requests that Customs and Border Protection expedite the processing of this request in light of the compelling need for the requested information. There exists an urgent need to inform the public about federal government activity in regards to potential or realized impacts of “tactical infrastructure” along the U.S. – Mexico border (also commonly referred to as the border fence, border wall, pedestrian fence, and vehicle barriers) upon the water and hydrology of adjacent areas. “Tactical infrastructure” constructed along the U.S.-Mexico in recent years has been cited as a cause of flooding in the Organ Pipe Cactus National Monument and Nogales, Sonora, Mexico; threatens the Tijuana River and estuary with sedimentation as a result of erosion; and may impact the Rio Grande, which is the primary source of drinking water for millions of residents on both sides of the border. A fuller understanding of the potential and/or realized impacts of “tactical infrastructure” will allow communities and land managers to better anticipate and mitigate likely impacts.

Further, the Sierra Club is primarily engaged in working to protect communities, wild places, and the natural environment. The Sierra Club is a non-profit corporation, organized under section 501(c)(4) of the Internal Revenue code. The release of information garnered through this request is not in the Sierra Club’s financial interest. The Sierra Club will analyze the information responsive to this request, and will likely share its analysis with the public, either through memoranda, reports, or press releases. The Sierra Club has an established record of carrying out these types of activities. The Sierra Club also plans to disseminate any documents that it acquires from its request to the public through [www.governmentdocs.org](http://www.governmentdocs.org), an interactive website that includes thousands of pages of public documents obtained by a number of organizations.

As with the Electronic Privacy Information Center and the ACLU, two organizations that the courts have found satisfy the criteria necessary to qualify for expedition, the Sierra Club “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.” ACLU, 321 F. Supp.2d at 30 n.5 (quotation omitted).

Pursuant to 6 CFR §5.5(d)(3), I hereby certify that the bases for the Sierra Club’s request for expedition, as set forth herein, are true and correct to the best of my knowledge and belief. Accordingly, the Sierra Club requests that Customs and Border Protection expedite its processing of this FOIA request.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. Part 5, the Sierra Club requests a waiver of fees associated with processing this request for records. The waiver is in the public interest because furnishing this information primarily benefits the general public. The subject of this request concerns the operations of the federal government and expenditures, and the disclosures will likely contribute to a better understanding of relevant government procedures by the Sierra Club and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. §552(a)(4)(A)(iii). See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9<sup>th</sup> Cir. 1987).

Customs and Border Protection has granted the Sierra Club fee waivers for prior FOIA requests. In a letter dated April 13, 2012 Customs and Border Protection's FOIA Appeals, Policy & Litigation Branch affirmed the Sierra Club's contention that our non-profit organization that will derive no commercial gain from requested FOIA documents, and will instead disseminate them to the public free of charge. We were therefore granted our fee waiver request. Other federal agencies have also granted the Sierra Club's fee waiver request for documents related to border fencing.

The records requested by the Sierra Club are likely to contribute to the public's understanding of the potential or realized impacts of border fencing upon ecosystems and human communities along the Rio Grande, to shed light upon the decision to move forward with these fencing sections, and provide the public with updated information as to where this process currently stands. This policy issue has been the subject of frequent press inquiry and public debate.

The Sierra Club, along with its members, has published articles, reports, fact sheets, and other educational materials based on information that we have gained from documents received from a number of federal agencies via the Freedom of Information Act. None of these resulted in any sort of financial profit for the Sierra Club. In regards to Customs and Border Protection and border fencing, in addition to other types of educational materials we have had a number of articles published in the Rio Grande Guardian, the Monitor, the Texas Observer, the Associated Press, and other news outlets based on documents provided to us through previous Freedom of Information Act requests. These articles were written for the sole purpose of educating the public, including readers of the Rio Grande Guardian who live in the border communities that will be directly impacted by the proposed border fencing. No payment of any kind was made to the Sierra Club for these articles, or for any of the other articles that have been written based on these documents. Many of the documents that have been received, and all of those that are quoted in the articles, have been posted at [www.scribd.com](http://www.scribd.com), where they can be viewed and/or downloaded by the public free of charge. Copies of all of the documents regarding border fencing that the Sierra Club has received have been lodged at the University of Texas Pan American's Border Studies Archive, where they are available to researchers and the public. At no point was the Sierra Club assessed fees by Customs and Border Protection, the Department of the Interior, US International Boundary Water Commission, or other federal agencies for FOIA requests pertaining to border fencing.

In considering fee waiver criteria, please note that the FOIA carries a presumption of disclosure, and that the fee waiver amendments of 1986 were specifically designed to afford groups such as the Sierra Club access to government documents without the payment of fees. As stated by the Chairman of the U.S. Senate Judicial Committee, "[A]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information . . ." 132 Cong. Rec. S. 14298 (statement of Sen. Leahy). The Ninth Circuit of the U.S. Court of Appeals held that the amended statute "is to be liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9<sup>th</sup> Cir. 1987) (citing Sen. Leahy). The Ninth Circuit and the D.C. Circuit Courts of Appeals maintain that the amendment's main purpose is "to remove the roadblocks and technicalities which have been used by various Federal agencies to deny waivers or reductions of fees under the FOIA." *Id.*; also see Judicial Watch,

326 F.3d at 1315. Therefore, Congress and the courts unequivocally hold that the main legislative purpose of the amendments is to facilitate access to agency records by noncommercial requesters and “watchdog” public interest organizations, such as the Sierra Club, that use information obtained under FOIA to monitor, and at times challenge, government activities, and to inform the general public about said activities. As the D.C. Circuit Court of Appeals stated, the fee waiver provision was added to the FOIA “in an attempt to prevent government agencies from using high fees to discourage certain types of requesters and requests,” with explicit reference to requests from journalists, scholars and non-profit public interest groups. *Better Government Association v. Department of State*, 780 F.2d 86, 93-94 (D.C. Cir. 1986), quoting *Ettlinger v. Federal Bureau of Investigation*, 596 F. Supp. 867, 876 (D. Mass. 1984).

Under these circumstances, the Sierra Club fully satisfied the criteria for a fee waiver.

### **Conclusion**

Please respond to this request in writing within an expedited time-frame. If all of the requested documents are not available within that time period, the Sierra Club request that you provide all requested records or portions of records that are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, please contact me at (956) 532-5983. Also, if the Sierra Club’s request for a fee waiver is not granted in full, please contact me immediately upon making such a determination.

Please send requested documents to:

Scott Nicol  
Chair, Sierra Club Borderlands Team  
7300 N. 32<sup>nd</sup>  
McAllen, TX 78504

Thank you,

A handwritten signature in blue ink, appearing to be 'S. Nicol', with a stylized flourish at the end.

Scott Nicol  
Sierra Club Borderlands Team Chair  
[www.sierraclub.org/borderlands](http://www.sierraclub.org/borderlands)





# **Exhibit B**

# Acquisition Strategy and Timeline

✓ (b) (5), (b) (4)

✓ (b) (5), (b) (4)

## Course of Action:

• (b) (4), (b) (5)

• (b) (4), (b) (5)

• (b) (4), (b) (5)

## Base Plan:

Segment	O-1	O-2	O-3
(b) (4), (b) (5)			



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# Budget

**Total:** (b) (4), (b) (5)

Primary Drivers:

- Construction: (b) (4), (b) (5)
- Real Estate: (b) (4), (b) (5)
- Contingency: (b) (4), (b) (5)
- Program, Project and Construction Management: (b) (4), (b) (5)

(b) (4), (b) (5)



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# “Pivot” Plan

(b) (4), (b) (5)

(b) (4), (b) (5)

## Consistent, Scalable Approach:

- Real Estate & Environmental:

- Acquisition: (b) (4), (b) (5)

(b) (4), (b) (5)

- Risk: (b) (4), (b) (5)

- Budget: (b) (4), (b) (5)

(b) (4), (b) (5)

- Staffing: (b) (4), (b) (5)

(b) (4), (b) (5)

## Past Success on Similar Programs

(b) (4),  
(b) (5)

(b) (4), (b) (5)

(b) (4), (b) (5)



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[illegible]



[illegible]





DEPARTMENT OF HOMELAND SECURITY  
BUREAU OF CUSTOMS AND BORDER PROTECTION  
TACTICAL INFRASTRUCTURE (TI) PROJECT

## Review Comments Matrix

**Comments are due by 10:00 AM (CDT) Friday, April 12, 2013**

PROJECT: O-1, 2, 3

DATE: April 11, 2013

PROJECT MILESTONE: Draft Schedule

**RESPONSE LEGEND:**

A - Concur      D - Do Not Concur      E - Exception      X - Delete Comment  
(All responses besides "Concur" require a brief explanation from the Designer.)

REVIEWER	COMMENT NO.	REVIEW COMMENT	RESPONSE BY SCHEDULER
The following comments are from: (b) (6) ]			
(b) (6)	1.	(b) (4), (b) (5)	
(b) (6)	2.	(b) (4), (b) (5)	
(b) (6)	3.	(b) (4), (b) (5)	
(b) (6)	4.	(b) (4), (b) (5)	
	5.		
	6.		
	7.		
	8.		
	9.		
	10.		

# CBP Office of Administration Facilities Management and Engineering

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## Comprehensive Immigration Reform (CIR) Planning Briefing

Aug 9, 2013



U.S. Customs and  
Border Protection

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# Agenda

## Purpose: Discuss CIR Planning Process

- CIR Current Situation
- Notional CIR Requirements
- Acquisition Strategy and Timeline
- Budget
- Design
- Real Estate
- Environmental
- Steel
- Risks
- Adapting to Change
- Next Steps



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# CIR Current Situation

## CIR Current Language

- \$7.5B for fence construction
- Standing up the Southern Border Fencing Strategy
- Use of National Guard
  
- Bill passed the Senate and is currently with the House for consideration



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# Notional CIR Requirements



(b) (5), (b) (7)(E)

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# Acquisition Strategy and Timeline

✓ (b) (4), (b) (5)

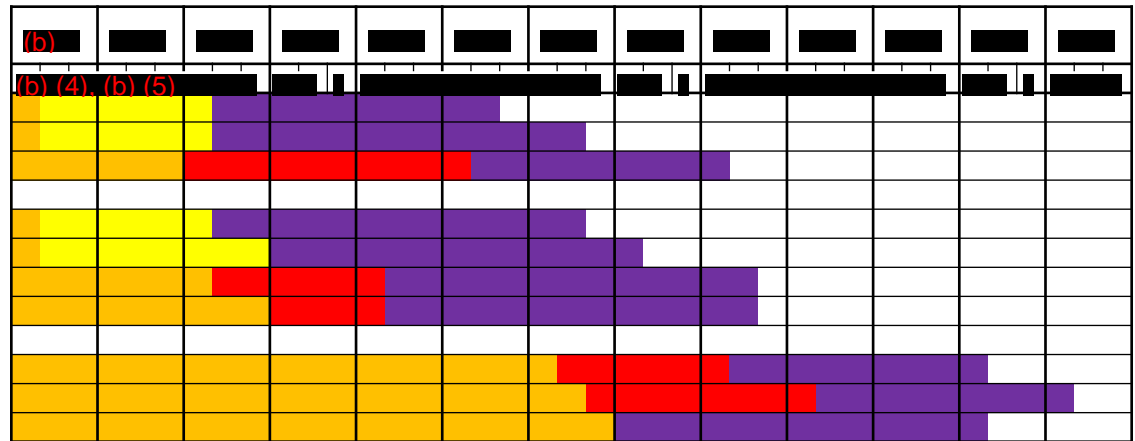
✓ (b) (4), (b) (5)

## 3-Phase Strategy:

- Early. (b) (4), (b) (5)
- Middle. (b) (4), (b) (5)
- Late. (b) (4), (b) (5)

## Base Plan:

Sched Code	Type	Start	RE Cert	Const Awd	Const Comp
<b>Existing MATOCs</b>					
A	(b) (4), (b) (5)				
B	(b) (4), (b) (5)				
C	(b) (4), (b) (5)				
<b>Gap Filler</b>					
D	(b) (4), (b) (5)				
E	(b) (4), (b) (5)				
F	(b) (4), (b) (5)				
G	(b) (4), (b) (5)				
<b>New MATOCs</b>					
H	(b) (4), (b) (5)				
I	(b) (4), (b) (5)				
J	(b) (4), (b) (5)				



PA - Pre-Award  
 RE - Real Estate  
 PA&RE - Pre-Award and Real Estate Concurrent  
 CONST - Construction  
 Awd - Award



(b) (4),  
 (b) (4),  
 (b) (4), (b) (5)



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## Preliminary ROM

**Total:** (b) (4), (b) (5)

**Range:** (b) (4), (b) (5)

### Primary Drivers:

- Fence Construction: (b) (4), (b) (5)
- Road Construction: (b) (4), (b) (5)
- Real Estate: (b) (4), (b) (5)
- Construction Management: (b) (4), (b) (5)
- Design: (b) (4), (b) (5)
- Environmental: (b) (4), (b) (5)
- Project Management: (b) (4), (b) (5)
- Contingency\*: (b) (4), (b) (5)

(b) (4), (b) (5)

(b) (4), (b) (5)

(b) (4), (b) (5)



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# Design

(b) (5), (b) (4)

## Examples:

(b) (5), (b) (4)

(b) (5), (b) (4)

(b) (5), (b) (4)



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# Real Estate

- Base ROM RE Budget: (b) (4), (b) (5)

- Key Budget Assumptions:

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- RE Schedule:

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)



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# Environmental



- (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]  
(b) (4), (b) (5) [redacted] .
- ROM ENV Cost: (b) (4), (b) (5) [redacted]
- Projected ENV Requirements
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]
  - (b) (4), (b) (5) [redacted]



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# Steel Approach

- (b) (4), (b) (5)
- (b) (4), (b) (5)  
(b) (4), (b) (5)
- Options:
  - (b) (4), (b) (5)
  - (b) (4), (b) (5)
  - (b) (4), (b) (5)
- (b) (4), (b) (5)



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# Qualitative Risk

- Top risk categories:

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)



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# Adapt to Changing Requirements

(b) (4), (b) (5)

(b) (4), (b) (5)

## Consistent, Scalable Approach:

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)

- (b) (4), (b) (5)



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# Next Steps

- (b) (4), (b) (5)
- (b) (4), (b) (5)
- (b) (4), (b) (5)
- (b) (4), (b) (5)
- (b) (4), (b) (5)



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# Douglas CIR Scenario

Tasks	Projected Completion Date
Real Estate Certified	(b) (4), (b) (5)
A/E Contract Awarded	(b) (4), (b) (5)
RTA	(b) (4), (b) (5)
Contract Award	(b) (4), (b) (5)
Construction Complete	(b) (4), (b) (5)

(b) (4), (b) (5)



Program FM&E # & Project Title Date Project Manager Project Base Cost Est. PBC + Est. Impact	Tactical Infrastructure	
	O-1 to O-3 Fence	
	\$	(b) (4), (b) (5)
	\$	

Border Patrol Facilities and Tactical Infrastructure



RISK MANAGEMENT SUMMARY RESULTS (planned)

(b) (4), (b) (5)

# Risk Matrix

Impact to Critical Path - Total Days -

ID #	Month/FY	Risk May Affect Critical Path	Milestone Affected	Risk Category	Detailed Description of Risk (Specific, Measurable, Attributable, Relevant, Timebound)	Mitigation of Risk	Estimated Impact - Days	Probability (%)	\$ Impact	Estimated Impact (\$)	Risk Level
1			(b) (4), (b) (5)		(b) (4), (b) (5)						
2			(b) (4), (b) (5)								
3			(b) (4), (b) (5)								
4			(b) (4), (b) (5)								
5											
6			(b) (4), (b) (5)								
7			(b) (4), (b) (5)		(b) (4), (b) (5)						
8			(b) (4), (b) (5)								
9			(b) (4), (b) (5)		(b) (4), (b) (5)						
10			(b) (4), (b) (5)		(b) (4), (b) (5)						
12			(b) (4), (b) (5)		(b) (4), (b) (5)						



Program	Tactical Infrastructure	
FM&E # & Project Title	O-1 to O-3 Fence	
Date		
Project Manager		
Project Base Cost Est.	\$	(b) (4), (b) (5)
PBC + Est. Impact	\$	

Case 4:17-cv-05273-KAW Document 22-2 Filed 12/12/17 Page 25 of 46

Border Patrol Facilities and Tactical Infrastructure

Facilities Management & Engineering

FM&E

Building for a Secure America

RISK MANAGEMENT SUMMARY RESULTS (planned)

(b) (4), (b) (5)

Impact to Critical Path - Total Days											
ID #	Month/FY	Risk May Affect Critical Path	Milestone Affected	Risk Category	Detailed Description of Risk (Specific, Measurable, Attributable, Relevant, Timebound)	Mitigation of Risk	Estimated Impact - Days	Probability (%)	\$ Impact	Estimated Impact (\$)	Risk Level
13			(b) (5)								
14											
15											
16											
17											
18											
19											
20											
21											

Program	Tactical Infrastructure	
FM&E # & Project Title	O-1 to O-3 Fence	
Date		
Project Manager		
Project Base Cost Est.	\$	(b) (4), (b) (5)
PBC + Est. Impact	\$	

RISK MANAGEMENT SUMMARY RESULTS (planned)
(b) (4), (b) (5)

Impact to Critical Path - Total Days											
ID #	Month/FY	Risk May Affect Critical Path	Milestone Affected	Risk Category	Detailed Description of Risk (Specific, Measurable, Attributable, Relevant, Timebound)	Mitigation of Risk	Estimated Impact - Days	Probability (%)	\$ Impact	Estimated Impact (\$)	Risk Level
22			(b) (4), (b) (5)								
23											
24											
25											
26											
27											
28										\$ -	
29										\$ -	
33										\$ -	
34										\$ -	
35										\$ -	

Program	Tactical Infrastructure	
FM&E # & Project Title	O-1 to O-3 Fence	
Date		
Project Manager		
Project Base Cost Est.	\$	(b) (4), (b) (5)
PBC + Est. Impact	\$	

(b) (4), (b) (5)

Impact to Critical Path - Total Days -											
ID #	Month/FY	Risk May Affect Critical Path	Milestone Affected	Risk Category	Detailed Description of Risk (Specific, Measurable, Attributable, Relevant, Timebound)	Mitigation of Risk	Estimated Impact - Days	Probability (%)	\$ Impact	Estimated Impact (\$)	Risk Level
36										\$ -	
37										\$ -	
38										\$ -	
39										\$ -	
40										\$ -	
41										\$ -	
42										\$ -	
43										\$ -	
44										\$ -	
45										\$ -	
46										\$ -	
47										\$ -	
48										\$ -	

Program	Tactical Infrastructure	
FM&E # & Project Title	O-1 to O-3 Fence	
Date		
Project Manager		
Project Base Cost Est.	\$	(b) (4), (b) (5)
PBC + Est. Impact	\$	



# Risk Matrix

RISK MANAGEMENT SUMMARY RESULTS (planned)

(b) (4), (b) (5)

Impact to Critical Path - Total Days -											
ID #	Month/FY	Risk May Affect Critical Path	Milestone Affected	Risk Category	Detailed Description of Risk (Specific, Measurable, Attributable, Relevant, Timebound)	Mitigation of Risk	Estimated Impact - Days	Probability (%)	\$ Impact	Estimated Impact (\$)	Risk Level
49										\$ -	

<b>Category</b>
<b>Construction</b>
<b>Contractor Performance</b>
<b>Design</b>
<b>Environmental</b>
<b>External Entity Compliance</b>
<b>Latent Conditions</b>

<b>Real Estate</b>
<b>Scope</b>

[illegible]

(b) (4)





Categories
Examples
<div data-bbox="134 300 332 331">*(b) (4)</div> <div data-bbox="134 331 394 405">[REDACTED]</div>
<div data-bbox="134 436 537 573">[REDACTED]</div>
<div data-bbox="134 604 625 846">[REDACTED]</div>
<div data-bbox="134 877 625 1014">[REDACTED]</div>
<div data-bbox="134 1224 634 1497">[REDACTED]</div>
<div data-bbox="134 1528 495 1843">[REDACTED]</div>

(b) (4)

A large rectangular area of the document is redacted with black bars. The redaction covers the top half of the page, starting below the header and ending above the bottom half. The redacted area is divided into two main sections by a horizontal line. The top section contains three lines of redacted text, with the first line starting with the redaction code (b) (4). The bottom section contains three lines of redacted text. The redacted area is outlined by a black border.

(b) (4)

[Redacted]

[Redacted]

5 - Near
4 - Highly
3 - Possit
2 - Unlike
1 - Very

[Redacted] Risk Matrix

Likelihood of Occurrence

[Redacted]


[Redacted]

Impact of Consequence

1 - Very Lo
2 - Low
3 - Medium
4 - High
5 - Very Hi

Risk Likelihood Levels	

[REDACTED]			
[REDACTED]			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]





O-123...O-1-2-3 Project Milestones...		<b>O-1-2-3 IMS Project</b>					Mar-21-2013			
Activity ID	Activity Name	Planned	Start	Finish	D - Date	2013	2014	2015	2016	2017
(b) (4), (b) (5)										



Page 1 of 1

BPFTI PMO

Data Date: Mar-15-2013



O-123...O-1-2-3 Project Milestones...						O-1-2-3 IMS Project					Mar-21-2013			
Activity ID	Activity Name					Planned	Start	Finish	D - Date	2013	2014	2015	2016	2017
(b) (4), (b) (5)						(b) (4), (b) (5)								



OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

DISCLOSURE: These responses have been informed by the experience of Pedestrian Fence (PF) 225 and Vehicle Fence (VF) 300 projects. CBP has not had sufficient time to complete an in-depth analysis of each segment of proposed fence construction with the U.S. Army Corps of Engineers (USACE). (b) (5) [REDACTED]. Additionally, the timelines, estimates and assumptions detailed here assume the team that executed the PF225 project will execute these projects, allowing CBP to leverage their considerable technical expertise, experience and lessons learned.

(b) (4) [REDACTED]

[REDACTED]

[REDACTED]

**Phase 1 – Risks and Assumptions**

*Environmental*

- (b) (4) [REDACTED]  
(b) (4) [REDACTED]

OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

- (b) (4)

*Real Estate*

- (b) (4)
- (b) (4)
- (b) (4)

*Procurement Strategy*

- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)

*Construction*

- (b) (4)
- (b) (4)
- (b) (4)
- (b) (4)

*Staffing*

- (b) (4)
- (b) (4)
- (b) (4)

OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

- (b) (4)  
(b) (4)
- (b) (4)  
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- (b) (4)  
(b) (4)

**Phase 1 – Concerns**

- (b) (4)  
(b) (4)
- (b) (4)
- (b) (4)  
(b) (4)
- (b) (4)  
(b) (4)

**Phase 2 – Risks and Assumptions**

*Environmental*

- (b) (4)  
(b) (4)
- (b) (4)  
(b) (4)  
(b) (4)

*Real Estate*

- (b) (4)  
(b) (4)

OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

- (b) (4)  
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- (b) (4)  
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- (b) (4)  
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- (b) (4)  
(b) (4)

*Procurement Strategy*

- (b) (4)  
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- (b) (4)  
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- (b) (4)  
(b) (4)
- (b) (4)  
(b) (4)

*Construction*

- (b) (4)
- (b) (4)
- (b) (4)  
(b) (4)

*Staffing*

- (b) (4)  
(b) (4)

OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

(b) (4)

(b) (4)

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(b) (4)

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(b) (4)

(b) (4)

**Phase 2 – Concerns**

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(b) (4)

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(b) (4)

OMB/Senate Technical Assistance Request – Replace Vehicle Fence,  
Legacy Pedestrian Fence and Complete Segments O-1, O-2 and O-3  
and Construct Secondary Fencing Behind All PF and VF

Cost Estimate to Complete Phase 1 & Phase 2:

(b) (4)



# **Exhibit C**



FOIA Appeals  
Policy and Litigation Branch  
U.S. Customs and Border Protection  
90 K Street, NE, 10th Floor  
Washington, DC 20229-1177

*Sent via certified mail February 3, 2017*

**RE: FOIA APPEAL, File Number CBP-2013-016845/ CBP-2016-018165**

The Sierra Club hereby timely appeals Customs and Border Protection's (CBP) response to our Freedom of Information Act (FOIA) request. This FOIA request has repeatedly changed tracking numbers, beginning with CBP-2013-016845 when it was submitted on April 17, 2013, and ending with tracking number CBP-2016-018165 when the Sierra Club was provided with just 10 completely redacted documents on December 9, 2016 and no Vaughn index as required by Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), and as requested by the Sierra Club in our original 2013 FOIA request.

The Sierra Club requested the following on April 17, 2013:

The Sierra Club requests records dating from January 1, 2010 to the present pertaining to the construction of border fencing (also commonly referred to as the border wall, pedestrian fence, and tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas. These sections of border fencing will be built in the Border Patrol's Rio Grande Valley sector have been designated O-1, O-2, and O-3. Very little information has been released to the public regarding these sections of border fencing, despite a great deal of local public interest. The Sierra Club is particularly interested in the impact of these fencing sections on the Lower Rio Grande Valley National Wildlife Refuge and the potential for the impedance of flood waters that may accompany the erection of fencing in the Rio Grande flood plain.

Responsive documents should include (but not be limited to) internal CBP discussions, memos, meeting notes, presentation materials such as Powerpoints and handouts, and reports regarding fencing sections O-1, O-2, and O-3. Any contracts that have been prepared and/or put out for bid and/or granted for these sections should be included. Documents should also include consultations, interactions, and discussions with the Army Corps. of Engineers, the International Boundary Water Commission, US Fish and Wildlife, the State Department, and local government officials and residents regarding these fencing sections.

Please search responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, e-mail, audiotapes, videotapes, and photographs. Our request includes telephone messages, voice mail messages, e-mail, daily agenda and calendars, information about scheduled meetings and/or discussions regarding the aforementioned topics, whether in person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, and transcripts, notes and/or minutes from any such meetings and/or discussions.



It is the Sierra Club's assertion that Customs and Border Protection's response to our FOIA request fails to meet the requirements of the Freedom of Information Act in a number of ways:

- 1) Customs and Border Protection took far longer to provide responsive documents than FOIA allows. Three years and eight months elapsed before the Sierra Club received **any** documents. During most of that time the Sierra Club's repeated requests for updates or a timeline for the delivery of responsive documents went unanswered. It was not until 2016, three years after the initial submission of our FOIA, that we began to have what we hoped would be productive discussions with CBP staff.
- 2) In January of 2016 the long-ignored FOIA request mysteriously dropped from the Sierra Club's online queue in the Customs and Border Protection FOIA system. When the Sierra Club contacted CBP regarding the lost FOIA it was reinstated, but rather than retain the 2013 tracking number it was assigned a 2016 tracking number, which would give the false appearance that our FOIA was three years younger than it actually is. As CBP employs a "first come first served" policy, this likely moved our request to the back of CBP's backlog.
- 3) Ultimately the documents provided were so heavily redacted as to be completely useless. *All* information was blacked out. While multi-year delays violate the letter of the Freedom of Information Act, providing allegedly responsive documents with every iota of information redacted clearly runs counter to the basis of the law.
- 4) The Sierra Club received just 10 documents in response to our request, despite the fact that our FOIA covered a broad range of documents and document types over multiple years. The Sierra Club has been submitting FOIA requests to a number of federal agencies over the past few years, including Customs and Border Protection, and has received many documents that would have been responsive to this FOIA, or that indicate the existence of far more documents that would have been responsive. Customs and Border Protection excluded many, many documents without providing a Vaughn index indicating what documents were withheld and the statutory reason for withholding them.

The Sierra Club therefore appeals Customs and Border Protection's inadequate response to our 2013 – 2016 Freedom of Information Act request. Customs and Border Protection should immediately initiate a new, thorough search for responsive documents. These should be provided in a timely manner, and any redactions should be minimal and explained with sufficient detail to make their reasoning clear.

1 & 2) In regards to points one and two above, the Sierra Club provides a timeline of communications regarding our FOIA request, initially assigned tracking number CBP-2013-016845 in April 2013, and closed out with tracking number CBP-2016-018165 in December 2016. Both the duration and details of the Club's interactions with CBP on this FOIA demonstrate that CBP has failed to comply with the requirements of the Freedom of Information Act.

**Timeline of communications with CBP re: the Sierra Club's FOIA request:**

- Submitted FOIA on April 17, 2013. CBP assigned it tracking number CBP-2013-016845.
- September 4, 2013 it was merged with FOIA request CBP-2013-010601.
- Repeated email requests for status update unanswered.
- July 4, 2014 submitted an inquiry to CBP requesting an update.
- August 14, 2014 received an email response from PIO Munoz which suggested looking at the online queue for updates. No information provided in either this email or the queue. This was tagged Incident: 140704-000035.
- August 22, 2014 sent an email to CBP:

"There has still been no response regarding the status of the Sierra Club's FOIA request, tracking # CBP-2013-010601. This FOIA is well over a year old, having been submitted on 4/17/2013. Please provide us with a status update and when we should expect to begin receiving responsive documents immediately, as such a long delay with no explanation whatsoever is in no way keeping with the requirements of the Freedom of Information Act."

- August 22, 2014 received email response from CBP: "An account was automatically created for you but you can't login until your password has been set."
- August 22, 2014 replied to CBP email:
 

"We already have an account. It would not matter anyway, since the email that you sent stated that only FOIA requests created after October 2013 can be checked online, and ours was submitted in April of 2013. Please call (956) 532-5983 if you would like to discuss this further, or simply send an email to this address to let us know when we can expect to begin receiving documents. Again, the request # is CBP-2013-010601."
- August 24, 2014 received email from PIO Lerma:
 

"Thank you for contacting the U.S. Customs and Border Protection (CBP) INFO Center. Please contact FOIA directly 202-325-0150"
- August 25, 2014 called CBP on the phone – received no information (details of the call described below).
- August 25, 2014 responded to CBP's August 24 email:
 

"This was not helpful, as the person who answered at 202-325-0150 stated that she could not give me an update on the status of the Sierra Club's FOIA request CBP-2013-010601 which was submitted in April of 2013. She said that she could only look at the same online screen that I already have access to, and which has not changed for more than a year. To pass my request on to a supervisor she needed to find a pencil and paper to write a note.

Essentially you have created a feedback loop that reinforces, rather than fixes, the problem of ascertaining when CBP intends to provide documents that are responsive to the Sierra Club's FOIA request. Online you say call this number, but when the number is called I am told to check online. At more than a year old and with no substantive response this is a clear violation of the Freedom of Information Act.

Please provide a timeline for providing responsive documents immediately."
- July 1, 2015 received an email re: fee waiver request:
 

"Your request for Fee Waiver for the FOIA request CBP-2013-016845 has been determined to be not applicable as the request is not billable."
- July 7, 2015 responded to CBP email requesting clarification.
- January 2016 the FOIA request disappeared from the Sierra Club's online queue
- January 21, 2016 email sent to CBP protesting the "lost" FOIA. Included a copy of the FOIA request.
- January 22, 2016 sent a second email to CBP regarding the "lost" FOIA request.
- January 29, 2016 "new" FOIA appears in Sierra Club's queue, assigned tracking number CBP-2016-018165.
- January 29, 2016 called CBP FOIA officer at (202) 344-1610 and left a message regarding our concern that this maneuver would restart the clock on a nearly 3 year old FOIA request.
- February 2, 2016 received an email stating that the tracking number had changed to CBP-OBP-2016-018165. This email and subsequent emails also showed the "date

submitted” as January 29, 2016.

- February 3, 2016 received an email stating that CBP-OBP-2016-018165 would change to CBP-2016-018165
- February 4, 2016 received an email stating that CBP-2016-018165 would change to CBP-OA-2016-018165.
- April 15, 2016 spoke on the phone with CBP (Grace Peterson, *et. al.*), who said that they were working on the FOIA.
- April 18, 2016 sent follow up email to Grace Peterson, *et. al.*, regarding the April 15 phone call. Focused primarily on a different FOIA, but this one was mentioned as well.
- June 9, 2016 email from Grace Peterson suggesting a phone call re: this FOIA request and another pending FOIA.
- Multiple emails regarding a separate FOIA request that was pending release.
- October 2, 2016 sent an email to Grace Peterson, Paul Enriquez, and Ashley Tackett:  
 “Could you please provide a status update on the Sierra Club Borderlands Team's other FOIA requests, CBP-2015-045142 and CBP-2016-018165 (which was originally submitted in 2013 and given the tracking number CBP-2013-016845).”
- October 6, 2016 email from Grace Peterson with Paul Enriquez, and Ashley Tackett cc’d suggesting a call to discuss the long-pending FOIA requests.
- October 10, 2016 phone call scheduled for October 11.
- October 11, 2016 two more emails to establish the time for the call.
- October 11, 2016 phone call to discuss the progress on the Sierra Club’s outstanding FOIA requests.
- November 11, 2016 sent email to Grace Peterson, Paul Enriquez, and Ashley Tackett:  
 “Could you please provide a status update on the Sierra Club Borderlands Team's other FOIA requests, CBP-2015-045142 and CBP-2016-018165 (which was originally submitted in 2013 and given the tracking number CBP-2013-016845).”
- November 22, 2016 received email from Grace Peterson with Paul Enriquez, and Stacy Howell cc’d:  
 “My sincerest apologies for missing the following email. To provide a brief update, CBP-2016-018165 should be wrapped up shortly. I sent up a partial release to our FOIA office a few months back, did you receive those documents?”
- November 22, 2016 sent email to Grace Peterson, Paul Enriquez, and Stacy Howell:  
 “I have not received any documents for either request.”
- November 23, 2016 received email from Grace Peterson with Paul Enriquez, and Stacy Howell cc’d:  
 “Okay thank you for letting me know, Scott. Let me check back with our FOIA office to see what the situation is there.”
- December 8, 2016 sent email to Grace Peterson, Paul Enriquez, and Stacy Howell:  
 “Have you found anything out regarding the Sierra Club's pending FOIA requests? Any idea when we will receive responsive documents?”
- December 9, 2016 received a form email:  
 “A search of CBP databases produced records responsive to your Freedom of Information Act (FOIA) request CBP-2016-018165, requesting records dating from January 1, 2010 to the present pertaining to the construction of border fencing (also commonly referred to as the border wall, pedestrian fence, and

tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas.

CBP has determined that the responsive records are partially releasable, pursuant to Title 5 U.S.C. § 552 and have applied the appropriate exemptions notated below:

Section 552 (FOIA)

\_\_\_ (b)(1) \_\_\_ (b)(2) \_\_\_ (b)(3) \_X\_ (b)(4) \_X\_ (b)(5) \_\_\_ (b)(6)  
 \_\_\_ (b)(7)(A) \_\_\_ (b)(7)(B) \_\_\_ (b)(7)(C) \_\_\_ (b)(7)(D) \_\_\_ (b)(7)(E) \_\_\_ (b)(7)(F)  
 \_\_\_ (b)(3) Statute 49 U.S.C. § 114(s)

- December 10, 2016 sent email to Grace Peterson, Paul Enriquez, and Stacy Howell:

"Hi Grace,

I just received the final disposition for the Sierra Club's FOIA request regarding border fence sections O-1, O-2, and O-3. As you will recall, this request was initially submitted in 2013 and assigned tracking number CBP-2013-016845. It was lost by CBP and then reinstated as CBP-2016-018165.

Did you have a look at the documents that were provided? It would not take long. Even though the request covered a date range of 2010 through the present, only 10 very short documents were provided. There are a number of CBP documents that would have been responsive to this FOIA that were provided to the Sierra Club by the US IBWC and the Army Corps of Engineers in prior FOIA requests that were left out, so the reason for the brevity of CBP's response, despite the years spent on it, is hard to fathom.

Moreover, the documents that were provided were entirely redacted. There is literally no information visible on them. I am attaching the first two of the 10 documents, not because they are the worst of the very small lot, but because they are all likewise redacted.

There is no way that this could be considered to be compliant with the Freedom of Information Act, as no information whatsoever was provided.

It is difficult to see what it is that Customs and Border Protection feels that it is necessary to hide. One document, based on the fact that its file name has "CIR" in it, appears to be a planning document for the Comprehensive Immigration Reform bill that came out a few years ago. That legislation was never signed into law, so I cannot imagine what information could be in that document that should be shielded from public view. It was contingency planning for something that did not occur. In other cases, such as the multi-colored spreadsheet that I have attached, there is no indication at all as to what it might relate to.

I would appreciate it if we could discuss this next week. Please let me know when you are available."

- December 19, 2016. Received email and letter from Patrick Howard, which read in part:

"CBP FOIA has been made aware that you reached out to another office with concerns about the response you received. Please be advised that this is not the correct format for filing an appeal."

- December 20, 2016. Responded to Mr. Howard:

"I reached out to Grace Peterson regarding the inadequacy of the documents released in response to the Sierra Club's three year old FOIA because Grace and I had repeatedly discussed this FOIA request over the past year via phone and email. My hope was that she would see the withholding of relevant and releasable documents and excessive redactions and would act to rectify the situation without the need to file an appeal. I am disappointed to find that this could not be so easily resolved."

3) In regards to point three, the Sierra Club asserts that redactions have been used far beyond the degree that is allowed under the Freedom of Information Act, to the extent that the documents that were provided in response to our FOIA request provide us with no actual information.

The FOIA response cites exemptions B(4) and B(5) extensively. Below is our analysis of the inappropriate use of these exemptions.

**5 U.S.C. § 552(b)(4), known as Exemption B(4), to be applied to documents which would reveal "[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential."**

Exemption 4 protects from public disclosure just two types of information: (1) trade secrets; and (2) information that is (a) commercial or financial, and (b) obtained from a person, and (c) privileged or confidential. All three parts of the commercial or financial exemption must be met. Congress intended this exemption to protect the interests of both the government and submitters of information. Its existence encourages submitters to voluntarily furnish useful commercial or financial information to the government and it correspondingly provides the government with an assurance that such information will be reliable. It is unclear whether the B(4) exemption was applied because of the "trade secrets" provision at 5 U.S.C. § 552(b)(4)(1), or the commercial or financial provision at 5 U.S.C. § 552(b)(4)(2), because no Vaughn index was provided. For many documents provided, it is impossible, due to the level of redaction, to infer from context what information has been redacted.

***Trade Secrets, Exemption B(4)(1)***

A trade secret is a commercially valuable plan, formula, process, or device. This is a narrow and relatively easily recognized category of information. It is "a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort." Public Citizen Health Research Group v. FDA, 704 F.2d 1280, 1288 (D.C. Cir. 1983). An example of a trade secret might be the formula of a gasoline additive.

As an example of the inappropriate use of exemption B(4)(1), which may have been used to redact the responsive document "BH Schedule Comment Form 11 APR 13 a Redacted," you can see from the context of the document that the material redacted is a comment by someone at DHS/CBP and is therefore not a trade secret. Similarly, for responsive document 143875 PF225 WBS View(2) Redacted" the use of exemption B(4)(1) appears to have been used to redact activity descriptions or names and the duration of the activity, neither of which are trade secrets. In other documents redactions under the B(4) exemption include dates, costs, staffing level information, and cost estimates. None of these redactions falls within the scope of the B(4)(1) exemption for "trade secrets."

***Commercial or Financial Information Obtained from a Person and Privileged or Confidential, Exemption B(4)(2)***

The second form of protected data is "commercial or financial information obtained from a person and privileged or confidential." Courts have held that data qualifies for withholding *if* disclosure by the government would be *likely to harm the competitive position of the person who submitted the information*. Detailed information on a company's marketing plans, profits, or costs can qualify as confidential business information. Information may also be withheld if disclosure would be likely to impair the government's ability to obtain similar information in the future.

Generally, the commercial/financial nature of a document is not difficult to ascertain, consequently, the main issue in contest is whether the information is privileged or confidential. However, for the responsive documents received, it is impossible to determine if any of the redacted information is commercial or financial and in fact, most of the redactions appear from the context of the documents to not fall within this exemption. For example (and again citing the same two

documents), in responsive document "BH Schedule Comment Form 11 APR 13 a Redacted," you can see from the context of the document that the material redacted is a comment by someone at DHS/CBP and is therefore not commercial or financial information, nor provided by someone outside the agency. Similarly, for responsive document 143875 PF225 WBS View(2) Redacted" the use of exemption B(4)(2) appears to have been used to redact activity descriptions or names and the duration of the activity, neither of which are commercial or financial information. And again, in other documents redactions under the B(4) exemption include dates, costs, staffing level information, and cost estimates. None of these redactions falls within the scope of the B(4)(2) exemption for commercial or financial information. Not only do these redactions fail to meet all three parts of the test for the use of exemption B(4)(2), they fail to meet *any part* of that test.

A leading case on this aspect of Exemption 4 sets out the test for exempting commercial information from FOIA disclosure as follows:

"Commercial or financial matter is "confidential" for purposes of [Exemption 4] if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C.Cir. 1974); see also Frasee v. U.S. Forest Service, 97 F.3d 367, 371 (9th Cir. 1996).

**5 U.S.C. § 552(b)(5), Documents which are "inter-agency or intra-agency memorandum or letters" which would be privileged in civil litigation.**

Exemption 5 is an exemption very frequently invoked against public interest requesters because the nature of such party's intended uses are usually to get information regarding the agency's processes and conclusions. Notably, the exemption was intended to incorporate common-law privileges against discovery. Of all such privileges, the one most frequently encountered by public interest requesters is based on the concept of "executive" privilege which protects recommendations and advice which are part of the "deliberative process" involved in governmental decision-making. The rationale being to protect the integrity of agency decision-making by encouraging both full and frank discussions of policy proposals and to prevent premature disclosure of policies under review.

The exemption also incorporates other of privileges which would apply in litigation involving the government. For example, papers prepared by the government's lawyers can be withheld in the same way that papers prepared by private lawyers for clients are not available through discovery in civil litigation. However, this incorporation of discovery privileges requires that a privilege be applied in the FOIA context as it exists in the discovery context. See United States Dep't of Justice v. Julian, 486 U.S. 1, 13 (1988) (holding that presentence report privilege, designed to protect report subjects, cannot be invoked against them as first-party requesters). Thus, the precise contours of a privilege, with regard to applicable parties or types of information which are protectable, are also incorporated into the FOIA. *Id.*

Courts have resolved to distinguish "pre-decisional" documents, which fall within the protections of Exemption 5, and "post-decisional" documents, which must be disclosed. F.T.C. v. Warner Comm. Inc., 742 F.2d 1156, 1161 (9th Cir. 1984); NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151-153 (1975) (memos directing agency counsel criteria and actions involved in decision to file complaints are not final dispositions of issue, and are thus protected, while final opinions or dispositions can never be protected by Exemption 5).

However, even if a document is pre-decisional, some courts have upheld a distinction between "materials reflecting deliberative or policy-making process on the one hand, and purely factual, investigative matters on the other," the



exemption protects the former, not the latter. EPA v. Mink, 410 U.S. 73, 89 (1973). Those portions of a document which are not exempt must be disclosed unless they are "inextricably intertwined" with the exempt portions. Ryan v. Dept. of Justice, 617 F. 2d 781, 790-91 (D.C. Cir. 1980).

In the response to the FOIA request at issue in this appeal, exemption 5 was used in multiple times to redact what appears to be factual information such as dates, times, budget information, start and finish dates, activity names, activity ID numbers, staffing levels, definitions, next steps, options, environmental requirements, assumptions used in analysis, and requirements for projects. Very clearly, exemption 5 does not apply to these items and the extremely overbroad use of this exemption to redact nearly every word from the responsive documents is inappropriate as none of this information would be privileged or confidential in civil litigation.

**5 U.S.C. § 552(b)(6), Documents which are "personnel and medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."**

This exemption protects the privacy interests of individuals by allowing an agency to withhold personal data kept in government files. The Supreme Court has reviewed the application of this exemption.

First, in evaluating whether a request for information lies within the scope of a FOIA exemption, such as Exemption 6, that bars disclosure when it would amount to an invasion of privacy that is to some degree 'unwarranted, 'a court must balance the public interest in disclosure against the interest Congress intended the [e]xemption to protect." Department of Defense v. F.L.R.A., 114 S.Ct. 1006, 1012 (1994). Second, the only relevant "public interest in disclosure" to be weighed in this balance is the extent to which disclosure would serve the "core purpose of the FOIA," which is "contribut[ing] significantly to public understanding of the operations or activities of the government. *Id.*

In other words, the requested materials must in some way illuminate "what the government is 'up to'" in order to justify disclosure. While a request for information from the government which illustrates what your neighbor or business competitor is "up to" will not meet the public interest balancing test under exemption 6. The exemption requires agencies to strike a balance between an individual's privacy interest and the public's right to know. However, since only a clearly unwarranted invasion of privacy is a basis for withholding, there is a perceptible tilt in favor of disclosure in the exemption. "In the Act generally, and *particularly under Exemption (6)*, there is a strong presumption in favor of disclosure." Local 598 v. Department of Army Corps of Engineers, 841 F.2d 1459, 1463 (9th. Cir. 1988) (emphasis added). In that case, the Ninth Circuit reviewed the context of applicable Exemption 6 case law:

In the documents produced as a response to the FOIA request at issue in this appeal exemption 6 has been used to redact the name of a person who commented on a DHS form. There is no way for the public to know if this person is an employee of DHS or a contractor hired by DHS. There is no invasion of privacy in releasing just the name of the person who filled out a government form while working in some capacity for the government, but there is a public interest in understanding whether DHS is using its own staff or outside contractors to fill out this form.

Unfortunately, DHS has a habit of redacting every individual's name on every document released via FOIA, even when the name of the person is a publicly elected official and the document was produced in their official capacity. This is not an appropriate use of exemption 6 because no substantial privacy interest has been (or can be) identified and the public interest outweighs the (here, non-existent) privacy concern.

This habit of mechanical, thoughtless redactions flies in the face of FOIA. The Freedom of Information Act embodies a strong policy of disclosure and places a duty to disclose on federal agencies. As the district court recognized, 'disclosure, not secrecy, is the dominant objective of the Act.' Department of the Air Force v. Rose, 425 U.S. 352, 361, 96 S.Ct. 1592, 1599, 48 L.Ed.2d 11 (1976). 'As a final and overriding guideline courts should always keep in mind the basic policy of the

FOIA to encourage the maximum feasible public access to government information....' Nationwide Bldg. Maintenance, Inc. v. Sampson, 559 F.2d 704, 715 (D.C.Cir.1977). As a consequence, the listed exemptions to the normal disclosure rule are to be construed narrowly. See Rose, 425 U.S. at 361, 96 S.Ct. at 1599. *This is particularly true of Exemption (6). Exemption (6) protects only against disclosure which amounts to a 'clearly unwarranted invasion of personal privacy.'* That strong language 'instructs us to 'tilt the balance [of disclosure interests against privacy interests] in favor of disclosure.'" *Id.* (emphasis added), citing Washington Post Co. v. Department of Health and Human Servs., 690 F.2d 252, 261 (D.C.Cir.1982) (quoting Ditlow v. Shultz, 517 F.2d 166, 169 (D.C. Cir.1975)).

**5 U.S.C. § 552(b)(7)(E), Documents which include "records or information compiled for law enforcement purposes" and which would compromise law enforcement investigations or prosecutions.**

Exemption 7(E) covers "records or information compiled for law enforcement purposes" that "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law." 5 U.S.C. § 552(b)(7)(E). This exemption was used for document "Brief CIR Draft 1 7 Redacted," which is apparently a presentation about Comprehensive Immigration Reform where the "Notional CIR Requirements" are redacted. It is impossible to determine whether this is an appropriate use of exemption 7(E) because no Vaughn index was provided and no rationale for the redaction was provided.

The "requirement that disclosure risk circumvention of the law 'sets a relatively low bar for the agency to justify withholding.'" See Pub. Employees for Envtl. Responsibility v. U.S. Section, Int'l Boundary & Water Comm'n, U.S.-Mexico, 740 F.3d 195, 204–05 (D.C. Cir. 2014) (quoting Blackwell v. FBI, 646 F.3d 37, 42 (D.C. Cir. 2011)). The agency "must demonstrate only that release of a document might increase the risk 'that a law will be violated or that past violators will escape legal consequences.'" *Id.* at 205 (quoting Mayer Brown LLP v. IRS ("Mayer Brown"), 562 F.3d 1190, 1193 (D.C. Cir. 2009)). "Rather than requiring a highly specific burden of showing how the law will be circumvented, exemption 7(E) only requires that the [agency] demonstrate logically how the release of the requested information might create a risk of circumvention of the law." Blackwell, 646 F.3d at 42 (quoting Mayer Brown, 562 F.3d at 1194 (internal quotation marks and alterations omitted)).

However, it stretches the imagination to understand how disclosure of these "Notional CIR Requirements" could be expected to risk circumvention of the law and here the agency has provide no such justification or explanation.

As stated in point four above, the Sierra Club has submitted numerous Freedom of Information Act requests regarding fencing along the US-Mexico border to various agencies. Many of the documents that have been provided, including many documents previously provided by Customs and Border Protection, would have been responsive to this FOIA and in a number of instances previously provided documents indicate the existence of other documents that Customs and Border Protection should have provided in response to this request.

On March 15, 2010 the Sierra Club submitted a Freedom of Information Request to Customs and Border Protection that was nearly identical to the FOIA request that we are currently appealing. Only the date range was different; the 2013 FOIA was intended to function as an update. In response to the 2010 FOIA the Sierra Club ultimately received 8 CDs between June 2010 and October 2011 containing 148 documents. While some redactions appeared to be arbitrary – for example, every dollar amount was redacted, even when the number referred to publicly available sums such as CBP's total appropriation from Congress – there was a great deal of important information that had not previously been made known. A number of the documents provided in response to that FOIA would also have been responsive to this FOIA,



but they were neither provided nor described in a Vaughn index. The idea that since that time CBP has only produced 10 extremely brief, highly confidential documents, strains credulity.

The documents listed below highlight just a few of those which were previously provided by federal agencies that would either be responsive to this FOIA or indicate the existence of documents that CBP failed to provide, or even to acknowledge the existence of in a Vaughn index.

Partial list of documents previously provided to the Sierra Club via prior FOIA requests:

- PF 225 Phase II Draft Drainage Report Fence Segments O1, O2, O3 2-D Hydraulic Analysis of the Rio Grande Floodplain. Dated June 2011. Provided by Customs and Border Protection in October 2011.  
The final version of this report would be responsive to the Sierra Club's FOIA request, along with emails, letters, meeting notes, Powerpoints, and other documents which make reference to either the draft or final version. Other reports discussing these proposed sections of border fence would likewise be relevant and responsive, and should be provided.
- CBP Office of Finance Facilities Management and Engineering Tactical Infrastructure Update January 20, 2010. Powerpoint provided by Customs and Border Protection in July 2010.  
Thirty responsive Powerpoint presentations were provided in response to the Sierra Club's earlier FOIA, but only one Powerpoint, which was entirely redacted, was provided in response to this request. CBP should provide all Powerpoint presentations, updates, and meeting notes that mention border fence sections O-1, O-2, and/or O-3 from 2010 through the present.
- CBP Office of Finance Facilities Management and Engineering July 20, 2010 Briefing to Department of State Pedestrian Fence Segments O-1, O-2 and O-3. Powerpoint provided by Customs and Border Protection in May 2011.  
This Powerpoint was presented at a meeting in 2010, within the date range covered by this FOIA and explicitly discussing the topic of this FOIA. Meeting notes, emails, letters, etc. related to this meeting are clearly responsive to this FOIA and should be released.
- Subject: Fw: Emailing 02-012(a)USIBWC Approval Letter Segments O-123.pdf. February 23, 2012 email chain provided by the US Army Corps of Engineers in April 2013.  
This email from Loren Flossman says in part, "Sirs the attached letter to Scott Recinos from IBWC is the successful conclusion of over 3 years of singular dedication and tenacity by Scott. His commitment has resulted in IBWC's approval of the O-1 O-2 O-3 fence segments which are part of the 670 miles of proposed fence." Emails, meeting notes, and correspondence covering the span of Mr. Recinos's efforts related to these sections are relevant to our FOIA and should be provided. The Sierra Club's previous CBP FOIA led to the release of 18 email chains, but the ten documents that were provided in response to this FOIA do not (so far as we can discern with their content entirely redacted) make any reference to these efforts or to the International Boundary and Water Commission.
- U.S. Customs and Border Protection Secure Border Initiative Border Security, Fencing, Infrastructure and Technology (BSFIT) Fiscal Year 2009 Expenditure Plan. Provided by Customs and Border Protection in June 2010.

This is an annual report that CBP develops for Congress. While the 2009 report would not fall within the 2010 through the present range of the FOIA which we are appealing, subsequent reports which make mention of border fence sections O-1, O-2, and/or O-3 would.

- Border Patrol Facilities and Tactical Infrastructure (BPFTI) Program Management Office (PMO) Real Estate Plan Proposed Pedestrian Fencing Segments O-1, O-2, O-3 Starr & Hidalgo Counties, Texas. November 30, 2012. Provided by the US Army Corps of Engineers in April 2013. Planning documents such as this are clearly responsive to the Sierra Club's FOIA request, falling within its date range and discussing the relevant subject matter. CBP should release all similar planning documents that discuss proposed border fence segments O-1, O-2, and O-3.

If certain records are exempt from disclosure under FOIA CBP is still required to provide an index of those records that is sufficiently detailed for a reasonable person to be able to ascertain whether the record sought is actually exempt from disclosure. Vaughn v. Rosen, 282 F.2d 820 (D.C. Cir. 1973). CBP did not provide an index of any type despite the undeniable fact that many documents were withheld from this FOIA request.

## CONCLUSION

For these reasons, we respectfully request that Customs and Border Protection reverse the initial decision to redact the few documents it has provided, promptly conduct an additional search and provide us with full access to the requested information. The Sierra club has been waiting since April 2013 for this information. The lengthy and unreasonable delay by Customs and Border Protection is preventing us from fully understanding the impacts that Customs and Border Protection activities are having on threatened and endangered species and habitat, potential flooding and watershed impacts, and issues of concern to our membership along the U.S.-Mexico border. Our interests have been and continue to be negatively impacted by this unreasonable delay and inappropriate redaction of information as well as the failure to produce documents in the possession of Customs and Border Protection that are responsive to our original request.

As we evaluate whether to seek judicial review of this matter, it would be useful for Customs and Border Protection to provide us with a projected date-certain by which we can expect a determination of this appeal, as required by FOIA. If Customs and Border Protection has implemented a "first-in/first-out" system for processing FOIA appeals, we ask that you inform us how many appeals are in line ahead of this one and that you take into consideration the fact that this FOIA request has been outstanding since April 2013.

Please let us know how we can help you in your efforts to publicly disclose the important information contained in the requested documents. If you have any questions, please do not hesitate to contact Sierra Club Borderlands Co-chair Scott Nicol at (956) 532-5983 or [Irgvsierraclub@gmail.com](mailto:Irgvsierraclub@gmail.com).

Scott Nicol

Co-chair Sierra Club Borderlands Team

7300 N. 32<sup>nd</sup>  
McAllen, TX 78504

Enclosed:

Copy of Sierra Club's FOIA request from April 2013

Brief CIR Draft 1 7 \_Redactedf

BH Schedule Comment Form 11 APR 13 a \_Redactedf

# **Exhibit D**

U.S. Department of Homeland Security  
Washington, DC 20229



U.S. Customs and  
Border Protection

DIS-3 OT:RR:RDL:FAPL  
CBP-AP-2017-028365

MAR 16 2017

Mr. Scott Nicol  
Sierra Club  
7300 N 32<sup>nd</sup>  
McAllen, TX 78504

Re: Remand of Freedom of Information Act Request CBP 2016-018165

Dear Mr. Nicol:

This is in reply to your February 3, 2017, submission concerning the U.S. Customs and Border Protection ("CBP") Freedom of Information Act ("FOIA") Division's failure to adequately respond to your April 17, 2013, initial FOIA request for CBP records. In your initial FOIA submission, your requested CBP records dating from January 1, 2010, to the present pertaining to the construction of border fencing (also referred to as the border wall, pedestrian fence, and tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas. You indicated in your submission that the sections of fencing subject to the FOIA request are in the U.S. Border Patrol's Rio Grande Valley sector and are designated O-1, O-2, and O-3.

Under the FOIA's administrative appeal provision, a requester has the right to administratively appeal any adverse determination that an agency makes on his FOIA request. See 5 U.S.C. § 552 (a)(6)(A). The administrative appeal process is important to agencies and requesters because the appeals process provides an agency with an opportunity to review its initial action taken in response to a request to determine whether corrective steps are necessary. The appeals process allows CBP to correct mistakes made at lower levels and thereby obviates unnecessary judicial review. In this case, the FOIA Division released certain redacted documents to you but it does not appear as if the FOIA Division searched for a number of other agency records you identified in your appeal. In this respect, your appeal specifically identifies various reports, presentations, plans, and other documents that were requested in your initial FOIA submission. However, as it appears as if the FOIA Division did not search for these records, there is an incomplete administrative record for us to review on appeal in this case.

Accordingly, we are remanding your request to the FOIA Division for processing with instructions that the request should be processed within twenty (20) days from the date of this letter. If the FOIA Division is unable to process the request within twenty (20) days, the FOIA Division should advise you of the time required to respond to the request. As mentioned above, you may immediately challenge the FOIA Division's failure to respond to your request in district court. Pursuant to 5 U.S.C. §552(a)(4)(B), you may do so in the

U.S. District Court in the district in which you reside or have a principle place of business, or in which the agency records are situated, or in the U.S. District Court for the District of Columbia.

Alternatively, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You can contact OGIS in any of the following ways:

Office of Government Information Services  
800 N. Capitol Street, Suite 795  
Washington, DC 20002

Telephone: 202-741-5770  
Facsimile: 202-741-5769  
[www.archives.gov/ogis](http://www.archives.gov/ogis)

Sincerely,

A handwritten signature in black ink, appearing to read 'Shari Suzuki', written in a cursive style.

Shari Suzuki, Chief  
FOIA Appeals, Policy and Litigation Branch

# **Exhibit E**



**Request Details****Tracking Number :** CBP-2016-018165

Submitted

Evaluation

Assignment

Processing

**Contact Information**

Closed

Full Name : Mr. Scott  
NicolMailing Location : United  
States/U.S.

Organization : Sierra Club Territories

Email Address :  
lrgvsierraclub@gmail.comAddress Line 1 : 7300 N  
32ndPhone Number :  
956-532-5983

Address Line 2 :

City : McAllen

Fax Number :

State/Province : Texas

Zip Code/Postal Code : 78504

**Request Information**Agency : U.S.  
Customs  
and Border Protection

Request Phase : Processing

Request Track : Simple

Final Disposition :

Will Pay Up To : \$25.00  
Date Submitted :  
01/29/2016

Undetermined

Estimated Date of Completion :  
02/29/2016**Description :**

849/2000

The Sierra Club requests records dating from January 1, 2010 to the present pertaining to the construction of border fencing (also commonly referred to as the border wall, pedestrian fence, and tactical infrastructure) in the vicinity of the communities of Roma, Rio Grande City, and Los Ebanos, Texas. These sections of border fencing will be built in the Border Patrol's Rio Grande Valley sector have been designated O-1, O-2, and O-3. Very little information has been released to the public regarding these sections of border fencing, despite a great deal of local public interest.



**Request a Fee Waiver**

Made Request ? No

**Request Expedited Handling**

Made Request ? No

**Supporting Files**

Attached Files :

Attached File	Type	Size (MB)
<a href="#">Sierra Club FOIA request to CBP re starr county walls 2013.pdf</a>	PDF	0.05

**Payments**

No payments to display.

**Invoice**

Total Amount Billed : \$0.00

Date Sent :

No invoice has been added.

**Correspondence with Requester**

Subject	From	Date	<i>Detail</i>
CBP-2016-018165 - Status letter	Jasmine Wiggins	2017-04-14	
<p>04/14/2017</p> <p>7300 N 32nd McAllen TX 78504</p> <p>Mr. Nicol:</p> <p>The U.S. Customs and Border Protection (CBP) Freedom of Information Act (FOIA) Division is writing to provide a status update on the appeal you filed pertaining to case CBP-2016-018165.</p> <p>Please be advised this case has been remanded to the FOIA Division to complete additional searches for responsive records. An additional 30 business days from the date of this letter are needed for the program office to complete a comprehensive search of records. Once the searches have been completed, you will receive additional correspondence with a projected time frame for the completion of the remand.</p> <p>Thank you,</p> <p>CBP FOIA Division</p> <p><i>Reply</i></p>			
Final Disposition, Request CBP-2016-018165	Jasmine Wiggins	2016-12-09	
CBP-2016-018165 - Acknowledgement Letter via Mail	Lorian Beasley	2016-01-29	
FOIA Request CBP-2016-018165 Submitted		2016-01-29	

## Released Records

Filter by Title :

SUBMIT

CLEAR

Results 50

11 records found, displaying all records.

1

Download	Title	Type	Size (MB)	Release Date	Released With
<input type="checkbox"/>	<a href="#">8 May Brief (BH input) V2_Redactedf</a>	PDF	0.18	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">143875 PF225 WBS View(2)_Redactedf</a>	PDF	0.09	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">BH Schedule Comment Form 11 APR 13 a_Redactedf</a>	PDF	0.03	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">Brief CIR Draft 1 7 _Redactedf</a>	PDF	0.44	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">CIR Pipelines _Redactedf</a>	PDF	0.04	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">Copy of O1 to O3 Risk Register BPFTI PMO Risk Contingency Calculation Te_Redactedf.</a>	PDF	0.16	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">IMS-CIR 03-15-2013 _Redactedf</a>	PDF	0.02	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">IMS-CIR 03-18-2013 _Redactedf</a>	PDF	0.01	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">O123 Milestones Schedule March 21 2013 _Redactedf</a>	PDF	0.02	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">OMB Senate CIR Tasking v3 nlk 021713_Redactedf</a>	PDF	0.08	12/09/2016	Request - Direct
<input type="checkbox"/>	<a href="#">CBP-AP-2017-028365</a>	PDF	0.56	03/16/2017	Appeal - Direct

11 records found, displaying all records.

1



# **Exhibit F**



November 19, 2016

**Submitted electronically**

### **Freedom of Information Act Request**

The Sierra Club makes this request for records, regardless of format, medium, or physical characteristics, including electronic records and information, email, audiotapes, videotapes, and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq.

The Sierra Club trying to understand the scope of work that LMI (the Logistics Management Institute) did for Customs and Border Protection regarding border fencing and related tactical infrastructure. According to LMI's website this work was quite expansive, and LMI and its employees repeatedly pop up in FOIA documents that we have received from CBP and other agencies. LMI employees appear to have played an important role in the Secure Border Initiative Program Management Office. We have received some SBI PMO meeting minutes from 2007 and 2008 that indicate that meetings were held at LMI's McLean, Virginia office.

The Sierra Club specifically seeks documents, including SBI PMO and other meeting minutes and notes, as well as emails, memos, and reports, that involve and/or relate to the participation of LMI employees in the Secure Border Initiative Program Management Office, and meetings at LMI's McLean, Virginia office from January 2006 through the present.

Please include emails, letters, call logs, and other communications regarding these meetings. Customs and Border Protection discussions, reports, updates, presentation materials such as Powerpoints, etc., that pertain to these meetings should be included.

Please search responsive records regardless of format, medium, or physical characteristics. Our request includes email, telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions regarding the aforementioned topic, whether in person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, and transcripts, notes and/or minutes from any such meetings and/or discussions.

If it is your position that any portion of the requested records is exempt from disclosure, the Sierra Club requests that you provide it with an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA." Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must "describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information." King v. U.S. Department of Justice, 830 F. 2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'" Id. At 224 (citing Mead Data Central v. U.S. Department of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977)).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonable segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

The Sierra Club is primarily engaged in working to protect communities, wild places, and the natural environment. The Sierra Club is a non-profit corporation, organized under section 501(c)(4) of the Internal Revenue code. The release of information garnered through this request is not in the Sierra Club's financial interest. The Sierra Club will analyze the information responsive to this request, and will likely share its analysis with the public, either through memoranda, reports, articles, or press releases. The Sierra Club has an established record of carrying out these types of activities. The Sierra Club will also deposit copies of all documents that are received with the Border Studies Archive at the University of Texas Rio Grande Valley, where they will be catalogued and made available free of charge to researchers, students, and the general public.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. Part 5, the Sierra Club requests a waiver of fees associated with processing this request for records. The waiver is in the public interest because furnishing this information primarily benefits the general public. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the Sierra Club and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9<sup>th</sup> Cir. 1987).

The records requested by the Sierra Club are likely to contribute to the public's understanding of the environmental impacts of border fencing along the U.S. – Mexico border. This policy issue has been the subject of frequent press inquiry and public debate.

The Sierra Club, along with its members, has published articles, reports, fact sheets, and other educational materials based on information that we have gained from documents received from a number of federal agencies via the Freedom of Information Act. None of these resulted in any sort of financial profit for the Sierra Club. In regards to border fencing, in addition to other types of educational materials a number of articles have been published by the Rio Grande Guardian, the Monitor, the Texas Observer, the Arizona Daily Star, the Associated Press, and other news outlets based on documents provided to us through previous Freedom of Information Act requests. These articles were written for the sole purpose of educating the public, including readers of the Arizona Daily Star and the Rio Grande Guardian who live in border communities. No payment of any kind was made to the Sierra Club for these articles, or for any of the other articles that have been written based on these documents. Copies of all of the documents regarding border fencing that the Sierra Club has received have been lodged at the University of Texas Rio Grande Valley's Border Studies Archive, where they are available to researchers and the public. At no point has the Sierra Club been assessed fees by Customs and Border Protection, US Fish and Wildlife, the Bureau of Land Management, US International Boundary Water Commission, US Army Corps of Engineers, or other federal agencies who have honored our previous FOIA requests pertaining to border fencing.

In considering fee waiver criteria, please note that the FOIA carries a presumption of disclosure, and that the fee waiver amendments of 1986 were specifically designed to afford groups such as the Sierra Club access to government documents without the payment of fees. As stated by the Chairman of the U.S. Senate Judicial Committee, “[A]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information . . .” 132 Cong. Rec. S. 14298 (statement of Sen. Leahy). The Ninth Circuit of the U.S. Court of Appeals held that the amended statute “is to be liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987) (citing Sen. Leahy). The Ninth Circuit and the D.C. Circuit Courts of Appeals maintain that the amendment's main purpose is “to remove the roadblocks and technicalities which have been used by various Federal agencies to deny waivers or reductions of fees under the FOIA.” *Id.*; also see *Judicial Watch*, 326 F.3d at 1315. Therefore, Congress and the courts unequivocally hold that the main legislative purpose of the amendments is to facilitate access to agency records by noncommercial requesters and “watchdog” public interest organizations, such as the Sierra Club, that use information obtained under FOIA to monitor, and at times challenge, government activities, and to inform the general public about said activities. As the D.C. Circuit Court of Appeals stated, the fee waiver provision was added to the FOIA “in an attempt to prevent government agencies from using high fees to discourage certain types of requesters and requests,” with explicit reference to requests from journalists, scholars and non-profit public interest groups. *Better Government Association v. Department of State*, 780 F.2d 86, 93-94 (D.C. Cir. 1986), quoting *Ettlinger v. Federal Bureau of Investigation*, 596 F. Supp. 867, 876 (D. Mass. 1984).

Under these circumstances, the Sierra Club fully satisfies the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in releasing fully the requested records, please contact me at (956) 532-5983 or [lrgvsierraclub@gmail.com](mailto:lrgvsierraclub@gmail.com). Also, if the Sierra Club's request for a fee waiver is not granted in full, please contact me immediately upon making such a determination.

Please send requested documents to:

Scott Nicol  
Chair, Sierra Club Borderlands Team

[lrgvsierraclub@gmail.com](mailto:lrgvsierraclub@gmail.com)

7300 N. 32<sup>nd</sup>  
McAllen, TX 78504



# **Exhibit G**



*VIA FOIA online*

May 4, 2017

U.S. Department of Homeland Security  
U.S. Customs & Border Protection  
FOIA Officer  
1300 Pennsylvania Ave NW  
(877) 227-5511

**Re: Freedom of Information Act request – Border Wall**

Dear FOIA Officer:

On behalf of the Sierra Club, I am writing to request that the U.S. Department of Homeland Security (“DHS”) and the U.S. Customs & Border Protection (“CBP”) provide copies of the records described below pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and the DHS regulations at 6 C.F.R. § 5.1, *et seq.* This request is sent to you because you were identified as the proper person to receive such requests. If this request should be directed at another person, please forward this request to that person.

Sierra Club is the nation’s oldest grassroots organization. It has more than 2.9 million members and supporters nationwide. Sierra Club is dedicated to the protection and preservation of the natural and human environment. Sierra Club’s purpose is to explore, enjoy and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; and to educate and enlist humanity to protect and restore the quality of the natural and human environments.

Sierra Club is a leading non-governmental organization seeking to educate and mobilize the public on issues of climate change, habitat destruction and impacts to species that would be impacted by the Trump Administration’s proposed Border Wall. Sierra Club’s Borderlands Campaign has been organizing around border issues for many years; this request is made on behalf of this campaign, as well as the organization’s long standing interest in government accountability and transparency.

**Sierra Club Requests the Following Records<sup>1</sup> related to the Trump Administration's Proposed Border Wall:**

1. All records related to the Border Wall referred to on p. 32 of the Administration's FY 2017 supplemental appropriations request (*see* Exhibit A), including, but not limited to:
  - a. the 14 miles of new Border Wall and 14 miles of replacement Border Wall near San Diego, CA; and
  - b. the 28 miles of levee-Border Wall in the Rio Grande Valley Sector; and
  - c. the 6 miles of new Border Wall proposed in South Texas, hereinafter ("Border Wall Proposals").
2. All maps and related documents that identify all locations considered or planned for border fencing/tactical infrastructure described in the FY 2017 Appropriations legislation passed in May 2017 (*see* Exhibit B, p. 69), including but not limited to:
  - a. Replacement of primary pedestrian fencing in high priority areas - 20 miles; and
  - b. Replacement of vehicle fencing with primary pedestrian fencing in high priority areas - 20 miles; and
  - a. Gates for existing barriers- 35 gates.
3. All bids submitted by vendors to Customs and Border Protection ("CBP") and/or the Department of Homeland Security ("DHS") related to the Border Wall Proposals; and
4. All communications between CBP and/or DHS and vendors related to Border Wall Proposals; and
5. All communications between CBP and DHS related to the Border Wall Proposals, including, but not limited to: funding, timetables, and vendor selection; and
6. All existing and/or proposed timetables for the execution and construction of the Border Wall Proposals; and
7. All communications between CBP and/or the DHS with the White House that relate to the Border Wall Proposals; and
8. All communication between CBP and/or DHS and any other Federal Agencies that relate to the Border Wall Proposals.

**Exempt Records**

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information for the Sierra Club to appeal the denial. To comply with legal requirements, the following information must be included:

---

<sup>1</sup> "Records" means information of any kind, including writings (handwritten, typed, electronic or otherwise produced, reproduced or stored), letters, memoranda, correspondence, notes, applications, completed forms, studies, reports, reviews, guidance documents, policies, telephone conversations, telefaxes, e-mails, documents, databases, drawings, graphs, charts, photographs, minutes of meetings, electronic and magnetic recordings of meetings, and any other compilation of data from which information can be obtained. Without limitation, the records requested include records relating to the topics described below at any stage of development, whether proposed, draft, pending, interim, final or otherwise. All of the foregoing are included in this request if they are in the possession of or otherwise under the control of the U.S. Department of Homeland Security, the U.S. Customs & Border Protection and all of its Offices, Regions and other subdivisions.

1. Basic factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of a record requested are exempt from disclosure, please redact the exempt portions and provide the remainder of the record to the Sierra Club at the address listed below.

### **Fee Waiver Request**

I respectfully request that you waive all fees in connection with this request as provided by 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). The Sierra Club has spent years promoting the public interest through the development of policies that protect human health and the environment, and has routinely received fee waivers under FOIA.

The Sierra Club is a national, nonprofit, environmental organization with no commercial interest in obtaining the requested information. Instead, the Sierra Club intends to use the requested information to inform the public, so the public can meaningfully participate in evaluating CBP's operations and activities related to the proposed Border Wall.

As explained below, this FOIA request satisfies the factors listed in DHS's governing regulations for waiver or reduction of fees, as well as the requirements of fee waiver under the FOIA statute – that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii), *see also* 6 C.F.R. § 5.11(k).

1. The subject matter of the requested records must specifically concern identifiable “operations and activities of the government.”

The requested records relate to CPB's activities regarding the proposed Border Wall. These activities are “identifiable operations or activities of the government.” The Department of Justice Freedom of Information Act Guide expressly concedes that “in most cases records possessed by a federal agency will meet this threshold” of identifiable operations or activities of the government. There can be no question that this is such a case.

2. The disclosure of the requested documents must have an informative value and be “likely to contribute to an understanding of Federal government operations or activities.”

The FOIA Guide makes it clear that, in the Department of Justice's view, the “likely to contribute” determination hinges in substantial part on whether the requested documents provide information that is not already in the public domain. The requested records are “likely to contribute” to an understanding of your agency's activities and decisions because they are not

otherwise in the public domain and are not accessible other than through a FOIA request. This information will facilitate meaningful public participation in the decision-making process, therefore fulfilling the requirement that the documents requested be “meaningfully informative” and “likely to contribute” to an understanding of your agency’s decision-making process with regard to the proposed Border Wall .

3. The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. Under this factor, the identity and qualifications of the requester—i.e., expertise in the subject area of the request and ability and intention to disseminate the information to the public—is examined.

The Sierra Club and its members have long-standing experience and expertise in the subject area of FOIA requests, specifically, issues related to the Clean Air Act, Clean Water Act, National Environmental Policy Act and the development and the protection of endangered species. Sierra Club also has a long standing interest in government accountability and transparency.

Sierra Club disseminates the information it receives through FOIA requests in a variety of ways, including, but not limited to: analysis and distribution to the media, distribution through publication and mailing, posting on the Club’s website, emailing and list serve distribution to our members across the U.S., and via public meetings and events. Every year the Sierra Club website receives 40,730 unique visits and 100,381 page views; on average, the site gets 104 visits per day. Sierra Magazine, which is a quarterly magazine published by the Sierra Club, has a circulation of approximately 1,000,000. Sierra Club Insider, an electronic newsletter, is sent to over 850,000 people twice a month. In addition, Sierra Club disseminates information obtained by FOIA requests through comments to administrative agencies, and where necessary, through the judicial system. In the past, the Sierra Club has published, posted, and disseminated numerous stories on coal and coal power plants regarding their impacts on health, the environment and alternative energy. This includes information on our various webpages, such as our [Beyond Coal Campaign](#) portal, our [Clean Energies Solutions](#) portal and our press releases.<sup>2</sup>

Sierra Club intends to share the information received from this FOIA request with our impacted members across the country, the media and our allies who share a common interest in the proposed Border Wall.

Sierra Club unquestionably has the “specialized knowledge” and “ability and intention” to disseminate the information requested in the broad manner outlined above, and to do so in a manner that contributes to the understanding of the “public-at-large.”

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<sup>2</sup> For example, the Sierra Club sought information about coal export and permitting activities in Oregon via a state public records act request at the Port of Coos Bay. All correspondence is published online and has received extensive media attention from press releases on the subject. See <http://content.sierraclub.org/environmentallaw/lawsuit/2013/sierra-club-challenges-dirty-and-dangerous-fossil-fuel-exports-oregon>.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities. The public’s understanding must be likely to be enhanced by the disclosure to a significant extent.

The records requested will contribute to the public understanding of the government’s role, or their “operations and activities” associated with the proposed Border Wall. The disclosure of the requested records is essential to the public’s understanding of CBP’s operations and activities. After disclosure of these records, the public understanding of CBP’s activities will be significantly enhanced. The requirement that disclosure must contribute “significantly” to the public understanding is therefore met.

5. Whether the requester has a commercial interest that would be furthered by the requested disclosure.

The Sierra Club has no commercial interest in the requested records. Nor does it have any intention to use these records in any manner that “furthers a commercial, trade, or profit interest” as those terms are commonly understood. The Sierra Club is a tax-exempt organization under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and as such has no commercial interest. The requested records will be used for the furtherance of the Sierra Club’s mission to inform the public on matters of vital importance to the environment and public health.

6. Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is “primarily in the commercial interest of the requester.”

When a commercial interest is found to exist and that interest would be furthered by the requested disclosure, an agency must assess the magnitude of such interest in order to compare it to the “public interest” in disclosure. If no commercial interest exists, an assessment of that non-existent interest is not required.

As noted above, the Sierra Club has no commercial interest in the requested records. Disclosure of this information is not “primarily” in the Sierra Club’s commercial interest. On the other hand, it is clear that the disclosure of the information requested is in the public interest. It will contribute significantly to public understanding of CBP’s activities regarding the proposed Border Wall.

The Sierra Club respectfully requests, because the public will be the primary beneficiary of this requested information, that CBP waive processing and copying fees pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k). In the event that your agency denies a fee waiver, please send a written explanation for the denial. Also, please continue to produce the records as expeditiously as possible, but in any event no later than the applicable FOIA deadlines.

### **Record Delivery**

In responding to this request, please comply with all relevant deadlines and other obligations set forth in FOIA and the agency’s regulations. 5 U.S.C. § 552(a)(6)(A)(i); 6 C.F.R.

§ 5.6. Please produce the records above by sending them to me at the address listed below. Please produce them on a rolling basis; at no point should the search for—or deliberation concerning—certain records delay the production of others that the agency has already retrieved and elected to produce.

If possible, please send all documents in PDF format via electronic mail, external website, or on CD or DVD via traditional mail. Alternatively, paper copies are acceptable, but electronic format is preferred. Please send all requested records as soon as possible to:

David Abell  
[david.abell@sierraclub.org](mailto:david.abell@sierraclub.org)

- or -

Sierra Club Environmental Law Program  
2101 Webster Street, Suite 1300  
Oakland, CA 94612

Thank you for your cooperation. If you find that this request is unclear in any way please do not hesitate to call me to see if I can clarify the request or otherwise expedite and simplify your efforts to comply. I can be reached at 415.977.5764 or by e-mail at [david.abell@sierraclub.org](mailto:david.abell@sierraclub.org).



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David Abell  
Sierra Club Environmental Law Program  
2101 Webster Street, Suite 1300  
Oakland, CA 94612

# **Exhibit A**



# Department of Homeland Security



## Fiscal Year 2017 Budget Amendment Congressional Justification

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**Department of Homeland Security**

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Congressional Justification (Amendment)

Department of Homeland Security

## Department of Homeland Security

### Budget Amendment Funding Request

Organization Name	POA	FY 2017 Amendment Request		
		Pos.	FTE	Amount
<b>Department of Homeland Security</b>		<b>410</b>	<b>391.5</b>	<b>\$ 3,000,000</b>
<b>Office of the Secretary and Executive Management</b>		<b>6</b>	<b>7.5</b>	<b>\$ 11,304</b>
Operations and Support		6	7.5	\$ 11,304
Office of Policy	2017/2018	6	7.5	\$ 11,304
<b>U.S. Customs and Border Protection</b>		<b>187</b>	<b>148</b>	<b>\$ 1,663,484</b>
Operations and Support		187	148	\$ 286,001
Mission Support		187	148	\$ 56,332
Enterprise Services	2017/2018	142	111	\$ 45,860
Office of Professional Responsibility	2017/2018	33	27	\$ 8,360
Executive Leadership and Oversight	2017/2018	12	10	\$ 2,112
Border Security Operations		0	0	\$ 126,095
US Border Patrol		0	0	\$ 126,095
Operations	2017/2018	0	0	\$ 53,920
Assets and Support	2017/2018	0	0	\$ 72,175
Trade and Travel Operations		0	0	\$ 54,290
Office of Field Operations		0	0	\$ 54,290
Domestic Operations	2017/2018	0	0	\$ 28,798
Assets and Support	2017/2018	0	0	\$ 25,492
Integrated Operations		0	0	\$ 49,284
Air and Marine Operations		0	0	\$ 43,284
Assets and Support	2017/2018	0	0	\$ 43,284
Operations Support	2017/2018	0	0	\$ 6,000
Procurement, Construction, and Improvements		0	0	\$ 1,377,483
Border Security Assets and Infrastructure	2017/2021	0	0	\$ 1,377,483
<b>U.S. Immigration and Customs Enforcement</b>		<b>97</b>	<b>122</b>	<b>\$ 1,237,212</b>
Operations and Support		97	122	\$ 1,237,212
Mission Support	2017/2018	50	63	\$ 65,824
Homeland Security Investigations		47	59	\$ 15,136
Intelligence	2017/2018	47	59	\$ 15,136
Enforcement and Removal Operations				\$ 1,156,252
Custody Operations	2017/2018			\$ 994,914
Criminal Alien Program	2017/2018			\$ 5,000
Alternatives to Detention	2017/2018			\$ 57,392
Transportation and Removal Program	2017/2018			\$ 98,946
<b>Federal Law Enforcement Training Center</b>		<b>120</b>	<b>114</b>	<b>\$ 88,000</b>
Operations and Support		120	114	\$ 25,000
Mission Support	2017/2018	6	5	\$ 710
Law Enforcement Training	2017/2018	114	109	\$ 24,290
Procurement, Construction, and Improvements				\$ 63,000
Construction and Facility Improvements	2017/2021			\$ 63,000

**Department of Homeland Security (DHS) Fiscal Year (FY) 2017 Budget Amendment Congressional Justification**

DHS is submitting a request for an additional \$3 billion appropriations to address the urgent needs of the Department to support the Executive Orders on border security and immigration enforcement. Funds requested for U.S. Customs and Border Protection (CBP) would support high priority tactical infrastructure and border security technology investments, including efforts to plan, design, and construct a physical wall along the southern border. The request also includes funding for DHS agencies to begin building the administrative capacity necessary to recruit, hire, train, and equip an additional 5,000 Border Patrol agents and 10,000 Immigration and Customs Enforcement (ICE) officers. Further, the request proposes funding to increase daily immigration detention capacity to 45,700 detention beds by the end of FY 2017. This additional detention capacity is necessary to implement Administration policies for removing illegal aliens from the United States by enhancing interior enforcement efforts. Funding proposed for DHS would also be used to establish a real-time border and immigration data integration system within the Office of Immigration Statistics, and for other new border and immigration analyses.

Congressional Justification (Amendment)

Department of Homeland Security

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**Office of the Secretary and Executive Management**


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**Operations and Support**


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**Budget Amendment Funding Request**
*Dollars in Thousands*

Organization Name	POA	FY 2017 Amendment Request		
		Pos.	FTE	Amount
<b>Office of the Secretary and Executive Management</b>		<b>6</b>	<b>7.5</b>	<b>\$ 11,304</b>
Operations and Support		6	7.5	\$ 11,304
Office of Policy	2017/2018	6	7.5	\$ 11,304

The Department of Homeland Security – Office of the Secretary and Executive Management (OSEM) – Office of Policy requests 6 positions, 7.5 FTE (1.5 FTE in FY 2017 and 6 FTE in FY 2018), and \$11.304 million in personnel and support costs to effectively carry out the Executive Orders on Border Security and Immigration Enforcement.

**Office of the Secretary and Executive Management**  
**Operations and Support**  
**Pay by Object Class**  
*Dollars in Thousands*

Pay Object Classes	FY 2017 Amendment Request	FY 2017 Estimated First Year Funds	FY 2018 Estimated Second Year Funds
11.1 Full-time permanent	\$ 854	\$ 164	\$ 690
11.5 Other personnel compensation	\$ 9	\$ 2	\$ 7
12.1 Civilian personnel benefits	\$ 271	\$ 52	\$ 219
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 1,134</b>	<b>\$ 218</b>	<b>\$ 916</b>
<b>Positions and FTE</b>			
Positions - Civilian	6	6	6
FTE - Civilian	7.5	1.5	6

The Office of Policy requests 6 positions, 7.5 FTE (1.5 FTE in FY 2017 and 6 FTE in FY 2018) , and \$1.134 million in personnel costs.

The Office of Policy will increase the number of personnel in the Office of Immigration Statistics (OIS) data integration team to include 1 program manager, 4 statisticians, and 1 business analyst. The OIS data integration team will be responsible for the development of the acquisition, privacy, and security documentation to automate the current manual Immigration Data transfers into a secure environment and for the development of data tools and services in the integrated Immigration Data environment for DHS Components and partner agencies to inform and strengthen immigration related decision-making.

**Office of the Secretary and Executive Management**  
**Operations and Support**  
**Non Pay by Object Class**

*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 217	\$ 103	\$ 114
23.1 Rental Payments to GSA	\$ 70	\$ 14	\$ 56
25.2 Other Services from Non-Federal Sources	\$ 9,688	\$ 5,212	\$ 4,476
25.3 Other Goods and Services from Federal Sources	\$ 144	\$ 81	\$ 63
26.0 Supplies and Materials	\$ 12	\$ 2	\$ 10
31.0 Equipment	\$ 39	\$ 34	\$ 5
<b>Total - Non Pay Object Classes</b>	<b>\$ 10,170</b>	<b>\$ 5,446</b>	<b>\$ 4,724</b>

The Office of Policy requests \$10.17 million in program costs.

The Office of Policy – Office of Immigration Statistics will fund the following program elements:

- Immigration Data Integration – Policy will procure the necessary software, licensing agreements, and storage infrastructure to support the transfer and development of transactional and operational data into an integrated data environment that will allow for analysis and data reporting.
- Immigration Data Integration Independent Evaluations – Policy will work with an independent organization(s) to capture the current state and baseline of Immigration Statistics reports and make recommendations on new immigration analytics. The use of an independent organization is considered a best practice across DHS.
- Comprehensive Study of the Southern Border - Funding for additional border security analysis is required to enable policy and resource decision-making that is analytically informed as required by the Border and Immigration Enforcement Improvements Executive Order (Section 4(d)). This study is distinct from the data integration and evaluation requests as it focuses on predictive modeling vice reporting. Existing DHS research uses apprehension and enforcement data to derive empirical estimates of illegal Mexican flows. Additional work is required to estimate illegal flows from countries other than Mexico and



**Congressional Justification (Amendment)****Department of Homeland Security**

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non-traditional (child and family) flows. This funding will also support the development of a comprehensive model that assesses the impact of different enforcement policies on border security and immigration flows. A comprehensive borders and immigration model will allow systematic cost-benefit analysis of a range of enforcement tools, including border infrastructure, interior enforcement, and enforcement consequences. To date, it has taken several years to build a comprehensive model of Mexican flows due to limited funding. Additional support at the requested funding level will fill existing modeling gaps, provide interim models useful for immediate decision-making, and produce a comprehensive model over a two-year timeframe.

**U.S. Customs and Border Protection****Operations and Support****Budget Amendment Funding Request***Dollars in Thousands*

Organization Name	POA	FY 2017 Amendment Request		
		Pos.	FTE	Amount
Operations and Support		187	148	\$ 286,001
Mission Support		187	148	\$ 56,332
Enterprise Services	2017/2018	142	111	\$ 45,860
Office of Professional Responsibility	2017/2018	33	27	\$ 8,360
Executive Leadership and Oversight	2017/2018	12	10	\$ 2,112
Border Security Operations		0	0	\$ 126,095
US Border Patrol		0	0	\$ 126,095
Operations	2017/2018	0	0	\$ 53,920
Assets and Support	2017/2018	0	0	\$ 72,175
Trade and Travel Operations		0	0	\$ 54,290
Office of Field Operations		0	0	\$ 54,290
Domestic Operations	2017/2018	0	0	\$ 28,798
Assets and Support	2017/2018	0	0	\$ 25,492
Integrated Operations		0	0	\$ 49,284
Air and Marine Operations		0	0	\$ 43,284
Assets and Support	2017/2018	0	0	\$ 43,284
Operations Support	2017/2018	0	0	\$ 6,000

**I. IMMEDIATE BORDER WALL CONTRUCTION & PLAN****Overview**

As the frontline border agency in the U.S. Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) has the dual mission of preventing suspected terrorists, terrorist weapons, and other contraband from entering the United States, while also

facilitating the flow of legitimate trade and travel into and out of the United States. CBP ensures that all persons and cargo enter the United States legally and safely through official checkpoints and ports of entry. CBP achieves its mission using a combination of advanced information, risk assessment, appropriate scanning and other technologies, and by partnering with Federal, state, local, tribal, and foreign law enforcement agencies as well as private industry and international partners. CBP's over 60,000 highly-trained employees ensure that the agency performs its mission with vigilance, integrity, and professionalism.

The Operations and Support funds all operating costs required to achieve CBP's dual mission. The primary drivers behind these costs are the salaries and benefits (S&B) of CBP operational and mission support personnel. The balance of this appropriation is comprised of the operations and maintenance (O&M) costs necessary to sustain the daily effectiveness of CBP equipment and facilities. Without the resources requested in this appropriation, CBP would experience a degradation of frontline operations.

The following request is organized by the four specific sections within Executive Order 13767, "*Border Security and Immigration Enforcement Improvements*."

### **Immediate Border Wall Technologies (\$5M / 0 FTE)**

CBP requests \$5 million in two-year funding to provide data circuits and network bandwidth for Border Wall surveillance data/video.

### **BACKGROUND**

The expansion of CBP Border Wall Infrastructure with embedded Information Technologies will significantly increase the amount of data/video being transmitted to USBP operation center(s). The increased transmission of data/video will require increased technologies, such as data circuits, and/or some other network capability, to be installed to ensure the quick, effective, and efficient transmission of data. These data links and associated network technologies will connect back to CBP's existing network infrastructure which today consists of outdated and end-of-life technologies. Funding will enable CBP to ensure that data/video captured from wall technologies can swiftly and effectively traverse CBP's network to be acted upon quickly by United States Border Patrol (USBP) Agents. Any delay in data transmission due to outdated and/or insufficient network bandwidth will have an adverse impact on USBP's ability to meet their daily operational mission requirements.

### **JUSTIFICATION**

The additional southwest Border Wall technologies will require network upgrades. CBP will need an engineering contract to conduct bandwidth analysis, site design, and provide initial data circuit upgrade requirements to handle the increased data traffic that will

enable USBP's effective monitoring of data from the southwest Border Wall embedded technologies. Costs will recur and will expand on capabilities as additional segments of the southwest Border Wall are completed.

Additional funding will enable CBP to acquire network field equipment required to effectively monitor and control data traversing CBP's IT network from the southwest Border Wall to monitoring locations within USBP sectors that are required with initial expansion of the Border Wall. As necessary, upgrades may be needed to the IT infrastructure at USBP sectors or stations that will have day-to-day oversight of data captured by southwest Border Wall technologies. In addition, funding will cover replacement of consumable southwest Border Wall technologies, which may include items such as unattended ground sensors, surveillance cameras, power amplifiers, down converters, power supplies, and geological/infrared/step sensors and gaskets, etc.).

### **Office of Facilities and Asset Management Staff (\$4.837M / 40 FTE)**

CBP requests \$4.837 million in two-year funding for the salaries and benefits for an increase of 53 personnel (40 FTE / 53 FTP, all in FY 2018) across the two-year period in support of the Executive Order for the immediate construction and planning of the Border Wall.

### **BACKGROUND**

The Office of Facilities and Asset Management's (OFAM) current areas of responsibility include managing and overseeing CBP's Tactical Infrastructure, facilities, vehicles, uniforms and personal property. Executive Order 13767, "*Border Security and Immigration Enforcement Improvements*" included direction for the immediate construction and planning of a border wall, which represents a significant ramp up in mission, requirements, personnel, and funding needs for OFAM.

### **JUSTIFICATION**

The total of 40 Full-Time Equivalents (FTE) requested will work in full support of activities associated with the Executive Order, which includes initial planning, project management for construction, and also the continued oversight and maintenance of the Border Wall upon completion of construction. These positions are intended to be a permanent adjustment to the base as there will be significant work required to maintain the Border Wall and related tactical infrastructure even after planning and construction is completed.

The current baseline level of resources for OFAM only has the capacity to support current mission activities, which include the continued maintenance of the existing tactical infrastructure, facilities, vehicles, uniforms and personal property for the entire Agency.

At the current resource level, CBP would be challenged to support the new Executive Order requirements without significant impacts to current baseline missions, which would include reallocating personnel that operate, maintain, and oversee operations of existing facilities and to begin the planning efforts for the new facility and asset requirements associated with the expected increase in 5,000 Border Patrol Agents.

### **Office of Chief Counsel Staff (\$2.112M / 10 FTE)**

CBP requests \$2.112 million in two-year funding to hire an additional 12 positions and 10 FTE (1 FTE in FY 2017 and 9 FTE in FY 2018) within the Office of the Chief Counsel (OCC).

### **BACKGROUND**

OCC's base request funds mission critical legal advice, representation, and counsel to CBP. OCC is comprised of 29 offices (28 in field locations), and is authorized to employ attorneys and support staff with unique expertise in, and knowledge of, laws enforced by or impacting CBP. OCC handles all legal and ethics issues involving CBP's global operations, both domestic and foreign. OCC attorneys provide legal services to CBP officials in matters relating to the activities and functions of CBP, including matters involving enforcement, operations, real property, trade, fiscal, procurement, ethics, labor, and employment. OCC requires supplemental funding to ensure timely implementation of the agency's construction of the physical wall on the southwest border pursuant to the Executive Order.

OCC's comprehensive legal services to CBP include representing the agency in offensive and defensive litigation in all federal courts, as well as representing the agency in all third-party administrative hearings. OCC will provide significant litigation support in defense of various challenges to the construction of the physical wall, including defending challenges to the Secretary of Homeland Security's exercise of waiver authority under Section 102(a) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), as amended, as well as in the condemnation of land along the southwest border. OCC provides appropriations and fiscal law advice, reviews contractual, procurement, and real property actions, and ensures compliance of proposed agency actions and policies with legal requirements.

### **JUSTIFICATION**

OCC has experienced a significant increase in legal services on enforcement matters, including immigration, litigation involving the agency's detention and processing of aliens, and in legal services resulting from the agency's expansion of the Tactical Infrastructure Program, including the construction of a physical wall on the southwest border as mandated by Executive Order 13767, "*Border*

*Security and Immigration Enforcement Improvements*". OCC will require additional positions and non-pay funding to ensure the agency's timely implementation of the EO requirements. OCC anticipates an unprecedented increase in legal support in real property, procurement, fiscal law, as well as overall programmatic support to advance the construction of a physical wall. Further, OCC will provide significant litigation support in defense of various challenges to the construction of the physical wall, as well as in the condemnation of land along the southwest border. For instance, if the Secretary of Homeland Security exercises the waiver authority under Section 102(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended, OCC will be responsible for defending any challenges to the waiver. The waiver authority has been exercised five times; all five times were challenged in federal court. Notably, in 2007, when the agency undertook the construction of 225 miles of pedestrian fencing (fence designed to prevent the illicit passage of people across the border) along the southwest border, the agency initiated nearly 400 land acquisition actions border-wide, 300 of which involved the filing of condemnation actions.

### **Operations Contract Support (\$6M / 0 FTE)**

CBP requests \$6 million in two-year funding for Operations Support, to produce documentation, integrate requirements, and allow for the development of advanced metrics for the southwest border in support of Executive Order requirements.

### **BACKGROUND**

The Joint Requirements Integration and Management System was developed, in part, to ensure that the operational missions of DHS were pursuing the "right" capabilities to improve mission accomplishment supported by the analytical rigor necessary to support our decision making. The Acquisition Management Lifecycle is most effective when it can respond to well researched, measurable, achievable requirements. In support of this, Capabilities and Requirements Division (CRD) was created to help bridge the gap between the operational community and the solution development community (including Acquisition).

Within the Operations Support Office of CBP, the CRD is responsible for assisting the operational components in articulating their needs and conducting the mission analysis to ensure CBP is pursuing the right capabilities. Across government and industry, failed acquisitions and unsuccessful operational strategies can be traced back to an improper articulation of the actual need. In addition, CRD also conducts operational test and evaluation to ensure that solutions delivered are effective and suitable to operate in their intended environment.

**JUSTIFICATION**

Investment in this area will support the development of operational requirements for the Executive Orders regarding CBP operations including the border wall and operational control of the southwest border. These resources will also support the development of concepts of operation to articulate how the Executive Order parameters will impact the way CBP will operate. In addition to requirements and operational concepts, this investment will provide resources to determine the appropriate metrics to measure the effectiveness of CBP's response to the Executive Orders as they are delivered. The specific deliverables directly impacted by this investment will be the JRIMS' Capability Analysis Study Plan (CASP) and the Capability Analysis Report (CAR) and the Acquisition Lifecycle's Mission Needs Statement, Operational Requirements Document, Concept of Operations, and Test and Evaluation Master Plan.

Conducting appropriate analysis increases the likelihood that delivered solutions achieve the desired result. CRD has an established relationship with CBP's operational components and can provide immediate value from an increase in resources. A current CRD priority is the development of Operational Concepts for each CBP operating domain to provide broad context for CBP's needs and support gap analysis. We are also engaged in requirements efforts across the spectrum of Executive Orders regarding CBP operations including the Wall and operational control of the southwest border. Although part of CBP's long term personnel strategy, the Agency does not currently grow this capability organically. Additional contract staff will allow greater engagement with both CBP's operational components as well as the Joint Requirements Council and the CBP program offices.

**II. OPERATIONAL CONTROL OF THE SOUTHERN BORDER****Tactical Infrastructure Investment (\$21M / 0 FTE)**

U.S. Customs and Border Protection (CBP) anticipates investing approximately \$21 million for road maintenance within the overall \$200 million investment in Tactical Infrastructure.

**BACKGROUND**

CBP's current TI portfolio requiring routine maintenance and repair needs includes approximately 654 miles of primary fence, 1,519 gates/crossings/game panels, 1,273 miles of roads, 14 bridges and 11 boat ramps. CBP requested \$52.5 million to maintain and repair its tactical infrastructure portfolio.

**JUSTIFICATION**

CBP's spends approximately \$49 million annually to support maintenance and repair requirements through the Comprehensive Tactical Infrastructure & Maintenance and Repair (CTIMR) program. Through the CTIMR program, contractors perform routine and urgent work such as infrastructure preventative maintenance, fence, gate and grate repairs, roadway maintenance (e.g., blading, grading, drainage, structure clearing and silt removal, culvert replacement), vegetation control, and debris removal. The additional funds requested will address operational requirements for road maintenance across the southwest border in order to provide better, safer, and more efficient border access for the Border Patrol.

**Tactical Communications (\$20M / 0 FTE)**

U.S. Customs and Border Protection (CBP) requests \$20 million in two-year funding to purchase 2,300 handheld radios (\$10.12 million), 1,475 vehicle radios (\$7.97 million), 95 base stations (\$0.64 million), maintenance (\$1.20 million), and circuits (\$0.07 million) in support of USBP operations.

**BACKGROUND**

To support its mission, CBP operates and maintains one of the largest tactical voice communications infrastructures in the Federal government. Tactical communications capabilities are essential to coordinating mission activities and protecting the safety of CBP law enforcement agents and officers. These agents and officers operate in remote areas where their radio is often their only communications channel to coordinate activities or summon assistance. CBP has a tactical radio communication device inventory of over 70,000 units utilized by the USBP agents, CBP officers, and Air and Marine agents. Over 25,000 units of CBP's radio inventory has exceeded its useful life and is no longer supported by the manufacturer.

**JUSTIFICATION**

This funding would procure additional radios and infrastructure necessary to address radio obsolescence, improve interoperability with local authorities and the Government of Mexico, and address some current coverage gaps. Replacing a significant number of aging or obsolete radios will directly contribute to the efficiency and effectiveness of border security operations, and contribute to the goals outlined in the Executive Orders on border security and immigration enforcement.



**AMO Border Operations (\$25.141M / 0 FTE)**

CBP requests \$25.141 million in two-year funding to support Air & Marine Operations (AMO) 7 X 24 unmanned aircraft systems (UAS) operations along the southwest border of the United States. In order to support the President's Executive Order 13767, "*Border Security and Immigration Enforcement Improvements*", CBP AMO proposes to contribute to the security of the southwest border by enhancing situational awareness through 7 X 24 UAS operations. 7 X 24 flight operations are defined as two scheduled 18 hour flights within a 24 hour period from each of AMO's two National Air Security Operations Centers (NASOC) based in Corpus Christi, Texas and Ft. Huachuca, Arizona along the southwest border.

**BACKGROUND**

CBP AMO UAS operations currently deploy specially equipped MQ-9 unmanned aircraft (UA) along the southern border of the United States. Primarily operating along the borders of Texas, New Mexico, and Arizona CBP deploys six of our nine UA from three air operations centers, two permanent and one expeditionary. Based in Ft Huachuca, Arizona and Naval Air Station Corpus Christi, Texas, CBP UAS support USBP and other Government agencies in maintaining border security as well as supporting local and national emergency response actions. CBP UAS activities include border surveillance through the use of two advanced sensors. The Multi-Spectral Targeting System (MTS-B) electro optical infrared sensor allows CBP UAS to receive high definition real time video imagery in day and night conditions and is an excellent system for long range surveillance and tracking. The Vehicle and Dismount Exploitation Radar (VADER) provides accurate, real time dismounted ground moving target data and radar imagery supporting Border Patrol Agents on the ground while simultaneously recording strategic intelligence data.

**JUSTIFICATION**

This action is being pursued in order to support the President's direction to secure the nation's borders from illegal encroachment by human smugglers, illegal aliens, drug traffickers, and potential terrorists. In order to support this goal, CBP AMO would leverage their UAS fleet and its ability to maintain long endurance land surveillance and dismounted target (human) tracking. CBP's UAS are a key capability for homeland security, providing persistent surveillance and mobility to fill potential gaps along the southwest border. CBP's UAS will mitigate risk, while construction of a physical barrier is implemented and provide decision makers with a flexible tool to respond to future security threats.

With the \$25.1 million requested in FY 2017, CBP would hire 20 contractor personnel with an availability horizon of 18 to 24 months. The timeframe for hiring contractor personnel will be dependent on the execution of the October 2017 UAS Services and operations support contract, availability of qualified candidates, and the CBP background investigation process. Contractor support will include

**Congressional Justification (Amendment)****Department of Homeland Security**

aircraft, ground control station (GCS), and satellite technicians as well as VADER operations specialist and associated ground processing support. In addition to the contract personnel, the increased flight activity will accelerate the program's consumption of materials through increased periodic inspections, routine maintenance, and component failure. Significant investments in spare parts and system upgrades will be required to sustain asset availability and reliability.

CBP will increase operating hours as the acquisition of contractor personnel, material, and infrastructure allow. The initial plan for these investments in FYs 2017 and 2018 would be:

- 20 Contractor Personnel: \$4.6M
- GCS Upgrades: \$4.8M
- 2 MTS-B EOIR Sensors: \$6.0M
- VADER Upgrades: \$3.6M
- UAS Spares: \$6.1M

**Tethered Aerostat Radar System (\$18.1M / 0 FTE)**

CBP requests \$18.1 million in two-year funding for the Tethered Aerostat Radar System (TARS) program in FY 2017, to be used for the deployment of two technology enhancements over the next two years:

- o Deploy new weather management systems at current TARS sites to improve flight operations efficiency (more surveillance hours) and flight safety to protect TARS personnel and equipment.
- o Further, AMO will be ready to field test key technologies that now appear promising in the Analysis of Alternatives (AOA) – these technologies exist and perform well in DOD missions, but need to be piloted in scope and scaled for the border security role.

**BACKGROUND**

CBP AMO's TARS system fulfills a unique, critical surveillance capability needed to maintain operational control of the U.S. southern border and associated air space. TARS supports effective monitoring the southern border in areas where other infrastructure may be in short supply. It is a key component to a risk-based approach for enhancing border security, and contributes to the goals outlined in the Executive Orders on border security and immigration enforcement. The TARS system is over 30 years old and past its intended operating service life and needs to be refreshed or replaced in the coming years. This amendment to the FY 2017 President's Budget request will allow AMO to conduct field investigations and demonstrations with the most promising technology candidates that will inform a future departmental investment decision for the future TARS capability. Additionally, the funding will enable the acquisition and deployment of modern technology to replace failing weather management systems at today's TARS sites. These

“wind profilers” are essential to safe flight operations and, ultimately, to increase surveillance flight hours delivered to AMO law enforcement operators monitoring air and sea approaches to U.S. southern borders.

### **JUSTIFICATION**

AMO is leading an ongoing department capability analysis and gaps identification study of our overarching air domain awareness mission area. A key element in this comprehensive study is the acknowledgement of how critical it is to overall CBP security operations to maintain persistent surveillance of low altitude air approaches to the U.S. southern border. Today, TARS fulfills this critical low-altitude surveillance capability, and AMO needs to prepare technologies and operational concepts for a future surveillance capability as TARS system(s) retires over the next few years. The funding requested will allow CBP to field test new technologies that will enhance domain awareness and help the agency determine the best path forward for low-altitude surveillance capabilities.

Inclement weather, and the inability to observe and react to weather in a timely manner, is the primary threat to reliable and safe TARS system flight operations and effectiveness. The past 19 of 21 catastrophic (and costly) aerostat mishaps over the previous two decades, while the program was managed by DoD, were weather induced. The funding requested will allow CBP to replace the onsite wind profiler units across the TARS fleet to improve weather awareness and alerts, and ultimately to increase surveillance time aloft, safely and efficiently.

### **OIT Equipment and Field Technology (\$3.368M / 0 FTE)**

CBP requests \$3.368 million in two-year funding to upgrade the Office of Information & Technology (OIT) equipment and field technology for the United States Border Patrol (USBP).

### **BACKGROUND**

Much of the existing equipment in the sectors and stations of USBP is beyond its useful life. In order to gain operational control of the border, CBP must also make sure that the equipment used by USBP is upgraded to minimize impact of system slowdowns or outages. In addition, updated systems will minimize the potential of cyber intrusions from those that may desire to cause harm to CBP's data or infrastructure. CBP's mission critical applications are vital to the daily detention activities performed by USBP Agents, as they must have timely access to critical data to determine admissibility.

**JUSTIFICATION**

Funds will upgrade data circuit capacity with the initial focus on the Tucson, Douglas, and Nogales USBP stations. In addition, funds will enable CBP to begin upgrade of aged USBP desktops, laptops, scanners, cameras, and other peripheral equipment that is no longer supported by the original equipment manufacturer.

**Facilities Support On The Southern Border (\$20M / 0 FTE)**

CBP requests \$20 million in two-year funding to address the highest priority needs for the continued maintenance and upkeep of the existing facilities that support United States Border Patrol (USBP). This includes funding the nationwide regional maintenance and minor repairs contracts for USBP facilities and ensuring that there is funding available to address emergency repairs as they arise during the year of execution.

**BACKGROUND**

The USBP facilities inventory is comprised of over 6.5 million square feet including 135 Border Patrol Stations, 39 Permanent and Interim Checkpoints, 20 Sector Headquarters, 16 Forward Operating Bases and one Special Operations Group location. The backlog of deferred maintenance requirements for USBP facilities is \$175 million.

**JUSTIFICATION**

The funding requested as part of this amendment will address the identified gap of \$20 million for the regional preventative maintenance and minor repair contracts along with funding for each sector to address a minimal level of emergency repairs across all of the USBP Sectors; the majority of the facilities that are supported are along the southern border. These requirements are all currently unfunded and will result in the continued deterioration of facility conditions, the increased risk of operational impacts due to facility downtime, and the lack of basic services.

Funding will ensure that core facility services, including the continued maintenance, per warranty instructions, of core building systems, are provided to USBP facilities nationwide. This funding will also ensure that there are adequate resources to address emergency repairs that arise during the year. Emergency repairs are issues that are not planned, cannot be deferred to a future date and must be addressed upon occurrence to minimize impacts to operational capabilities. This includes fixing HVAC systems along the southwest border, resolving backed up sewage systems and repairing leaking roofs. The continued, uninterrupted operations of USBP facilities will also be critical throughout the implementation of the current Executive Orders, which includes increased activity,

staging and deployment of assets along the southwest border.

USBP facilities provide the critical infrastructure that enables USBP to stage and deploy agents, and supports tactical and search-and-rescue teams; command, control, and communications activity; detention and processing; intelligence units, canine and horse operations; fleet maintenance and storage; and administrative, training and law enforcement coordination.

### **III. INCREASE BPA FLOOR BY 5,000**

#### **United States Border Patrol Relocations (\$25M / 0 FTE)**

CBP requests \$25 million in two-year funding to support the United States Border Patrol (USBP) Voluntary Relocation Program (VRP) relocations and to initiate a USBP relocation incentive strategy. \$15 million will be used for USBP Relocations specifically utilizing VRP authority, and \$10M for a USBP relocation incentive strategy for remote locations.

#### **BACKGROUND**

As a first step in hiring 5,000 additional Border Patrol Agents, CBP must pursue smart strategies to minimize attrition of current, experienced BPAs. Implementing a stable relocation program for the USBP workforce will meet operational requirements and help to alleviate the lack of mobility significantly contributing to declining morale and increased attrition across the workforce. Although the attrition rate for Border Patrol Agents (BPA) dropped from FY 2015 (5.5%) to FY 2016 (4.3%), the current BPA attrition rate (year to date FY 2017) has risen to 4.5%. To achieve needed mobility, CBP proposes to begin implementing an incremental mobility program in FY 2017. The resultant mature program focuses the bulk of resources on mobility, addressing operational needs and documented employee concerns.

#### **JUSTIFICATION**

This funding will allow CBP to develop and implement a robust relocation program to stem the current attrition patterns, supported by data from internal/external surveys of BPAs. These surveys indicate that the inability to relocate is a key contributing factor in the decision to depart. This is especially true of mid-career BPAs who feel there is no opportunity to either relocate to a more desirable location or advance from their current position. Federal Employee Viewpoint Survey, the Office of Human Resources Management surveys, and the USBP Human Capital Study show a strong correlation between agent mobility and lower morale and higher attrition. These same surveys indicate USBP esprit de corps remains strong when the U.S. Government's immigration enforcement system is executing the laws of the nation.

**Polygraph Examiner Recruitment & Retention (\$4.271M / 0 FTE)**

CBP requests \$4.271 million in two-year funding for recruitment and retention efforts targeted towards federally certified polygraph examiners.

**BACKGROUND**

Federally certified polygraph examiners possess a technical skill that is highly sought after by all 27 federal agencies that currently possess a polygraph capability. In order to maintain CBP's current capacity for the hiring of 5,000 Border Patrol Agents (BPAs), the Office of Professional Responsibility (OPR) will need to retain their current employees, which has been difficult to accomplish in an increasingly competitive workforce. Adequate staffing of federally certified polygraph examiners within OPR is of critical importance to the frontline hiring requirements of CBP, due to the requirements of the *Anti-Border Corruption Act of 2010*, P.L. 111-376, as amended, that all applicants for law enforcement positions in CBP receive a polygraph examination before being offered employment. Currently, CBP has 103 examiners on board with an additional 16 expected to EOD by the end of FY 2017.

Most other federal agencies that employ polygraph examiners use some form of additional compensation, putting pressure on CBP's ability to recruit and retain certified examiners. These approaches include Law Enforcement Availability Pay (LEAP), Administratively Uncontrollable Overtime (AUO), and Special Salary Rate (SSR) pay-banding techniques. This normally equates up to 25% of the employee's salary resulting in salaries much higher than the basic locality pay that CBP can offer.

As a result of this competition, CBP has seen a high attrition in its polygraph examiner workforce, up to almost 19% in FY 2015. Currently, an additional 43 law enforcement officers supplement the examiner staff, but will return to their home offices and will require replacement in the short term. With current hiring patterns for just CBPOs and BPAs, OPR processes around 8,000 polygraph examinations in a fiscal year. In order to meet the increased processing requirement to onboard an additional 5,000 BPAs, CBP will likely increase the number of examinations required and without sufficient polygraph examiner staff risks slowing the hiring timeline.

**JUSTIFICATION**

As a result, OPR is requesting a strategy to retain current polygraph examiners through a 10% retention incentives and a 10% special salary rate. CBP estimates for FY 2017, OPR will require \$1.258 million for FY 2017, and \$3.013 million for FY 2018. CBP's calculations assume that the 10% retention incentive will be paid out in a lump sum in FY 2017 to all 52 certified polygraph examiner positions that perform polygraph examination duties as a primary responsibility and are not law enforcement officers, as defined in 5

U.S.C. 5541(3) and 5 CFR 550.103, anticipated to be on board in FY 2017. The 10% special salary rate will take effect in FY 2017 and will be paid to all 52 polygraph examiners anticipated to be on board in FY 2017.

### **Expand HRM Hiring Capacity (\$21.129M / 0 FTE)**

CBP requests \$21.129 million in two-year funding for the following initiatives: hiring hub program (\$9.7 million); additional applicant processing (\$7.8 million); recruiter training (\$2 million); and recruitment/digital media strategy (\$1.629 million).

### **BACKGROUND**

To establish and sustain adequate staffing on the Nation's borders, CBP must ensure its recruitment capabilities are commensurate with the expanding complexity and demands of its mission in order to become the employer-of-choice for law enforcement professionals. In light of the Executive Order requirement to hire 5,000 additional Border Patrol Agents (BPA) and all associated positions, CBP requires additional funds and resources to strengthen five key areas of focus:

- *Hiring Hubs:* Hiring Hubs have been very successful in decreasing the time-to-hire. Throughout FY 2016, CBP continued to modify the pre-employment process to expand the Hiring Hub concept to as many applicants as possible while reducing costs.
- *Applicant Processing:* Applicant processing comprises initial qualifications testing, medical examination, drug testing, and physical fitness testing. This process also includes the polygraph and background investigation, which are administered by the Office of Professional Responsibility. CBP's pre-employments process ensures a fair and consistent approach to hiring individuals who are qualified to perform the duties of the job.
- *Recruiter Training:* Recruiters are the brand ambassadors of CBP and have a pivotal role in keeping applicants engaged throughout the hiring process. There are currently 1,400 recruiters within CBP. Currently, CBP does not have standardized recruiter training across all operational components. To fulfill this priority, CBP must develop a comprehensive recruiter training curriculum for its full-time and collateral duty recruiters.
- *Recruitment Strategy:* Attracting a sufficient number of quality citizens to apply to CBP requires a concerted effort to focus not just on traditional recruitment efforts but also on digital media to attract applicants who are more engaged on mobile devices and the Internet in general.

### **JUSTIFICATION**

#### *Hiring Hubs*

This new frontline hiring process has consistently resulted in a reduction in time-to-hire. Funding will be utilized to provide the increase in staffing, contract services, and technology needed to continue this transformational effort. CBP's execution plan includes



the following initiatives:

- Renew space lease contracts for the Laredo and El Paso hubs, as well as other locations as volume of applicants dictates;
- Continued process improvements;
- Implementation of new hiring hubs for applicants in areas of the country where CBP personnel are not readily available to perform interviews and polygraph exams; and
- Continuation of Military hiring hubs.

#### *Additional Applicant Processing*

- As the process is currently configured, these funds will allow CBP to initially process over 57,000 applicants. We anticipate an increase in the number of applicants through enhanced recruiting efforts and in the number of EODs as the hiring process continues to be transformed and streamlined.
- OPM-mandated pre-employment tests are an important part of the hiring process that help determine each applicant's suitability to be a frontline CBP employee. Failure to fund this program to the extent necessary will significantly impact CBP's ability to meet the established hiring goals.
- The medical services and drug testing collection services contract provides services to conduct the required medical examination, qualifications testing, and drug testing hiring steps. Not fully funding this contract would prevent applicants from completing hiring steps and prevent CBP from onboarding applicants into positions with medical or drug testing requirements.
- The Pre-employment Fitness Test 1 contract provides PFT1 administration to all applicants and is a CBP hiring requirement. Not fully funding this contract would delay applicant processing and therefore increase the time-to-hire.

#### *Recruiter Training*

CBP's recruiter training program consists of two modules: core recruiter training and Special Emphasis Recruitment Team (SERT) training. CBP anticipates using the estimated \$2 million FY 2017 funding to provide travel and associated costs for training at the CBP Advanced Training Center in West Virginia for more than 400 recruiters. SERT recruiters will remain three additional days to complete the SERT module, which focuses on veteran recruitment and enhancing the diversity of the workforce. The funding will be put toward all travel costs for participants and trainers. CBP's goal is to leverage its certified recruiter workforce through train-the-trainer sessions, with the goal of reaching 3,000 recruiters across CBP.

#### *Recruitment Strategy*

CBP seeks to increase the number of qualified applicants entering the hiring pipeline to enable CBP to meet its frontline staffing goals. CBP's lack of brand awareness is contributing to the low number of Entries on Duty for its frontline positions. The funding requested will allow CBP to take the initial steps toward implementing its larger recruitment and marketing strategy. Increasing recruitment and marketing will also enable CBP to:



**Congressional Justification (Amendment)****Department of Homeland Security**

- Ensure alignment to CBP's brand messaging and incorporate available social media platforms, online job boards, and strategic partnerships that best allow CBP to communicate job opportunities to the desired applicant demographic;
- Enhance the applicant's user experience in CBP's digital environment;
- Determine whether current digital marketing and recruitment messaging are yielding the desired Return on Investment ;
- Analyze website traffic to understand user behaviors and levels of engagement;
- Identify opportunities for marketing initiatives and analyze existing marketing performance against goals and objectives; and
- Utilize online behavioral data to reach potential applicants where they are with a message that is relevant to them.

**Additional HRM and OPR Staffing (\$15M / 98 FTE)**

CBP is requesting \$15 million in two-year funding for 89 positions and 71 FTE for the Office of Human Resources Management (HRM) and 33 positions and 27 FTE for the Office of Professional Responsibility (OPR). HRM plans to onboard 5 FTE in FY 2017 and 66 FTE in FY 2018. OPR intends to onboard 2 FTE in FY 2017 and 25 FTE in FY 2018.

**BACKGROUND**

These positions are requested to provide direct support to the recruitment, hiring, and sustainment of the 5,000 additional Border Patrol Agents (BPA) and all associated positions.

**JUSTIFICATION**

HRM and OPR are requesting a total of 122 new employees over a two year period to implement Executive Order 13767, "*Border Security and Immigration Enforcement Improvements*." These positions are required to support CBP recruitment, hiring and law enforcement efforts to increase CBP's law enforcement population by the 5,000 Border Patrol Agents required in the Executive Order. Within OPR, the Personnel Security Division will have responsibility for determining the suitability for employment and eligibility to hold a National Security position for all new hires. OPR has been tasked by CBP with continuously monitoring staff to ensure that they remain suitable for employment based on a review of information such as criminal activity and suspicious financial transactions.

HRM's staffing request is essential to managing anticipated increases in the number of applicants, recruitment actions, and maintaining CBP's current time-to-hire improvements in light of increased hiring required in Executive Order 13767, as well as sustaining an effective law enforcement workforce. HRM's request was developed by comparing the ratio of Human Resource (HR) employees to the total workforce in other DHS components, by applying the Office of Personnel Management standard ratio of one HR employee for every 100 employees.

#### **IV. DETAIN ALL IMMIGRATION VIOLATORS**

##### **Increase Temporary CBP Detention Facilities (\$95M / 0 FTE)**

CBP requests \$95 million to address migration surge operations to include the rollout of soft-sided structure facilities in Tornillo and Donna, TX. CBP southern land border ports of entry and areas between the ports of entry experienced extraordinary levels of unlawful migration at the beginning of FY 2017 as thousands of foreign nationals, unaccompanied alien children (UAC), and family units (FMUA) attempt to migrate to the U.S. via Central American land routes.

##### **BACKGROUND**

Beginning in the summer of 2016, United States Border Patrol USBP began to report an increase in apprehensions along the southwest border, which included UC and FMUA populations. FY 2017 started with apprehensions roughly 40% above average for the last five fiscal years. CBP has developed contingency planning for multiple soft-sided facilities including the rollout of facilities in Tornillo and Donna, TX. These temporary facilities help CBP to mitigate the migration surge volume and create an increased capacity for the overflow at the stations and ports of entry.

##### **JUSTIFICATION**

In addition to the costs of the temporary detention facilities, CBP has incurred costs in critical overtime, TDY, transportation, supplies, and maintenance to support the surge operations. The effect is not limited to the southwest border, but felt nationwide as USBP and OFO create vacancies in inland, northern, and coastal areas to detail agents and officers to the southwest border. Through January, CBP incurred \$35 million in costs related to the southwest border surge, which required diverting funds from other operational needs. The requested funding is critical to maintain CBP's capacity through the seasonal influx normally seen in the spring and summer months.

**U.S. Customs and Border Protection**  
**Operations and Support**  
**Pay by Object Class**  
*Dollars in Thousands*

<b>Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
11.1 Full-time permanent	\$ 15,703	\$ 1,735	\$ 13,968
11.3 Other than full-time permanent	\$ 1,161	\$ -	\$ 1,161
11.5 Other personnel compensation	\$ 28,880	\$ 25,280	\$ 3,600
12.1 Civilian personnel benefits	\$ 20,544	\$ 16,095	\$ 4,449
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 66,288</b>	<b>\$ 43,110</b>	<b>\$ 23,179</b>
<b>Positions and FTE</b>			
Positions - Civilian	187	187	187
FTE - Civilian	148	8	140

Funds requested include:

- \$4.837 million is to hire 53 positions and 40 FTE, all in FY 2018, for Office of Facilities and Asset Management Staff.
- \$10.527 million is to hire 122 positions and 98 FTE (seven in FY 2017 and 91 in FY 2018) for Additional HRM and OPR Staff.
- \$25 million is for USBP Relocations.
- \$19.88 million is for USBP agent and CBPO overtime in support of migration surge operations.
- \$1.773 million is to hire 12 positions and 10 FTE (one in FY 2017 and 9 in FY 2018) for Office of Chief Counsel Staff.
- \$4.271 million is for OPR Retention and Special Salary Rates.

**U.S. Customs and Border Protection**  
**Operations and Support**  
**Non Pay by Object Class**

*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 21,253	\$ 17,790	\$ 3,463
23.3 Communications, Utilities, and Misc. Charges	\$ 297	\$ 142	\$ 155
25.1 Advisory and Assistance Services	\$ 1,629	\$ 1,629	\$ -
25.2 Other Services from Non-Federal Sources	\$ 62,844	\$ 16,642	\$ 46,203
25.3 Other Goods and Services from Federal Sources	\$ 4,400	\$ 4,400	\$ -
25.4 Operation and Maintenance of Facilities	\$ 74,731	\$ 74,731	\$ -
25.7 Operation and Maintenance of Equipment	\$ 35	\$ 35	\$ -
26.0 Supplies and Materials	\$ 3,824	\$ 2,324	\$ 1,500
31.0 Equipment	\$ 29,699	\$ 28,024	\$ 1,676
32.0 Land and Structures	\$ 21,000	\$ 21,000	\$ -
<b>Total - Non Pay Object Classes</b>	<b>\$ 219,713</b>	<b>\$ 166,716</b>	<b>\$ 52,997</b>

Funds requested include:

- \$20 million is for Facilities Support on the Southern Border.
- \$18.143 million is for Tethered Aerostat Radar System (TARS).
- \$25.141 million is for AMO Border Operations.
- \$3.368 million is for OIT Equipment and Field Technology.
- \$5 million is for Immediate Border Wall Technologies.
- \$21.129 million is to Expand HRM Hiring Capacity.
- \$75.12 million is to Detain All Immigration Violators.
- \$20 million is for Tactical Communications.

**Congressional Justification (Amendment)**

**Department of Homeland Security**

- \$6 million is for Operations Contract Support.
- \$.339 million is for Office of Chief Counsel Staff.
- \$21 million is for Tactical Infrastructure.
- \$4.473 million is for Additional HRM and OPR Staff.

Congressional Justification (Amendment)

Department of Homeland Security

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**U.S. Customs and Border Protection  
Procurement, Construction, and Improvements**

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**Budget Amendment Funding Request**

*Dollars in Thousands*

<b>Organization Name</b>	<b>POA</b>	<b>FY 2019 Amendment Request Amount</b>
Procurement, Construction, and Improvements		\$ 1,377,483
Border Security Assets and Infrastructure	2017/2021	\$ 1,377,483

**U.S. Customs and Border Protection**  
**Procurement, Construction, and Improvements**  
**Non Pay by Object Class**  
*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>
21.0 Travel and Transportation of Persons	\$ 463
25.1 Advisory and Assistance Services	\$ 10,802
25.3 Other Goods and Services from Federal Sources	\$ 1,412
26.0 Supplies and Materials	\$ 14,313
31.0 Equipment	\$ 173,010
32.0 Land and Structures	\$ 1,177,483
<b>Total - Non Pay Object Classes</b>	<b>\$ 1,377,483</b>

## **Border Infrastructure Investment**

### **Investment Description**

CBP requests \$999 million in 5-year funding to support construction of a Border Wall. This amendment to the FY 2017 President's Budget supports a robust suite of infrastructure investments to help CBP achieve operational control of the southern border, as required by the President's Executive Orders on border security. CBP anticipates investing approximately \$999 million in FY 2017.

### **JUSTIFICATION**

The \$999 million investment includes the construction of a new Border Wall system in areas identified by United States Border Patrol (USBP) as operational requirements, to include:

- ~14 miles of new border wall system in San Diego Sector (\$251M)
- ~14 miles of replacement fence in San Diego Sector (\$102M)
- ~28 miles of new levee wall system in Rio Grande Valley Sector (\$498)
- ~6 miles of new border wall system in Rio Grande Valley Sector (\$146M)

The costs above are estimates that will be refined as projects are further defined and designs are developed. This funding will allow CBP to fund design, real estate planning, environmental planning and acquisition, construction and construction oversight for a new border wall system to include fence replacement in San Diego, as well as a new border wall system and levee wall system in the Rio Grande Valley Sector. The anticipated investment allows CBP to swiftly respond to Administration priorities and USBP operational requirements.

### **BACKGROUND**

Detailed requirements for the border wall, including priority locations and preferred features, are currently under development by CBP. Concurrently, CBP is reaching out to industry to seek proposals for Border Wall prototypes that will help the agency select the appropriate design, materials, and technologies for further border wall construction. These proposals and the subsequent prototypes will allow CBP to estimate the overall cost to construct, maintain and repair the border wall. This standard will continue to inform CBP's wall estimates and will account for Administration priorities, USBP operational requirements, cost effectiveness, constructability, and durability. The identified locations are based off of operational need and site accessibility.



**Key Milestone Events: Wall Activities**

The \$999 million investment includes the construction of a Border Wall and levee wall system in areas identified by USBP as operational requirements, to include but not limited to, San Diego and the RGV Sector area of responsibility in Texas, respectively.

## FY 2017 Q3

CBP anticipates:

- Finalizing all Interagency Agreements to providing funding to the United States Army Corps of Engineers (USACE) pending available funding.
- Finalizing the first draft of the environmental impact.
- Working with USBP to identify initial border wall segment requirements in the Rio Grande Valley Sector.

## FY 2017 Q4

CBP anticipates:

- Identifying impacted landowners (assuming no significant title search delays).
- Developing initial project scope, cost estimates, and schedule.
- Releasing Requests for Proposals.
- Awarding Multiple Award Task Order Contract pending available funding.

**SW Border Surveillance****Investment Description**

CBP requests \$200 million in 5-year funding to support southwest border surveillance technology. The \$200 million requested will enable USBP to purchase approximately 18 Integrated Fixed Towers (IFT), 18 relocatable towers, 19 Mobile Video Surveillance Systems (MVSS) units and 58 MVSS camera upgrades. Other funding will be used to close future sustainment gaps in Remote Video Surveillance Systems (RVSS), MVS, and mobile surveillance requirements. Based on the current threat matrix, the Office of Border Patrol has determined that the priority sectors to receive these capabilities are Rio Grande Valley (RGV), Laredo (LRT), and El Paso (EPT) .

**JUSTIFICATION**

Funding is requested to accelerate deployments of fixed and mobile surveillance technologies to high-risk locations along the southwest border. These investments will help the Border Patrol deter, deny, identify, track, and resolve illegal activity along the border to prevent illegal immigration, drug and human trafficking, and acts of terrorism. Specific locations will be determined by operational requirements and capability gap analyses conducted by the USBP.

The IFT system will assist USBP agents in detecting, tracking, identifying, and classifying items of interest along our Nation's borders through a series of fixed surveillance towers and equipment that display information on IFT workstations housed in a command and control center.

RVSS is a fixed technology that provides persistent wide-area surveillance for the visual detection, identification, classification, and tracking of Items of Interest (IoI) along the border. The RVSS unit configuration varies depending on the operational needs and the geographical area where the RVSS is located. RVSS units are typically deployed in areas of activity with dense vegetation, or urban areas where IoIs can quickly vanish. The RVSS unit has a sensor suite with a set of short-, medium-, or long-range electro-optical and infrared cameras (daytime/nighttime cameras), which are remotely operated from a Command and Control (C2) facility. The sensor suite may contain an infrared illuminator, directional spotlights, and a public address system to broadcast verbal commands and warnings. These systems contribute to improved situational awareness, increased agent safety, and rapid response.

MVSS technology enables the visual detection, identification, classification, and tracking of IoIs in both urban and remote areas along the border. They are mobile systems that cover areas that are not covered by fixed surveillance technology deployments. These systems contribute to improved situational awareness, rapid response, and agent safety. The High Definition (HD) camera upgrade will improve the Border Patrol operator's ability to classify IoIs (i.e. long arms, bundles, and group size) which will result in greater agent safety and improved response time by Border Patrol agents.

**Key Milestone Events****MVSS:**

- Achieve Acquisition Decision Event (ADE) – 2 (DHS Approval for production of MVSS units)
- Begin contracting actions necessary to acquire MVSS capabilities;
- Execute contract delivery order for 19 MVSS units and 58 HD Camera Upgrades;
- Begin delivery of 19 MVSS units and 58 HD Camera Upgrades; and
- Complete deployment of 19 MVSS units and 58 HD camera upgrades.

## IFT

- Begin contracting actions necessary to acquire IFT capabilities;
- Validate Southwest Border Plan sites and priorities with USBP;
- Complete environmental and real-estate actions for sites and roads;
- Execute contract award after funding is received;
- Construction to begin within 6-8 months of contract award; and
- Sites operational beginning 10 months after start of construction.

There are several major assumptions that support these IFT milestones:

- IFT Program is adequately staffed to support accelerated/concurrent deployments of 18 sites within two AoR's;
- All sites are validated and approved by USBP leadership;
- Contract award through "other than full and open competition" (FAR method);
- Contract award may occur prior to roads and sites being prepared for construction; and
- Maximize environmental waivers and unilateral condemnation.

## Re-locatable Tower (RVSS) Key Milestones:

- Begin contracting actions necessary to acquire RVSS capabilities;
- RVSS Re-locatable Approval – Milestone 1 (USBP HQ decision to utilize Re-locatable Towers based on results); from Re-locatable tower pilot projects.
- Obligate funding for Re-locatable Towers and modular Command and Control Centers – 0 to 3 months from approval;
- Identify Deployment AOR & Confirm the Laydown in coordination with USBP – 3 months from approval;
- Obtain Environmental Clearances – 6 months from approval;
- Radio Frequency Authentication (RFA) – 6 months from approval;
- Obtain Real Estate Licenses – 9 months from approval;
- Delivery of Re-locatable Towers and modular Command and Control Centers – 12 months from approval;
- Technology Deployment – 18 months from Approval;
- System Acceptance Testing – 21 months from Approval; and
- System Acceptance – 24 months from Approval.

There are several major assumptions which support these Re-locatable (RVSS) milestones:

- The results of the RVSS Re-Locatable Towers Pilot Project indicate no major impact to system performance (tower stability,

height limited to 80 ft., and modular C2) compared to use of Fixed towers;

- A sole source justification is approved for using the current technology contractor;
- The tower sites are previously disturbed areas not requiring environmental assessments; and
- Real Estate license agreements can be secured.

## **Tactical Infrastructure Investment**

### **Investment Description**

CBP anticipates investing approximately \$179 million for road construction and other tactical infrastructure (TI). \$55M is required for the completion of the RGV gates project. The remaining \$124M will be used to construct new road requirements to provide USBP enhanced access for enforcement in high priority locations across the Southwest border.

### **BACKGROUND**

Historically, CBP's budget has not included capital investment funding to meet U.S. Border Patrol's new road construction requirements and other new critical TI needs. CBP has not had the capital investment funds to acquire the real estate and build gates for the RGV fence gate openings. The gate openings cannot be closed until CBP acquires real estate access from the land owners who have property behind the gates. Currently, CBP's TI budget only supports up to \$49M in maintenance and repair requirements through the Comprehensive Tactical Infrastructure & Maintenance and Repair (CTIMR) program. Through the CTIMR program, contractors perform routine and urgent work such as infrastructure preventative maintenance, fence, gate and grate repairs, roadway maintenance (blading, grading, drainage, structure clearing and silt removal, culvert replacement), vegetation control, and debris removal.

### **JUSTIFICATION**

Efforts included in this budget request support the President's Executive Order to secure the Nation's border. Funding will be used to construct new roads, secure critical access points with gates and obtain real estate license agreements in the U.S. Border Patrol's highest priority area.

On average, CBP spends approximately \$49 million annually to maintain and repair its tactical infrastructure portfolio; however, this does not cover the entire requirement. An additional \$179 million is requested for new road construction and other tactical infrastructure needs. USBP continuously identifies new road construction requirements that are necessary to patrol and access the border to execute maintenance and repair needs. Approximately \$122 million of the funds requested will address operational

requirements for road construction across the southwest border in order to provide better, safer, and more efficient border access for the Border Patrol. Of the funds requested, \$57 million will allow CBP to acquire land necessary to install gates that complete an unfinished Pedestrian Fence 225 (PF225) project in the Rio Grande Valley. During PF 225, CBP constructed approximately 55 miles of pedestrian fence in the Rio Grande Valley Border Patrol Sector. To ensure no obstruction of the flood plain in that area, fencing was constructed north of the physical border, in some cases up to a mile. This required CBP to construct gates to allow both USBP and private land owners access to land south of the fence. Approximately half of the required gates have already been completed. However, the remaining 35 gaps in the fence cannot be gated until such time as CBP receives the funds required to address the real estate requirements associated with this project.

**Key Milestone Events**

- \$122M for new road construction
  - FY 2017 Q3 - Confirm USBP's prioritized new road construction requirements
  - FY 2017 Q4 - Obligate funding to USACE by the end of FY 2017
- \$57M for gates (other TI)
  - FY 2017 Q3 - Begin working with USACE to conduct title research for the RGV Gates Construction project in preparation for real estate acquisition and gate construction
  - FY 2017 Q4 - Obligate funding to USACE by the end of FY 2017 for construction activities

Congressional Justification (Amendment)

Department of Homeland Security

## U.S. Immigration and Customs Enforcement

### Operations and Support

### Budget Amendment Funding Request

*Dollars in Thousands*

Organization Name	POA	FY 2017 Amendment Request		
		Pos.	FTE	Amount
<b>U.S. Immigration and Customs Enforcement</b>		<b>97</b>	<b>122</b>	<b>\$ 1,237,212</b>
Operations and Support		97	122	\$ 1,237,212
Mission Support	2017/2018	50	63	\$ 65,824
Homeland Security Investigations		47	59	\$ 15,136
Intelligence	2017/2018	47	59	\$ 15,136
Enforcement and Removal Operations				\$ 1,156,252
Custody Operations	2017/2018			\$ 994,914
Criminal Alien Program	2017/2018			\$ 5,000
Alternatives to Detention	2017/2018			\$ 57,392
Transportation and Removal Program	2017/2018			\$ 98,946

**U.S. Immigration and Customs Enforcement**  
**Operations and Support**  
**Pay by Object Class**  
*Dollars in Thousands*

<b>Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
11.1 Full-time permanent	\$ 12,497	\$ 2,381	\$ 10,116
11.5 Other personnel compensation	\$ 214	\$ 40	\$ 174
12.1 Civilian personnel benefits	\$ 4,587	\$ 873	\$ 3,714
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 17,298</b>	<b>\$ 3,294</b>	<b>\$ 14,004</b>
<b>Positions and FTE</b>			
Positions - Civilian	97	97	97
FTE - Civilian	122	25	97

**U.S. Immigration and Customs Enforcement  
Operations and Support  
Non Pay by Object Class**

*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 102,391	\$ 77,091	\$ 25,301
22.0 Transportation of Things	\$ 645	\$ 161	\$ 484
23.1 Rental Payments to GSA	\$ 2,674	\$ 1,179	\$ 1,494
23.2 Rental Payments to Others	\$ 40	\$ 20	\$ 20
23.3 Communications, Utilities, and Misc. Charges	\$ 822	\$ 340	\$ 482
25.1 Advisory and Assistance Services	\$ 44,837	\$ 14,050	\$ 30,787
25.2 Other Services from Non-Federal Sources	\$ 64,142	\$ 59,510	\$ 4,632
25.3 Other Goods and Services from Federal Sources	\$ 7,319	\$ 2,453	\$ 4,865
25.4 Operation and Maintenance of Facilities	\$ 994,913	\$ 830,030	\$ 164,883
25.7 Operation and Maintenance of Equipment	\$ 756	\$ 357	\$ 399
26.0 Supplies and Materials	\$ 264	\$ 102	\$ 162
31.0 Equipment	\$ 1,111	\$ 837	\$ 274
<b>Total - Non Pay Object Classes</b>	<b>\$ 1,219,914</b>	<b>\$ 986,130</b>	<b>\$ 233,783</b>



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## U.S. Immigration and Customs Enforcement Mission Support – O&S

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ICE requests \$65.8 million for 50 Full-Time Positions (FTP) and 63 Full-Time Equivalents (FTEs) (13 FTE in FY 2017 and 50 FTE in FY 2018) to begin developing a robust internal structure for the Office of Human Capital (OHC) and the Office of Professional Responsibility (OPR) that will support hiring the 10,000 law enforcement officers (LEO) and additional support personnel required to implement the Executive Orders. ICE requests that these funds be appropriated with a period of availability through September 30, 2018.

***Pay: \$8.696 million***

ICE will hire 50 positions, of which 37 are Human Resource (HR) Specialists in OHC and 13 are for OPR's Personnel Security Unit (PSU). The requested positions will be hired during the last quarter of FY 2017 and fully annualized in FY 2018.

According to the Society for Human Resource Management (SHRM), the recommended ratio of HR Specialists to agency employees within the federal government is 1:100. The 37 HR specialists requested in FY 2017 will provide ICE the administrative support for hiring its new personnel at this ratio, allowing OHC to meet the demands of the hiring surge. The HR specialists will be located at the Dallas and Laguna Niguel Service Centers, which are responsible for all administrative functions related to ICE LEO and support staff hiring.

OPR is the critical next step in the hiring process after an applicant is selected for employment. OPR PSU conducts and adjudicates suitability background investigations of contractor, law enforcement, and support personnel at ICE. The requested 13 PSU positions will allow OPR to promptly clear employees to support the EO hiring surge.

***Non-Pay: \$57.128 million***

During the remainder of FY 2017 and throughout FY 2018, OHC will increase its recruitment efforts by implementing a comprehensive "One Stop" hiring program, which will allow ICE to interview and begin pre-employment clearance to potential employees over multiple intensive three-day events. The "One Stop" events streamline the hiring process and reduce the time to hire law enforcement officers and support personnel. Starting these "One Stop" programs in FY 2017 is expected to generate a significant pool of applicants for ICE to hire and on-board beginning in FY 2018 as part of EO implementation.

Both OHC and OPR intend to dedicate a significant portion of the requested resources on temporary contractor support to meet the

**Congressional Justification (Amendment)****Department of Homeland Security**

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initial demands of the hiring and background investigations for 10,000 law enforcement officers and associated support staff. The contract resources will allow ICE to complete timely hiring and on-boarding of all new employees.

Finally, ICE's request includes \$2 million to modernize its human capital information technology system to meet the demands of a modern workforce and manage a large increase in applications and personnel. In October 2016, the Department of Homeland Security Office of the Inspector General (OIG) released audit findings noting that ICE lacks a comprehensive automated system to efficiently process and track law enforcement applicants. To address the OIG recommendation, ICE will acquire and implement an end-to-end hiring solution that will track applicants through the entire hiring process. Investment in a new human capital system will significantly increase efficiencies in the hiring process, eliminate the need for the six different systems currently in place, and allow OHC to produce real-time reports.

**U.S. Immigration and Customs Enforcement**  
**Mission Support – O&S**  
**Pay by Object Class**  
*Dollars in Thousands*

<b>Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
11.1 Full-time permanent	\$ 6,545	\$ 1,264	\$ 5,281
11.5 Other personnel compensation	\$ 65	\$ 12	\$ 53
12.1 Civilian personnel benefits	\$ 2,086	\$ 404	\$ 1,682
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 8,696</b>	<b>\$ 1,680</b>	<b>\$ 7,016</b>
<b>Positions and FTE</b>			
Positions - Civilian	50	50	50
FTE - Civilian	63	13	50

**U.S. Immigration and Customs Enforcement**  
**Mission Support – O&S**  
**Non Pay by Object Class**  
*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 1,834	\$ 452	\$ 1,382
22.0 Transportation of Things	\$ 645	\$ 161	\$ 484
23.1 Rental Payments to GSA	\$ 580	\$ 116	\$ 464
23.3 Communications, Utilities, and Misc. Charges	\$ 424	\$ 141	\$ 283
25.1 Advisory and Assistance Services	\$ 40,673	\$ 10,168	\$ 30,505
25.2 Other Services from Non-Federal Sources	\$ 6,191	\$ 1,832	\$ 4,359
25.3 Other Goods and Services from Federal Sources	\$ 6,002	\$ 1,546	\$ 4,456
25.7 Operation and Maintenance of Equipment	\$ 128	\$ 43	\$ 85
26.0 Supplies and Materials	\$ 100	\$ 20	\$ 80
31.0 Equipment	\$ 551	\$ 309	\$ 242
<b>Total - Non Pay Object Classes</b>	<b>\$ 57,128</b>	<b>\$ 14,788</b>	<b>\$ 42,340</b>

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## U.S. Immigration and Customs Enforcement Homeland Security Investigations – O&S

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ICE requests \$15.136 million for 47 FTP and 59 FTE (12 FTE in FY 2017 and 47 FTE in FY 2018) to hire Intelligence Research Specialists (IRS), which annualize in FY 2018 to support HSI investigations of cases involving terrorism, illicit smuggling and contraband, child exploitation, and human trafficking in line with the priorities established by the Executive Order on Border Security and Immigration Enforcement Improvements (EO13767). ICE requests that these funds be appropriated with a period of availability through September 30, 2018.

***Pay: \$8.602 million***

The requested 47 IRS positions will be hired during the last quarter of FY 2017. Statistics has identified that investigations that utilize IRSs are more successful than investigations that do not. Counterpart agencies, such as DEA and FBI, have placed a greater emphasis on the use of intelligence analysts as a force multiplier. For example, the DEA has an intelligence analyst to Agent ratio of 1:1 and the FBI has an intelligence analyst to Agent of 1:6. The current ICE ratio is 1:12. Hiring the requested IRS positions will allow ICE to build to its eventual goal of reaching a 1:9 ratio.

As HSI strives to dismantle human smuggling organizations, it will deploy more intelligence analysts to support the work of agents in the field, particularly those surging to the Northern Triangle. ICE plans to increase its investigative hours dedicated to immigration-related crime by 20%. The 47 FTP will increase the number of investigations that receive Intelligence support. ICE will hire to regions that have most opportunity to benefit from additional IRS support.

***Non-Pay: \$6.534 million***

The requested non-pay funding of \$6.5 million are the general expenditures associated with on-boarding and annualizing 47 IRSs. These include training, furniture, and equipment.

**U.S. Immigration and Customs Enforcement**  
**Homeland Security Investigations – O&S**  
**Pay by Object Class**  
*Dollars in Thousands*

<b>Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
11.1 Full-time permanent	\$ 5,952	\$ 1,117	\$ 4,835
11.5 Other personnel compensation	\$ 149	\$ 28	\$ 121
12.1 Civilian personnel benefits	\$ 2,501	\$ 469	\$ 2,032
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 8,602</b>	<b>\$ 1,614</b>	<b>\$ 6,988</b>
<b>Positions and FTE</b>			
Positions - Civilian	47	47	47
FTE - Civilian	59	12	47

**U.S. Immigration and Customs Enforcement**  
**Homeland Security Investigations – O&S**  
**Non Pay by Object Class**

*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 212	\$ 105	\$ 107
23.1 Rental Payments to GSA	\$ 2,094	\$ 1,063	\$ 1,030
23.2 Rental Payments to Others	\$ 40	\$ 20	\$ 20
23.3 Communications, Utilities, and Misc. Charges	\$ 398	\$ 199	\$ 199
25.1 Advisory and Assistance Services	\$ 564	\$ 282	\$ 282
25.2 Other Services from Non-Federal Sources	\$ 559	\$ 286	\$ 273
25.3 Other Goods and Services from Federal Sources	\$ 1,317	\$ 907	\$ 409
25.7 Operation and Maintenance of Equipment	\$ 628	\$ 314	\$ 314
26.0 Supplies and Materials	\$ 164	\$ 82	\$ 82
31.0 Equipment	\$ 560	\$ 528	\$ 32
<b>Total - Non Pay Object Classes</b>	<b>\$ 6,536</b>	<b>\$ 3,788</b>	<b>\$ 2,748</b>

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## U.S. Immigration and Customs Enforcement Enforcement and Removal Operations – O&S

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ICE requests \$1.16 billion, 0 FTP, and 0 FTEs for average daily population (ADP) detention needs in response to an increase in FY 2017 migrant apprehensions, and for an anticipated increase in apprehensions and detentions that will result from ICE implementation of the Administration's immigration-related Executive Orders. Included in this request is funding to increase the number of detention beds and associate removals, and expand the Alternatives to Detention (ATD) and 287(g) programs. ICE requests that these funds be appropriated with a period of availability through September 30, 2018.

***Pay: \$0***

All costs associated with the request for the Enforcement and Removal Operations PPA are non-pay.

***Non-Pay: \$1.16 billion***

***Custody Operations - \$994.913 million***

- ICE requests \$788.8 million to support an estimated FY 2017 ADP of 42,514 (including 40,014 adults at an average daily bed rate of \$132.54 and 2,500 families at an average daily bed rate of \$319.37) stemming from increased migrant flow experienced in the first half of FY 2017. As of March 4, 2017, ICE ADP was 41,005 (39,007 adults and 1,998 families).
- ICE requests an additional \$206.1 million to begin implementation of the Executive Orders' directive to detain all apprehended immigration violators from both the border and the interior. ICE estimates that this represents an additional ADP of 805 adults in FY 2017 (reaching 45,700 beds on September 30, 2017) and 3,220 adults in FY 2018. The resulting total ADP for FY 2017 will be 43,319 (40,819 adult and 2,500 family) while the FY 2018 ADP will be 54,599 (52,099 adult and 2,500 family) when combined with increases requested in the FY2018 Budget. The current ADP projection is attributed to increased interior enforcement efforts (Criminal Alien Program, Fugitive Operations, and the expanded 287(g) program), and an increase to the average length of stay (ALOS).
  - Since their issuance, the Executive Orders have led to increases in arrests (up 50%), charging document issuance (up 40%), and detainees (up 80%). ICE assumes that these upward trends will continue as the Executive Orders continue to be implemented.
  - Forty-seven percent of ICE's ADP is generated from interior enforcement efforts, while fifty-three percent is generated from border enforcement. The ALOS for those apprehended at the southwest is 27.4 days and 51.5 days for those



arrested during interior enforcement operations.

- There are multiple factors that will contribute to an increased ADP in FY 2017 and FY 2018.
  - Prior years of the Secure Communities initiative provided record numbers of removals. It is expected that the reinstitution of this initiative outlined in the EO will result in significant increases to interior apprehensions and removals.
  - In just the first six weeks since the issuance of the Executive Orders, the number of beds used to house aliens stemming from interior enforcement efforts has increased by over 2,000, representing a 12% increase and offsetting the decrease in the number of beds used by CBP for border enforcement.
  - Approximately 30,000 fugitive alien records will be re-enrolled in National Crime Information Center database that previously fell outside of ICE's priorities.
  - CBP is about to enter the historical high season in which border apprehensions increase significantly due to illegal aliens crossing the border to obtain agricultural and seasonal jobs. Border apprehensions are expected to account for X of the 43,319 average daily population in 2017.
  - 287g participation is slated to increase by 70% with the signing of at least 26 new agreements, many in locations with high foreign-national populations. Not only will this increase arrests from the program itself, there will be a significant number of Deportation Officers who previously worked Criminal Alien Program in these jurisdictions will be redeployed to other interior enforcement efforts.

Transportation and Removal Program (TRP) - \$98.946 million

- TRP requires \$98.9 million for transportation costs associated with the currently projected 54,599 ADP by FY 2018. The additional funding will support over 71,000 additional removals. The consistent increase in ADP requires an increase in resource support for TRP due to additional ground transportation movements across the network, final orders of removal by Executive Office for Immigration Review (EOIR), expedited removal orders, and voluntary returns.

Alternatives to Detention - \$57.392 million

- Because of the rise in migrant flow, ATD will need supplemental funding to sustain the additional participants who will be monitored on ATD. The requested \$57.4 million allows ATD's average daily participant level to reach 79,000 in FY 2017, which is 26,000 above initial estimates at the beginning of the fiscal year. As of March 6, 2017 the average FYTD participant count for ATD was 69,691.

287(g) Expansion - \$5.0 million

- The Executive Orders direct the expansion of the 287(g) program. Currently there are eight pending applications for local law enforcement agencies (LEA) to join the 287(g) program, and there are another eleven LEAs that have expressed interest in completing an application. ICE requests \$5 million for costs associated with oversight and compliance monitoring, IT infrastructure, and training. ICE plans to train approximately 98 additional state and local officers in FY 2017.

**U.S. Immigration and Customs Enforcement  
Enforcement and Removal Operations – O&S  
Non Pay by Object Class**  
*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Ammendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 100,346	\$ 76,534	\$ 23,812
25.1 Advisory and Assistance Services	\$ 3,600	\$ 3,600	\$ -
25.2 Other Services from Non-Federal Sources	\$ 57,392	\$ 57,392	\$ -
25.4 Operation and Maintenance of Facilities	\$ 994,913	\$ 830,030	\$ 164,883
<b>Total - Non Pay Object Classes</b>	<b>\$ 1,156,251</b>	<b>\$ 967,556</b>	<b>\$ 188,695</b>

## Federal Law Enforcement Training Centers

### Operations and Support

### Budget Amendment Funding Request

*Dollars in Thousands*

Organization Name	POA	FY 2017 Amendment Request		
		Pos.	FTE	Amount
Operations and Support		120	114	\$ 25,000
Mission Support	2017/2018	6	5	\$ 710
Law Enforcement Training	2017/2018	114	109	\$ 24,290

The Federal Law Enforcement Training Centers (FLETC) has identified requirements necessary to meet the anticipated surge in training resulting from U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) hiring associated with the Executive Order on Border Security and Immigration Enforcement Improvements and the Executive Order on Enhancing Public Safety in the Interior of the United States. To meet the intents of these Executive Orders, CBP will hire 5,000 Border Patrol Agents and ICE will hire 10,000 Immigration Officers. All of these new hires will require basic training at FLETC in either FLETC basic training programs or programs ICE and CBP conduct at FLETC training locations.

Based on information received from ICE and CBP, FLETC has developed cost estimates to meet the training needs associated with the hiring goals of the Executive Orders. These estimates include training costs, support staff costs, Instructor Training Program costs, PCS costs, information technology costs, and training support costs, and represent FLETC's requirements regarding how to most efficiently and effectively execute a training surge.

To meet the requirements of the Executive Orders, FLETC must hire and train a sufficient amount of instructors in FY2017 to ensure an initial cadre of trained and certified instructors are on-board and ready to accommodate the surge. FLETC requests \$25M to obtain necessary staffing, equipment and services. The hiring and training of 120 positions (114 FTE – 15 FTE in FY 2017 and 99 FTE in FY 2018), to include instructors (\$13.9M), additional Instructor Training Program instructors (\$1.7M) and support staff (\$0.7M) is sufficient to start the additional training that will be necessary. Additional requirements, such as a non-emergency vehicle operating range at Artesia (\$1M), IT equipment and services (\$6.7M), PCS (\$0.3M) as well as increased training support costs (\$0.7M) are requested. FLETC requires funding in FY 2017 to hire instructors. These instructors will begin training Border Patrol Agents and ICE officers on October 1, 2017.

**Federal Law Enforcement Training Center**  
**Operation and Support**  
**Pay by Object Class**  
*Dollars in Thousands*

<b>Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
11.1 Full-time permanent	\$ 2,103	\$ 273	\$ 1,830
11.3 Other than full-time permanent	\$ 8,897	\$ 1,157	\$ 7,740
12.1 Civilian personnel benefits	\$ 5,488	\$ 673	\$ 4,815
<b>Total - Personnel Compensation and Benefits</b>	<b>\$ 16,488</b>	<b>\$ 2,103</b>	<b>\$ 14,385</b>
<b>Positions and FTE</b>			
Positions - Civilian	120	120	120
FTE - Civilian	114	15	99

**NARRATIVE EXPLANATION– PAY COST DRIVERS:**

Increased throughput of Border Patrol Agents and Immigration Officers drives pay costs. FLETC requires Law Enforcement Instructors as part of the Instructor Training Program (“train the trainer”) and Support Staff to prepare Law Enforcement Instructors to train the increased number of Border Patrol Agents and Immigration Officers. Pay cost drivers include salaries, benefits and PCS costs associated with hiring 120 positions, as follows:

- 12 Law Enforcement Instructors (Instructor Training Program)
- 6 Support Staff
- 102 Law Enforcement Instructors

**Federal Law Enforcement Training Center  
Operations and Support  
Non Pay by Object Class**

*Dollars in Thousands*

<b>Non-Pay Object Classes</b>	<b>FY 2017 Amendment Request</b>	<b>FY 2017 Estimated First Year Funds</b>	<b>FY 2018 Estimated Second Year Funds</b>
21.0 Travel and Transportation of Persons	\$ 126	\$ 126	
22.0 Transportation of Things	\$ 66	\$ 66	
23.3 Communications, Utilities, and Misc. Charges	\$ 495	\$ 495	
24.0 Printing	\$ 157	\$ 157	
25.2 Other Services from Non-Federal Sources	\$ 3,643	\$ 2,914	\$ 729
26.0 Supplies and Materials	\$ 267	\$ 267	
31.0 Equipment	\$ 2,758	\$ 2,206	\$ 552
32.0 Land and Structures	\$ 1,000	\$ 1,000	
<b>Total - Non Pay Object Classes</b>	<b>\$ 8,512</b>	<b>\$ 7,231</b>	<b>\$ 1,281</b>

**NARRATIVE EXPLANATION– NON-PAY COST DRIVERS:**

Non-Pay cost drivers include a non-emergency vehicle operating range at FLETC's Artesia campus (\$1M), additional information technology equipment and services associated with the increase in staff, additional facilities, and increased training requirements. Increased training support services, such as transportation, uniforms, and practical exercise equipment are additionally requested.

- **Service Contracts** – The increase in goods and services contracts of \$6.5M is attributed to increased services needed to accommodate the training surge associated with the President's Executive Orders. The FY 2017 request support contracts consists of services such as:
  - IT Services \$6.0M
  - Transportation \$0.1M

**Congressional Justification (Amendment)****Department of Homeland Security**

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- Practical Exercise Equipment      \$0.1M
  - Janitorial      \$0.3M
- **Supplies and Equipment** – The increase in supplies and equipment of \$1.1M is attributed to increased equipment needs associated with the President’s Executive Orders. The FY 2017 request consists of:
  - IT Equipment/Supplies      \$0.8M
  - Practical Exercise Equipment      \$0.1M
  - Uniforms      \$0.2M

**Federal Law Enforcement Training Centers  
Procurement, Construction, and Improvements**

**Budget Amendment Funding Request**

*Dollars in Thousands*

<b>Organization Name</b>	<b>POA</b>	<b>FY 2017 Amendment Request Amount</b>
Procurement, Construction, and Improvements		\$ 63,000
Construction and Facility Improvements	2017/2021	\$ 63,000

The Federal Law Enforcement Training Centers (FLETC) has identified requirements necessary to meet the anticipated surge in training resulting from U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) hiring associated with the Executive Order on Border Security and Immigration Enforcement Improvements and the Executive Order on Enhancing Public Safety in the Interior of the United States. To meet the intents of these Executive Orders, CBP will hire 5,000 Border Patrol Agents and ICE will hire 10,000 Immigration Officers. All of these new hires will require basic training at FLETC in either FLETC basic training programs or programs ICE and CBP conduct at FLETC training locations.

Based on information received from ICE and CBP, FLETC has identified facility requirements and developed cost estimates to meet the training needs associated with the hiring goals of the Executive Orders. These estimates include modular dormitories, modular classrooms, modular offices, and improvements to the existing water/sewer system, and represent FLETC's preliminary requirements to begin the anticipated training surge.



**Federal Law Enforcement Training Centers  
Procurement, Construction, and Improvements  
Non Pay by Object Class**

*Dollars in Thousands*

Non-Pay Object Classes	FY 2017 Amendment Request	FY 2017 Estimated First Year Funds	FY 2018-2021 Estimated Out Year Funds
32.0 Land and Structures	\$ 63,000	\$ 60,900	\$ 2,100
<b>Total - Non Pay Object Classes</b>	<b>\$ 63,000</b>	<b>\$ 60,900</b>	<b>\$ 2,100</b>

**Executive Order Training Surge**

**Initiative Description**

This project initiates the necessary capacity build out to execute the training required by the Executive Order on Border Security and Immigration Enforcement Improvements and the Executive Order on Enhancing Public Safety in the Interior of the United States.

**Justification**

FLETC is currently operating at historically high training levels, which leaves little to no excess capacity. Accordingly, FLETC's current operational capacity is insufficient to accommodate the training surge required to meet the requirements of the President's Executive Orders. FLETC has identified a need for additional facilities, and will construct temporary / modular training and administrative venues that will efficiently ensure capacity to deliver high quality training.

To meet the requirements of the Executive Orders, FLETC must increase capacity in several areas, including training facilities, housing, and office space. In order to begin execution of the training surge in FY 2018, a portion of these facilities must be in place and operational. To meet this need, FLETC requests \$63M in PC&I funding to build/place 3 modular dormitories (\$48.7M), modular classrooms (\$10.2M), and modular office space (\$2M), as well as make necessary upgrades/repairs to the existing water/sewer system (\$2.1M) at FLETC's Glynco campus, which is anticipated to be spent in FY 2018. The modular dormitories, classrooms, and office space have a useful life span of approximately 15 years.

**Key Milestone Events**

- Modular Classrooms and Offices

Milestone #1: Funding allocation by May 1, 2017.

Milestone #2: Contract award by September 11, 2017.

Milestone #3: Design, shipping and assembly of modular units from September 12, 2017 to January 22, 2018.

Milestone #4: Completed and usable facilities (classrooms and office spaces) by February 1, 2018.

- Modular Dormitories

Milestone #1: Funding allocation by May 1, 2017.

Milestone #2: Contract award by September 26, 2017.

Milestone #3: Construction of dormitories from September 27, 2017 to May 31, 2018.

Milestone #4: Completed and usable facilities (dormitories) by May 31, 2018.

- Water/Sewer System Enhancements

Milestone #1: Utility contract in place by October 1, 2017.

Milestone #2: Funding allocation by January 1, 2018.

Milestone #3: Contract award by April 1, 2018.

Milestone #4: Completed and usable facilities (lift stations) by June 1, 2018.

# **Exhibit B**

Xerox

DIVISION — DEPARTMENT OF HOMELAND SECURITY  
 APPROPRIATIONS ACT, 2017

The following is an explanation of Division X, which makes appropriations for the Department of Homeland Security (DHS) for fiscal year 2017. Funding provided in this Act not only sustains existing programs that protect the nation from all manner of threats, it ensures DHS's ability to improve preparedness at the federal, state, and local levels, to prevent and respond to terrorist attacks, and to hire, train, and equip DHS frontline forces protecting the homeland.

Unless otherwise noted, references to the House and Senate reports are to House Report 114-668 and Senate Report 114-264, respectively. The language and allocations contained in the House and Senate reports carry the same weight as language included in this explanatory statement unless specifically addressed to the contrary in the bill or this explanatory statement. While this explanatory statement repeats some language from the House or Senate reports for emphasis, it does not negate the language contained in those reports unless expressly stated. When this explanatory statement refers to the Committees or the Committees on Appropriations, these references are to the House Appropriations Subcommittee on Homeland Security and the Senate Appropriations Subcommittee on Homeland Security.

This explanatory statement refers to certain laws and organizations as follows: the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, is referenced as the 9/11 Act; the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, is referenced as the Stafford Act; the Department of Homeland Security is referenced as DHS or the Department; the Government Accountability Office is referenced as GAO; and the Office of Inspector General of the Department of Homeland Security is referenced as OIG. In addition, "full-time equivalents" are referred to as FTE; "full-time positions" are referred to as FTP; "Information Technology" is referred to as IT; the DHS "Working Capital Fund" is referred to as WCF; "program, project, and activity" is referred to as PPA; and any reference to "the Secretary" should be interpreted to mean the Secretary of the Department of Homeland Security.

On March 16, 2017, the President delivered a budget amendment to the Congress that requested an additional \$3-billion for DHS to strengthen border security and enhance enforcement of immigration laws. Appropriations related to that request are included in title VI of this division.

## Changes to the Structure of the Bill and Report

Since DHS was established in 2002, the 22 agencies that were consolidated into a single department have formulated and executed their respective budgets using their legacy appropriation account structures and budgeting practices. Within months of being confirmed, then-Secretary Jeh Johnson announced a Unity of Effort campaign with the goal of maturing DHS into an organization that functions in a more integrated and joint fashion. A strategic imperative of that campaign was to develop and institutionalize standard planning, budgeting, acquisition, and resourcing processes that every component would be required to follow.

The Department's more than 70 disparate accounts were contributing to a lack of transparency and comparability among components and programs and were adding unnecessary complexity to spending prioritization. To address these issues, the Department recommended that the existing account structure be simplified into four common account categories under which programs and activities could be funded consistently across departmental components based on common assumptions and definitions. The categories are: Operations and Support; Procurement, Construction, and Improvements; Research and Development; and Federal Assistance. In fiscal year 2016, Congress supported the concept of common appropriations accounts for every component and authorized DHS to propose the fiscal year 2017 DHS budget in a structure that incorporated these four account types. [5]

In accordance with this authority, DHS proposed the fiscal year 2017 budget request in a common format for every organization except the Coast Guard, which requires additional time to coordinate the change as it also transitions to a new financial management system. The appropriations account and PPA structure reflected in this Act is the culmination of that two year effort.

In addition to incorporating the new standard structure, the fiscal year 2017 Department of Homeland Security Appropriations bill has been re-written, updated, and streamlined. The bill continues to be divided into titles, the first four of which contain appropriations. Each appropriations paragraph begins with a lump sum appropriation, followed by any necessary carve-outs of amounts for specific activities or for multi-year availability, and concludes with spending limitations, when needed. Administrative provisions specific to a single component are included at the end of its respective title, while general provisions that pertain to multiple components are located in title V. This explanatory statement is organized in the same manner.

Every appropriating paragraph has been scrutinized and drafted to follow the Comptroller General's *Federal Principles of Appropriations Law* and adheres to a core principal that the purpose of a lump sum appropriation is determined in the context of the agency's enabling and authorizing legislation. As such, appropriations paragraphs do not enumerate every statute that authorizes DHS to act, in order for funding to be available for those purposes.

Likewise, the appropriating paragraphs do not need, nor is it possible, to explicitly enumerate every item or activity for which the appropriation is available. Accordingly, previously enumerated activities that are considered to be part of a component's necessary

expenses are no longer expressly included. Further, the format of the bill has been restructured to move those provisions not organic to the appropriation of funds into administrative or general provisions. Certain language from prior Acts that directed policies or practices was eliminated if its appearance in statute is no longer required, although directives related to such policies or practices are in some cases continued through language in this statement or in the House or Senate reports.

DHS provided assistance in identifying instances where specificity in appropriations paragraphs was required for funds to be used for certain purposes. As presented, the bill reflects that careful consideration. With regard to expired authorizations, the bill provides explicit extensions where so intended.

#### Chemical, Biological, Radiological, Nuclear, and Explosives Office

The fiscal year 2017 budget request proposed the consolidation of the Office of Health Affairs (~~OHA~~), the Domestic Nuclear Detection Office (~~DNDO~~), the Office of Bombing Prevention, and selected activities of the Science and Technology Directorate, into a new Chemical, Biological, Radiological, Nuclear, and Explosives ~~Office~~ (CBRNE) Office. As this proposed CBRNE consolidation was not authorized by Congress, the amounts appropriated for these activities for fiscal year 2017 are provided to the component for which the funds were appropriated in prior years. The amounts requested for CBRNE are displayed in the table at the end of this statement.

#### Classified Programs

Recommended adjustments to classified programs are addressed in a classified annex to this explanatory statement.

# TITLE I—DEPARTMENTAL MANAGEMENT, OPERATIONS, INTELLIGENCE, AND OVERSIGHT

## OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

### OPERATIONS AND SUPPORT

A total of \$137,034,000 is provided for Operations and Support, including not more than \$40,000 for official reception and representation (ORR) expenses. A decrease of \$5,000 is assessed to the Secretary's ORR funds due to the assumption of \$880,000,000 in unauthorized fee revenue in the fiscal year 2017 budget request that artificially reduced the amount of net discretionary appropriations required to fully fund the Transportation Security Administration. DHS should be prepared for additional decrements to ORR funds and other headquarters activities in the future should future requests include similar proposals.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
<b>Operations and Support</b>		
Office of the Secretary	\$22,287,000	\$18,632,000
Office of Policy	37,049,000	37,461,000
Office of Public Affairs	5,384,000	5,000,000
Office of Legislative Affairs	5,287,000	5,080,000
Office of Partnership and Engagement	11,692,000	15,206,000
Office of General Counsel	19,298,000	19,298,000
Office for Civil Rights and Civil Liberties	21,403,000	22,571,000
Office of the Citizenship and Immigration Services		
Ombudsman	6,200,000	5,935,000
Privacy Officer	7,851,000	7,851,000
Subtotal, Operations and Support	\$136,451,000	\$137,034,000
Total, Office of the Secretary and Executive Management	\$136,451,000	\$137,034,000

### Office of the Secretary

A total of \$18,632,000 is provided for the Office of the Secretary. Instead of including funds for the Office of Community Partnerships within this amount, as proposed by the Senate,

funds for that program are included in the Office of Partnership and Engagement PPA, as proposed by the House.

In lieu of direction provided in the House and Senate reports regarding activities of the Joint Requirements Council (JRC), the Department shall provide status updates on these activities to the Committees on a monthly basis. Specifically, the updates shall include a list of the requirements documents that have been validated as well as those that remain in the analysis phase at the DHS JRC level. Validated documents shall be made available to the Committees upon request.

The Secretary is directed to convene a Public Complaint and Feedback System working group, as described in the House Report, and to provide briefings to the Committees within 90 days and 270 days of the date of enactment of this Act on the group's progress and findings.

#### Office of Policy

A total of \$37,461,000 is provided for the Office of Policy.

Section 107 of the Act withholds \$2,000,000 from the Office of the Secretary until two long-standing required reports are provided to the Congress. First, as described in the Senate report, DHS is legally obliged to submit an annual report estimating the U.S. population of nonimmigrant aliens who have overstayed their visas. The Department submitted such a report for fiscal year 2015, but has not yet submitted a report for fiscal year 2016. DHS is expected to improve upon the scope of the data provided in the fiscal year 2015 report in its forthcoming report.

Second, under the headings "Border Security Metrics" and "Public Reporting of Operational Statistics," the Senate report outlines congressional and public interest in border security metrics and immigration operations data. Recently issued executive orders also require public reporting of such data, which the Department has begun to post. For years, Congress has directed DHS to develop border security metrics that quantify the operational impact of border security investments. Though progress has been made, DHS has still failed to produce these metrics. The Department shall brief the Committees within 90 days of the date of enactment of this Act on its plan to develop and publish the metrics described in the Senate report.

As directed in the Senate report, \$600,000 above the request shall support qualified data analysts in the Office of Immigration Statistics.

In addition to the House directive to provide a comprehensive review of the number and locations of all DHS personnel deployed overseas, the Office of Policy shall identify where redundant staff are located and explain why they are required.

As directed in the Senate report, the Department shall report on the deployment and usage of International Mobile Subscriber Identity (IMSI) catchers and related technologies within 180 days of the date of enactment of this Act.



Office of Partnership and Engagement

A total of \$15,206,000 is provided for the Office of Partnership and Engagement, which includes \$3,514,000 for the Office of Community Partnerships.

A total of \$819,000 is provided for the Blue Campaign, as requested. DHS is directed to fully account for and provide justification material for this program in future budget requests.

Office for Civil Rights and Civil Liberties

A total of \$22,571,000 is provided for the Office of Civil Rights and Civil Liberties. (for

As directed in the House Report, the increase of \$1,168,000 above the President's request supports enhancements to programs in the Compliance Branch.

## MANAGEMENT DIRECTORATE

## OPERATIONS AND SUPPORT

A total of \$597,817,000 is provided for Operations and Support of the Management Directorate. Of this amount, not more than \$2,000 is available for official reception and representation expenses. Within the total, \$194,092,000 is available until September 30, 2018, to include \$4,800,000 for St. Elizabeths, \$186,361,000 for the Chief Information Officer (CIO), and \$2,931,000 for headquarters operations at the Nebraska Avenue Complex.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Immediate Office of the Under Secretary for Management	\$3,758,000	\$3,564,000
Office of the Chief Readiness Support Officer	128,177,000	54,275,000
Office of the Chief Human Capital Officer	36,446,000	39,026,000
Office of the Chief Security Officer	61,723,000	63,102,000
Office of the Chief Procurement Officer	101,450,000	98,076,000
Office of the Chief Financial Officer	100,041,000	53,700,000
Office of the Chief Information Officer	296,176,000	286,074,000
Subtotal, Operations and Support	\$727,771,000	\$597,817,000

## Immediate Office of the Under Secretary for Management

A total of \$3,564,000 is provided for the Immediate Office of the Under Secretary for Management, reflecting a reduction to the request of \$194,000 based on updated hiring projections. The requirement from prior years to submit a Comprehensive Acquisition Status Report with future budget requests and quarterly updates is discontinued.

## Office of the Chief Readiness Support Officer

A total of \$54,275,000 is provided for the Office of the Chief Readiness Support Officer, to include \$26,180,000 for St. Elizabeths headquarters operations and a reduction of \$500,000 from the request based on updated hiring projections.

In addition to the funding provided under this heading for St. Elizabeths, \$13,253,000 is provided in title V of this Act for tenant designs for a new FEMA headquarters and remaining elements of the Center Building Complex.

For several years, CBP's Air and Marine Operations has been refining a flight hour model similar to that of the Coast Guard to track costs and link them to mission requirements. The Department is directed to review the model to ensure consistency across both CBP and the Coast Guard, and to brief the Committees on a quarterly basis until flight hour costs are captured completely and accurately across the Department's air fleet.

#### Office of the Chief Human Capital Officer

A total of \$39,026,000 is provided for the Office of the Chief Human Capital Officer. A reduction of \$240,000 is assessed based on an updated hiring projection, and an increase of \$2,820,000 is provided to transition the Cyber Student Volunteer Program into a DHS Cybersecurity Internship Program.

As directed in the Senate and House reports, DHS is directed to continue working with every component to develop metrics on hiring, attrition, the processes used to bring staff on board, and a hiring corrective action plan. DHS shall brief the Committees not later than 90 days after the date of enactment of this Act on its strategy to decrease the number of days it takes to hire new employees. As part of this briefing, DHS shall provide quarterly hiring metrics by component and detail its progress toward monthly metrics reporting. Further, the briefing shall address progress made to establish reciprocity with other agencies on polygraph examinations and security clearances. CBP shall continue monthly reporting of hiring gains and attrition losses.

#### Office of the Chief Security Officer

A total of \$63,102,000 is provided for the Office of the Chief Security Officer, to include an increase of \$1,379,000 for recurring security needs at the Nebraska Avenue Complex.

#### Office of the Chief Procurement Officer

A total of \$98,076,000 is made available for the Office of the Chief Procurement Officer, to include a reduction of \$3,347,000 based on an updated hiring projection.

#### Office of the Chief Financial Officer

A total of \$53,700,000 is provided for the Office of the Chief Financial Officer (OCFO). DHS is directed to retain its Appropriations Liaison Office as part of OCFO.

The Department shall continue submitting obligation plans to the Committees on a quarterly basis, with the first plan due within 45 days of enactment of this Act. These plans shall be consistent with direction provided in the explanatory statement accompanying Public Law 114–113, which required comparisons of planned and actual obligations, by PPA, of all salaries and benefits funding.

At congressional direction, DHS plans to improve the clarity and completeness of budget justification materials, particularly for procurement accounts. Clarity and completeness is equally important for Operations and Support accounts, given the size of many of these appropriations and the flexibility DHS currently has to move funds among PPAs. Therefore, in future budget justification materials, DHS is directed to include a breakout of each account by cost driver, including cost drivers for any proposed programmatic changes. Additionally, the materials must clearly justify any changes in cost driver assumptions from the prior fiscal year to the budget year.

Funding provided in this Act shall be obligated in accordance with Section 2.0 of Chapter 2 of the Department of Homeland Security Financial Management Policy Manual, dated October 1, 2016, entitled “DHS Appropriations Structure.” The Department is directed to notify the Committees regarding any substantive revisions to this manual.

#### Office of the Chief Information Officer

A total of \$286,074,000 is provided for the Office of the Chief Information Officer, to include reductions of \$8,002,000 based on an updated hiring projection and \$2,100,000 to Legacy Information Technology Services.

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$18,839,000 is provided for the Management Directorate for procurement, construction, and improvements.

#### RESEARCH AND DEVELOPMENT

A total of \$2,500,000 is provided for the Management Directorate for research and development.

## INTELLIGENCE, ANALYSIS, AND OPERATIONS COORDINATION

### OPERATIONS AND SUPPORT

A total of \$263,551,000 is provided for Intelligence, Analysis, and Operations Coordination, of which \$106,115,000 is available until September 30, 2018.

Within the amount, the Office of Intelligence and Analysis (I&A) is directed to implement the Document and Media Exploitation program and to build an Analytic Innovation Cell. Both programs will provide actionable intelligence to DHS's front line, enabling capabilities ranging from the identification of fraudulent passports to the exploitation of information that disrupts transnational criminal organizations. I&A is commended for prioritizing its budget requirements to support DHS's operational components.

As directed by the Senate, I&A is directed to assess the level of effort it provides to support the Department's critical border security mission.

## OFFICE OF INSPECTOR GENERAL


### OPERATIONS AND SUPPORT

A total of \$175,000,000 is provided for the Office of Inspector General (OIG). The agreement does not include a proposed \$24,000,000 transfer to the OIG from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (DRF). Instead, the OIG is directed to allocate not less than \$20,856,000 to disaster-related investigations and audits. Additionally, the recommendation includes a decrease of \$3,000,000 from the request based on updated hiring projections.

TITLE I—ADMINISTRATIVE PROVISIONS--THIS ACT

Section 101. A provision proposed by the House and Senate is continued requiring the Secretary to submit the Future Years Homeland Security Program at the time of the President's budget proposal for fiscal year 2018.

Section 102. A provision proposed by the House and Senate is continued and modified requiring the Chief Financial Officer to submit monthly budget execution and staffing reports within 30 days after the last day of each month.

Section 103. A provision proposed by the House and Senate is continued requiring the Inspector General to review grants and contracts awarded by means other than full and open competition and report the results to the Committees 

Section 104. A provision proposed by the House and Senate is continued directing the Secretary to require contracts providing award fees to link such fees to successful acquisition outcomes.

Section 105. A provision proposed by the House and Senate is continued requiring the Secretary, in conjunction with the Secretary of the Treasury, to notify the Committees of any proposed transfers from the Department of Treasury Forfeiture Fund to any agency at DHS. No funds may be obligated prior to such notification.

Section 106. A provision proposed by the House and Senate is continued related to the official travel costs of the Department's Secretary and Deputy Secretary.

Section 107. A provision proposed by the Senate is continued and modified requiring the Secretary to submit a report on visa overstay data and to post border security metrics on the Department's website. The House proposed no similar provision.

Section 108. A new provision is included requiring the Secretary to certify whether U.S. Immigration and Customs Enforcement is administering and executing its Enforcement and Removal Operations activities consistent with available budgetary authority.

## TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

## U.S. CUSTOMS AND BORDER PROTECTION

## OPERATIONS AND SUPPORT

A total of \$10,900,636,000 is provided for Operations and Support, of which <sup>e</sup> \$681,441,500 is made available for two years to provide flexibility in the year of execution. The total includes increases of \$3,000,000 for the Border Security Deployment Program; \$4,000,000 for small unmanned aerial systems (UAS); and \$15,000,000 for UAS fleet upgrades. Reductions to the request include: \$236,430,000 due to the denial of the requested transfer of the Office of Biometric Identity Management (OBIM) into CBP; and to support a realistic number of FTE, \$200,633,000 from pay and benefits and \$10,000,000 for non-pay and benefit funding.

The bill reduces funding for staffing by \$200,633,000 based on technical assistance provided by CBP in March of 2017 indicating it would hire 3,000 fewer staff than originally projected. Analysis of this revised hiring projection, however, indicates a further problem with CBP's funding estimates for personnel, because a reduction of 3,000 personnel should translate into savings of at least \$450,000,000. CBP is directed to provide greater details underlying its personnel costs and FTE model in the fiscal year 2018 request, and to revise its hiring projections at least quarterly to ensure the Committees have timely, accurate projections while formulating the funding levels for CBP's fiscal year 2018 appropriations.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Border Security Operations		
U.S. Border Patrol		
Operations	\$3,760,054,000	\$3,681,084,000
Assets and Support	492,508,000	486,508,000
Office of Training and Development	56,819,000	54,221,000
Subtotal, Border Security Operations	\$4,309,381,000	4,221,813,000 <sup>e</sup>
Trade and Travel Operations		
Office of Field Operations		
Domestic Operations	2,886,008,000	2,734,840,000
International Operations	126,225,000	131,425,000
Targeting Operations	131,941,000	149,773,000

Assets and Support	1,001,815,000	832,367,000
Office of Trade	196,997,000	192,330,000
Office of Training and Development	49,929,000	50,354,000
Subtotal, Trade and Travel Operations	\$4,392,915,000	4,091,089,000
Integrated Operations		
Air and Marine Operations		
Operations	301,908,000	266,764,000
Assets and Support	484,704,000	507,704,000
Air and Marine Operations Center	37,133,000	45,138,000
Office of International Affairs	35,018,000	36,513,000
Office of Intelligence	66,566,000	58,492,000
Office of Training and Development	5,807,000	5,807,000
Operations Support	93,080,000	93,259,000
Subtotal, Integrated Operations	\$1,024,216,000	1,013,677,000
Mission Support		
Enterprise Services	1,336,054,000	1,312,986,000
(Harbor Maintenance Trust Fund)	(3,274,000)	(3,274,000)
Office of Professional Responsibility	180,583,000	167,163,000
Executive Leadership and Oversight	97,809,000	93,908,000
Subtotal, Mission Support	\$1,614,446,000	1,574,057,000
Total, Operations and Support	\$11,340,958,000	10,900,636,000
(by Discretionary Appropriation)	(11,337,684,000)	(10,897,362,000)
(by Harbor Maintenance Trust Fund)	(3,274,000)	(3,274,000)

### Border Security Operations

Although the agreement does not include a provision from prior years mandating a workforce floor for Border Patrol Agents (BPA), CBP is directed to continue working to develop a fully justified workforce staffing model that will provide validated requirements for all US borders and to brief the Committees on its progress in this regard not later than 30 days after the date of enactment of this Act.

Prior to completion of a BPA workforce staffing model, CBP is directed to maintain a minimum staffing presence of 2,212 agents along the northern border, and is expected to increase that number as warranted by ongoing assessments of risk.



Within 120 days of the date of enactment of this Act, CBP shall brief the Committees on actions taken to track the costs and measure the effectiveness of consequence delivery systems. In addition, CBP and the Science and Technology Directorate shall jointly brief the Committees on requirements and a concept of operations for small UAS, as directed in the House report.

#### Trade and Travel Operations

As directed in the House report, CBP shall provide a detailed expenditure plan for biometric exit activities within 90 days of the date of enactment of this Act. To the extent practicable, the plan should outline how innovative technology and effective collaboration with airports and airlines will minimize the need for additional CBP staffing.

Within 180 days of the date of enactment of this Act, CBP shall provide an updated resource allocation model for the Office of Field Operations detailing specific staffing, overtime, hours of operation, and funding for and implementation of planned enforcement initiatives, delineated by field office.

As directed in the House and Senate reports, CBP shall provide a multi-year investment plan for Non-Intrusive Inspection equipment with the fiscal year 2019 budget.

CBP recently implemented its Electronic Visa Update System (EVUS) before securing authority from Congress to impose fees that would cover its costs. As a result, U.S. taxpayers are left to foot a bill of \$27,800,000 for activities that are more appropriately born by visitors to the United States who use the system. The Committees caution that providing appropriated resources for a program benefitting a selected group of travelers is not sustainable. CBP shall provide monthly updates on its efforts to secure statutory authority for fee collections. [e

#### Integrated Operations

An increase of \$15,000,000 above the request is provided to upgrade the UAS fleet to a single configuration. CBP is directed to use any contract savings associated with the UAS reconfiguration to implement high-priority improvements to UAS operations. CBP is also directed to utilize any contract savings from other programs for the deployment, operation, and maintenance of modern DoD-Reuse aerostats to help modernize and enhance surveillance capability, including increased maritime domain awareness of the littoral borders and the integration of data from deployed aerostats into the Air and Marine Operations Center network for analysis and information sharing. An increase of \$8,000,000 above the request is provided for facilities improvements, buildout, and other enhancements necessary to ensure continuity of UAS training programs.

### Mission Support

In the fiscal year 2018 request, CBP is directed to detail all of the costs associated with operating Enterprise Services, including all staffing and administrative support, planned contract awards, and efficiencies realized by establishing this new organizational unit.

CBP is directed to provide quarterly briefings on progress in implementing each of the 39 recommendations made by the CBP Integrity Advisory Panel, as detailed in the Senate report, and on the status of implementing other recommendations on the use of force and employee misconduct, as described in the House report.

CBP continues to struggle in hiring and retaining funded levels of Border Patrol agents and CBP officers, particularly at remote locations along the northern and southern borders. CBP is directed to work with the Office of Personnel Management as necessary to identify and utilize incentives to improve retention in hard to fill locations and to evaluate the potential impact of offering additional career path enhancements to personnel who choose those locations. CBP is encouraged to work with community, local, and tribal colleges to assist with recruitment efforts. In addition, CBP should continue collaborating with DOD, as required by the Border Jobs for Veterans Act (Public Law 114-68), to facilitate the recruitment of personnel exiting the military.

Within 120 days of the date of enactment of this Act, CBP shall brief the Committees on a comprehensive recruitment and retention strategy, including an assessment of options to address agency human capital requirements. In addition, CBP is directed to include the most critical components of this strategy in the 2018 budget request, and to continue providing monthly data to the Committees on frontline staffing levels.

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CBP continues performing capabilities gap (C-GAP) analyses, and more than one year after inquiries on how the analyses fit together, has not articulated how CBP leadership will use the reviews to improve CBP and DHS-wide collaboration and coordination. Within 90 days of the date of enactment of this Act, CBP shall brief the Committees on coordination and results of the requirements analysis process, as detailed in the Senate report.

CBP's finalization of the Single Window streamlined certain manual and automated processes, but more work remains to ensure that industry and Partner Government Agencies communicate efficiently and effectively. Within 90 days of the date of enactment of this Act, CBP shall brief the Committees on the prioritization of development efforts, as well as estimated timelines and costs for refining the Automated Commercial Environment (ACE). CBP is directed to ensure that the rescission of prior year funding for ICE included in this Act does not impact the development or operation and maintenance of ACE.

### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$273,617,000 is provided for Procurement, Construction, and Improvements. The bill includes increases of \$15,941,000 for an additional multi-role enforcement aircraft, \$31,500,000 for additional light enforcement helicopters, and \$43,459,000, as requested, for

continued deployment of Integrated Fixed Towers, including replacement of SBInet Block 1. The bill also includes the following reductions to the request: \$11,000,000 from Non-Intrusive Inspection equipment due to planned carryover of funds into fiscal year 2018; \$19,000,000 associated with a proposed construction project for which insufficient funds were requested; and \$56,507,000 due to the denial of the request to transfer OBIM from NPPD to CBP.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Border Security Assets and Infrastructure	\$45,942,000	\$45,942,000
Trade and Travel Assets and Infrastructure	130,349,000	60,842,000
Integrated Operations Assets and Infrastructure		
Airframes and Sensors	68,617,000	116,058,000
Construction and Facility Improvements	39,775,000	20,775,000
Mission Support Assets and Infrastructure	38,707,000	30,000,000
Subtotal, Procurement, Construction, and Improvements	\$323,390,000	\$273,617,000

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

### OPERATIONS AND SUPPORT

A total of \$6,168,532,000 is provided for Operations and Support. ICE is directed to brief the Committees on its obligation plan for the use of these funds, as specified under title I of this statement.

ICE continues to struggle with financial management across the agency. The underlying problems stem, in large part, from the limited authority and organizational placement of the ICE Chief Financial Officer (CFO) position, which is subordinated to the Executive Associate Directors of the operational units – Homeland Security Investigations and ERO.

The Director of ICE has an inherent fiduciary responsibility to ensure that funding provided by taxpayers to the agency is executed in the most efficient and effective manner possible. As the senior resource manager, the CFO has a vital role as a neutral advisor to the Director on financial management issues. Unless the CFO reports directly to the Director, that individual is not positioned to provide the Director with unfiltered financial information, provide advance warning of concerns, or recommend resource-conscious alternatives. In essence, this lack of information denies the Director full knowledge of resource issues and the ability to make sound decisions based on all relevant information. The Director of ICE is strongly urged to elevate the position of CFO within the organization and to expand the CFO's responsibilities to include agency-wide resource management activities and funds control.

Financial management weaknesses have been a particular problem within ERO, as discussed below under the Custody Operations heading. The lack of fiscal discipline and cavalier management of funding for detention operations, evidenced by inaccurate budget formulation and uneven execution, seems to be the result of a perception that ERO is funded by an indefinite appropriation. This belief is incorrect. ICE has a duty and responsibility to the Department, the Congress, and to taxpayers to be forthright in the identification of its requirements and the proper execution of its funding. It must manage-to-budget and cannot operate under the false perception that Congress will provide a bailout if financial controls fail or are simply ignored.

To begin to address these concerns, a provision in this Act requires the Secretary or the DHS CFO to certify to the Committees on a monthly basis whether ERO is operating consistently with the annual funding levels provided in this Act. The first certification will occur not later than 30 days after the date of enactment of this Act.

Another obstacle to sound financial management at ICE has been its approach to paying for service-wide costs (SWC), such as rent, overtime, utilities, and security. Instead of budgeting transparently for these costs, ICE has historically relied on post-enactment assessments against the appropriations of agency components and programs to support them. Burying SWC in mission budgets makes oversight by ICE leadership and Congress significantly more difficult, leading to unchecked cost growth. In Custody Operations, for instance, SWC funding within the

bed rate grew by 40 percent between fiscal year 2015 and fiscal year 2016; it is estimated to increase by another 33 percent in fiscal year 2017.

OMB Circular A-76 sets a standard of 12 percent as the estimated federal agency overhead factor. Given that ICE also budgets for these types of costs in its Mission Support PPA, it is likely that the agency's overhead total significantly exceeds the OMB standard. For the fiscal year 2018 budget, ICE is directed to provide separate budget estimates and detailed justifications for SWC in appropriate Mission Support sub-PPAs or through one or more new SWC PPAs.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Homeland Security Investigations		
Domestic Investigations	\$1,892,183,000	\$1,834,017,000
International Investigations	146,751,000	159,035,000
Intelligence	81,996,000	80,141,000
Subtotal, Homeland Security Investigations	\$2,120,930,000	\$2,073,193,000
Enforcement and Removal Operations		
Custody Operations	\$2,178,963,000	\$2,557,542,000
Fugitive Operations	133,133,000	151,795,000
Criminal Alien Program	347,455,000	312,350,000
Alternatives to Detention	125,966,000	125,883,000
Transportation and Removal Program	322,694,000	324,236,000
Subtotal, Enforcement and Removal Operations	\$3,108,211,000	\$3,471,806,000
Mission Support	\$364,489,000	\$364,533,000
Office of Principal Legal Advisor	\$268,393,000	\$259,000,000
Subtotal, Operations and Support	\$5,862,023,000	\$6,168,532,000

## Homeland Security Investigations

*Domestic Investigations.* A total of \$1,834,017,000 is provided for Domestic Investigations to support activities outlined in the House and Senate reports. ICE is directed to maintain increased levels of effort for all high-priority mission areas, including overstay enforcement and efforts to combat human trafficking and child exploitation, as detailed in the statement accompanying Public Law 114-113.

Not less than \$305,000 is to promote public awareness of the child pornography tip line and for activities to counter child exploitation, and not less than \$15,770,000 is for investigations of forced labor law violations, to include forced child labor. ICE is directed to submit an annual report on expenditures and performance metrics associated with forced labor law enforcement activities.

Of the total amount provided, \$10,000,000 is for continuing expanded overstay enforcement investigations and investigative support. ICE is expected to target such investigations on individuals who pose a risk to the public, and shall brief the Committees on the proposed use of these funds and on its overall overstay enforcement efforts, including its support of Department-wide activities as described in Senate Report 114-264, within 60 days of <sup>the date of</sup> enactment of this Act.

In addition, not less than \$10,000,000 is for expanding investigations into severe forms of human trafficking and against suspected human traffickers.

Within the total for Domestic Investigations, \$5,000,000 is provided above the request to fully fund ICE's implementation of International Megan's Law, including the Angel Watch Center. In addition, \$3,000,000 above the request is provided for enhancements at the Child Exploitation Investigations Unit at the Cyber Crimes Center, including \$2,000,000 for the Child Victim Identification Section and \$1,000,000 for CEIU operations. <sup>(CEIU)</sup>

The Student and Exchange Visitor Information System (SEVIS) was launched in 2002 to mitigate critical vulnerabilities exploited by the 9/11 hijackers. ICE is urged to make use of the full \$171,000,000 in anticipated fee revenue for SEVIS, \$26,000,000 more than the estimate included in the budget request, to expedite system development and dedicate additional investigative hours to ensuring that students who fail to comply with the terms of their visas face appropriate consequences.

*International Investigations.* A total of \$159,035,000 is provided for International Investigations, including \$18,000,000 above the request for the Visa Security Program to annualize the costs of the previously funded program expansion and for expansion to additional high priority locations. ICE is directed to use the risk-based methodologies and enforcement metrics outlined in the Senate report to continue to plan and budget for Visa Security Program expansion to at least two high-threat locations per year in future budget requests. Efforts to combat the smuggling and trafficking of children from Central America shall be continued in fiscal year 2017 at not less than the fiscal year 2016 level.



ICE shall allocate not less than \$5,300,000 for war crime investigations, including but not limited to training, transportation, and hiring additional personnel at the OPLA Human Rights Law Section and the HSI Human Rights Violators and War Crimes Unit.

### Enforcement and Removal Operations

A total of \$3,471,806,000 is provided for Enforcement and Removal Operations.

ICE's sex offender notifications are not consistently reaching the appropriate law enforcement agencies, despite prior direction from the Senate to remediate this problem. The agreement includes an additional \$2,000,000 to enhance and augment current efforts to apprise local law enforcement agencies of offender releases. This funding shall be used for contracts with entities to notify the appropriate local law enforcement agencies in real time based on an address given by offenders upon their release from ICE. Notifications should include specific crime code information so that they can be properly handled and received by the assigned personnel within the local law enforcement agencies.

*Custody Operations.* A total of \$2,557,542,000 is provided for Custody Operations, an increase of \$378,579,000 over the requested amount. This additional funding reflects the surge in the number of aliens placed into removal proceedings and detention after crossing our southern border during the first quarter of fiscal year 2017.

Even without the increased flow of aliens into the country, ICE's fiscal year 2017 budget request negligently and knowingly used a flawed projection of the Average Daily Population (ADP) based on a seasonally low data point, despite knowing full well that historical trends supported a higher annual detention bed requirement. Further, the daily bed rate used to calculate the funding requirement for family detention was almost half of the actual rate because ICE assumed substantial but unrealistic savings that were not based on a validated cost estimation methodology.

For the past several years, the agency's forecast for the required number of detention beds and its cost estimates have resulted in budget requests that missed the mark by wide margins. In fiscal years 2014 and 2015, ICE reprogrammed a combined total of \$83 million out of Custody Operations because of a lower than planned ADP, only to reprogram \$127 million back into Custody Operations in fiscal year 2016 because the estimated number of beds needed and the average daily cost used in the budget request were grossly insufficient.

Accurately formulating the budget request for detention beds depends on two key variables – the cost per bed and the number of beds needed, as determined by the ADP. While ICE has the tools to develop reliable and detailed cost estimates for detention beds, it does not consistently use those tools in the formulation of the budget request. Even with more accurate estimates of bed rates, however, ICE simply has no model for estimating ADP. While there are factors beyond ICE's control that affect the size of the ADP in detention, such as the number of apprehensions by CBP, a model better informed by historical averages and seasonal trends would be a more prudent approach for forecasting the number of beds needed in the next fiscal year.

It is apparent that additional oversight and audit work in this area is needed. Therefore, the Government Accountability Office (GAO) is directed to review ICE's current methodologies for determining detention resource requirements, including its approach to estimating the ADP requirement; evaluate ICE's efforts to improve the accuracy of its cost estimates and projections; and report to the Committees within 180 days of the date of enactment of this Act on GAO's conclusions, including any appropriate recommendations.

To ensure costs are estimated using sound methodology, in the fiscal year 2018 Congressional Budget Justification, ICE shall fully detail the methodology used to determine the bed rate, including the bed model output costs assumed for each ~~AOR~~ and facility type. All changes in the various cost categories must be fully explained, rather than generally justified as an increase in the bed rate. The inclusion of indirect, service-wide costs into the calculation for beds obscures the actual cost for detention beds and allows ICE to increase overhead costs without identifying the true nature of the increase. Therefore, ICE shall no longer include indirect costs in the calculation for detention beds.

area of responsibility

ICE must also improve its contracting process for detention beds. The agency has approximately 400 contracts with more than 200 detention facilities, each having varying services, costs, terms, and conditions. While contracts for detention beds are negotiated by the Office of Acquisition Management (OAQ), the Field Offices notify OAQ when more beds are needed and are responsible for reviewing vendor invoices for accuracy before submitting them for payment. However, there is neither a standard template for contracts nor a consistent method for Field Offices to validate invoices. ICE is directed to brief the Committees on actions it has taken to improve this process not later than 30 days after ~~enactment of this Act.~~

the date of

Also within 30 days of the date of enactment of this Act, and quarterly thereafter, ICE shall provide an update on its oversight of adult and family detention facilities. These updates shall include information on the number of detention facility inspections conducted, detailed results of the inspections, and the estimated costs of such reviews. Additionally, updates on family facilities are to incorporate recommendations for improvements made by the Advisory Committee on Family Residential Centers or as a result of ICE's community liaison office.

Within 45 days after the date of enactment of this Act, ICE shall report on its progress in implementing the 2011 ~~Prison~~ Based National Detention Standards, including the 2016 revisions, and requirements related to the Prison Rape Elimination Act, as detailed in the House report.

Performance

*Fugitive Operations.* A total of \$151,795,000 is provided for Fugitive Operations. ICE is directed to continue support for Mobile Criminal Alien Teams and to target individuals who pose a threat to the public, as described in the Senate report.

*Criminal Alien Program.* A total of \$312,350,000 is provided for the Criminal Alien Program, including support for 287(g) memoranda of agreement and \$34,500,000 for resources and full-time law enforcement personnel at the Law Enforcement Support Center. As discussed in the Senate report, ICE shall avoid duplicating LESC activities in other parts of the country. While ICE has expanded its enforcement priorities, it is expected that the agency will continue to

(LESC)



emphasize the apprehension and removal of individuals posing the greatest threat to the safety and security of communities.

Section 10 of Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*, directed the Secretary to terminate the Priority Enforcement Program (PEP) and reinstate the Secure Communities Program. The essential distinction between the two programs is the manner in which ICE seeks the transfer of individuals into its custody from local law enforcement agencies (LEA). Under Secure Communities, ICE issues detainers to LEAs, requesting that they maintain custody of individuals identified by ICE as enforcement priorities for up to 48 hours beyond the time the individuals would otherwise be released. Under PEP, ICE primarily issued requests that law enforcement agencies notify ICE prior to when such individuals would normally be released, although detainers were still issued under some circumstances. (lc)

In 2016, ICE reported that PEP's notification alternative was effective in eliciting cooperation from most jurisdictions that, by 2015, had stopped honoring ICE detainers. Before Secure Communities was replaced by PEP, 377 jurisdictions refused to comply with some or all ICE detainers. By the end of 2016, 280 of those jurisdictions (74 percent) had reestablished some level of cooperation with ICE by responding to requests for notification, honoring detainers, or both, including 21 out of the largest 25 such jurisdictions. ICE should ensure that the reinstatement of the Secure Communities program does not undermine the progress it made through PEP in 2015 and 2016. Specifically, ICE should continue to work with LEAs that are willing to notify ICE prior to releasing individuals who are enforcement priorities. To the extent that notifications from LEAs have not always provided ICE with enough advance warning to take custody of criminal aliens, ICE should continue working with LEAs to ensure that notifications are made in a more timely fashion.

Within 60 days of the date of enactment of this Act and quarterly thereafter, ICE shall provide a report to the Committees on the number of detention requests issued and actual custody transfers to ICE by state and local law enforcement jurisdiction, criminal category, immigration status, gender, country of citizenship, and enforcement priority. In addition, the report shall detail the same information for criminal aliens released by non-participating jurisdictions, and should describe ICE's efforts to solicit the cooperation of such jurisdictions.

~~The Committees understand that~~ ICE is actively planning to expand participation in the 287(g) program to several jurisdictions. A state or local law enforcement entity selected for the program receives specialized training in immigration law and other topics at the Federal Law Enforcement Training Center and enters into a joint Memorandum of Agreement (MOA) with ICE in order to receive delegated authority to enforce immigration laws within their jurisdictions. Upon arrest of a suspect, the local law enforcement partner enters identifying information into both criminal and immigration databases during booking. Historically, this approach, used in penitentiaries, jails, or other detention facilities, has proven effective in identifying and removing criminal aliens while reducing allegations of racial profiling more common in the task force model. The specific funding level provided for the program has been e  
[S]

eliminated from the bill, as the level was outdated and did not reflect the current, let alone the proposed, level of resources dedicated to this program. ICE is directed to brief the Committees on proposed expansion and metrics used to evaluate participation within 90 days of the date of enactment of this Act.

*Alternatives to Detention.* A total of \$125,883,000 is provided for the Alternatives to Detention (ATD) program. ICE shall prioritize ATD participation for vulnerable populations, including families, as appropriate.

*Transportation and Removal Program.* A total of \$324,236,000 is provided for the Transportation and Removal Program, an increase of \$1,542,000 above the amount requested.

#### Mission Support

A total of \$364,533,000 is provided for Mission Support. Within the total, \$82,000,000 is for the Office of Professional Responsibility and \$6,000,000 is provided to develop and execute a comprehensive plan for immigration data improvement, as detailed in the Senate report. To ensure high-level engagement in support of this critical endeavor, the Act withholds \$25,000,000 from obligation under ICE's Operations and Support account until the Director submits a comprehensive plan to the Committees.

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$29,800,000 is provided for Procurement, Construction, and Improvements. Within the total, \$16,000,000 is for TECS Modernization, a funding level in line with projected fiscal year 2017 obligations. ICE is directed to brief the Committees on the development of this system as specified in the Committee reports.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Operational Communications/Information Technology	\$21,000,000	\$16,000,000
Construction and Facility Improvements	7,000,000	---
Mission Support Assets and Infrastructure	22,230,000	13,800,000
Subtotal, Procurement, Construction, and Improvements	\$50,230,000	\$29,800,000

## TRANSPORTATION SECURITY ADMINISTRATION

## OPERATIONS AND SUPPORT

A total of \$7,105,047,000 is provided for Operations and Support, an amount that is partially offset by \$2,130,000,000 in estimated aviation security fee collections that are credited to this appropriation, as authorized, resulting in a net appropriation of \$4,975,047,000. In addition, a mandatory appropriation totaling \$250,000,000 is available through the Aviation Security Capital Fund.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Aviation Screening Operations		
Screening Workforce		
Screening Partnership Program	\$170,382,000	\$177,982,000
Screeners Personnel, Compensation, and Benefits	3,045,941,000	3,221,124,000
Screeners Training and Other	235,668,000	239,119,000
Airport Management	572,564,000	572,967,000
Canines	131,391,000	153,969,000
Screening Technology Maintenance	284,834,000	284,834,000
Secure Flight	101,721,000	101,721,000
Subtotal, Aviation Screening Operations	\$4,542,501,000	\$4,751,716,000
Other Operations and Enforcement		
Inflight Security		
Federal Air Marshals	\$815,313,000	\$802,953,000
Federal Flight Deck Officer and Crew Training	19,773,000	22,273,000
Aviation Regulation	218,296,000	218,296,000
Air Cargo	95,692,000	94,682,000
Intelligence and TSOC	83,520,000	80,820,000
Surface Programs	122,716,000	122,716,000
Vetting Programs	65,751,000	65,751,000
Subtotal, Other Operations and Enforcement	\$1,421,061,000	\$1,407,491,000
Mission Support	\$951,375,000	\$945,840,000

Subtotal, Operations and Support (gross)	\$6,914,937,000	\$7,105,047,000
Subtotal, Operations and Support (net)	\$3,904,937,000	\$4,975,047,000

### Aviation Screening Operations

A total of \$4,751,716,000 is provided for Aviation Screening Operations.

In fiscal year 2016, the air travel industry experienced significant growth, resulting in passenger volume at TSA checkpoints that exceeded the capacity supported by the agency's budgeted resources. In response, Congress swiftly approved three requests to reprogram and transfer funds to address immediate staffing needs and other urgent operational requirements to reduce wait times and increase security at TSA checkpoints, including the hiring of additional Transportation Security Officers (TSOs) and the procurement of critical screening equipment and canines. The total provided for fiscal year 2017 reflects increases to annualize the costs of these actions and address the continued growth in passenger volume, including: \$136,592,000 for an additional 1,396 FTE; \$38,591,000 for additional overtime and other unanticipated screener costs; \$3,451,000 for training for TSOs; \$22,528,000 to annualize the cost of 50 additional canine teams and associated requirements; and \$4,443,000 for support costs associated with the hiring of new TSOs and canine teams. An increase of \$7,600,000 is also provided to fully fund fiscal year 2017 requirements for the Screening Partnership Program. The total also reflects decreases to the request totaling \$6,040,000 due to projected under execution of proposed FTE in non-screener programs.

As directed in the House and Senate reports, TSA shall brief the Committees not later than 30 days after the date of enactment of this Act on a comprehensive assessment of operational requirements to improve the security and efficiency of passenger and baggage screening, including long-term efforts and contingency plans to predict and respond to changing passenger volumes without compromising security.

TSA is directed to brief the Committees on its canine requirements and future plans for expanding the National Explosives Detection Canine Team Program not later than 30 days after the date of enactment of this Act. TSA shall consider passenger volume and risk assessments when determining the deployment of the 50 new canine teams and the re-deployment of existing teams.

In lieu of the funding and direction in the House and Senate reports, the bill includes \$3,400,000 to establish a program whereby third parties can perform air cargo screening services using canines. TSA shall work with the air cargo industry and canine providers, as well as any relevant law enforcement organizations to identify initial locations for implementing the program. Based on lessons learned at the initial sites, TSA shall work with stakeholders to outline minimum criteria for future entrance to the program. The criteria should consider the potential benefits of using third-party canine teams in the air cargo environment. Further, in assessing the right model for canine team certification, TSA shall ensure that costs to taxpayers are minimized and that scalability to meet industry demand is maximized. TSA is directed to

brief the Committees not later than 60 days after the date of enactment of this Act on a timeline for implementation of the program.

Sufficient funds are included to support TSA's training activities at the Glynco Campus of the Federal Law Enforcement Training Centers, which now provides a basic training program for all new screeners. Before TSA moves forward with permanent investments in the campus related to this training, it must develop a business case to justify the cost of such training, including metrics related to increased TSO performance, improved morale, and better managed attrition. Further, TSA must assess the appropriate timing in a screener's onboarding process for such basic training to occur. TSA shall brief the Committees within 30 days of the date of enactment of this Act on the business case.

In lieu of the direction in the Senate report, TSA shall implement a pilot program for airports that procure, install, and operate exit lane breach control (ELBC) systems on a non-reimbursable basis that, for the duration of the pilot, reallocates any resulting FTE savings to address screening capacity challenges at the same airport where the exit lane pilot is being conducted. The reallocated personnel shall be in addition to existing screening staff assigned to the airport checkpoint prior to the deployment of ELBC technology. The procurement of ELBC systems shall be consistent with TSA's Airport Exit Lane toolbox and exit lane security guidelines, including technologies in use at airports today.

#### Other Operations and Enforcement

A total of \$1,407,491,000 is provided for Other Operations and Enforcement. Within the total are decreases totaling \$21,130,000 due to projected under execution of proposed FTE. Also within the total is an increase of \$2,500,000 for the Federal Flight Deck Officer (FFDO) and Flight Crew Training Program, including \$2,000,000 to ensure training slots are available to interested pilots and \$500,000 to conduct an analysis of training facility requirements for the FFDO Program.

TSA has convened appropriate stakeholders to initiate a national partnership framework for public area security in airports. This effort is overdue, given long-acknowledged threats and tragic incidents in the U.S. and around the globe, and stakeholders should be commended for their active participation. TSA shall brief the Committees within 180 days of the date of enactment of this Act on its progress in establishing principles and developing the framework.

#### Mission Support

A total of \$945,840,000 is provided for Mission Support, which accounts for the annualized support costs associated with the hiring and training of additional TSOs and canine teams, as well as the projected under execution of proposed FTE and other administrative savings.

## PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$206,093,000 is provided for Procurement, Construction, and Improvements (PC&I).

Under the new DHS appropriations structure, all components are expected to use common, standardized appropriations and PPAs to fund activities and other spending items that are based on a consistent definition. As defined in the DHS Financial Policy Manual, the PC&I appropriation is intended to fund the “costs associated with buying, building, or improving end items – tools, assets, systems, and facilities – prior to sustainment.” However, TSA’s proposed fiscal year 2017 PC&I budget included numerous spending items that are not appropriately funded within this appropriation. TSA is directed to adhere to the guidance in the DHS Financial Policy Manual in its fiscal year 2018 budget request.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Aviation Screening Infrastructure		
Checkpoint Support	\$111,079,000	\$111,079,000
Checked Baggage	59,331,000	59,331,000
Infrastructure for Other Operations		
Air Cargo	14,383,000	14,383,000
Surface Programs	15,000,000	15,000,000
Vetting Programs	6,300,000	6,300,000
Subtotal, Procurement, Construction, and Improvements	\$206,093,000	\$206,093,000

## Aviation Screening Infrastructure

A total of \$170,410,000 is provided for Aviation Screening Infrastructure. TSA is directed to brief the Committees not later than 90 days after the date of enactment of this Act on the progress of the Innovation Task Force and the status of any pilot programs.

## RESEARCH AND DEVELOPMENT

A total of \$5,000,000 is provided for Research and Development.



## COAST GUARD

## OPERATING EXPENSES

A total of \$7,079,628,000 is provided for Operating Expenses, including \$502,692,000 for defense activities, of which \$162,692,000 is designated for overseas contingency operations (OCO) and the global war on terrorism (GWOT), which may be allocated without regard to section 503 in title V of this Act.

Included in the total is \$4,490,000 to increase the staffing of the Coast Guard's Cyber Command and to establish a Cyber Protection Team to enhance the Coast Guard's cyber capabilities. Not later than 90 days after the date of enactment of this Act, the Coast Guard shall brief the Committees on plans, including funding strategy, for improving the cybersecurity posture of the Coast Guard and balancing requirements of operating within the ".mil" domain while adhering to DHS cyber directives. [a]

The Coast Guard is directed to submit to the Committees a Capital Investment Plan (CIP) for fiscal years 2018 through 2022 by June 30, 2017.

The Coast Guard is directed to move quickly in approving additional ~~BWMS~~ and shall work with the Environmental Protection Agency to reexamine whether the most probable number method can be used as an alternative for testing the effectiveness of treatment systems. The Coast Guard is further directed to brief the Committees on the status of its BWMS testing efforts as set forth in the House report. [ballast water management systems (BWMS)]

Within the amount appropriated for Operating Expenses, a total of \$6,000,000 is included to initiate a fishing safety grant programs, as authorized by the Coast Guard Authorization Act of 2010. This amount is offset by savings derived from lower than expected fuel costs. [e]

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committees a report on the Coast Guard's plans to ensure long-term search and rescue coverage for the Arctic. This report shall also address the Coast Guard's capability for conducting response missions throughout the Western Alaska Captain of the Port Zone, including the Bering Sea and Arctic Ocean. The report shall provide details on pollution response equipment; spill response organizations; spill prevention and mitigation methods; and response partnerships with federal, state, and local entities.

Within the total for Operating Expenses, an additional \$4,750,000 is provided for the procurement of small response boats in fiscal year 2017. This amount is offset by savings derived from lower than expected fuel costs. In addition, long-standing language is included in the bill authorizing the use of up to \$31,000,000 from the Operating Expenses appropriation for certain small boat purchases and repairs.

Within the amount appropriated for Operating Expenses, \$5,000,000 is included for the National Coast Guard Museum, subject to the limitations specified in 98(b) of title 14, United States Code.

The Coast Guard Yard, located at Curtis Bay, Maryland, directly supports fleet readiness and has been a vital part of the Coast Guard's readiness and infrastructure for more than 100 years. Sufficient industrial work should be assigned to the Yard to maintain this capability.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operating Expenses		
Military Pay and Allowances	\$3,597,319,000	\$3,544,111,000
Civilian Pay and Benefits	817,324,000	808,969,000
Training and Recruiting	198,605,000	196,346,000
Operating Funds and Unit Level Maintenance	996,204,000	995,519,000
Centrally Managed Accounts	329,099,000	328,746,000
Intermediate and Depot Level Maintenance	1,048,264,000	1,043,245,000
Overseas Contingency Operations/Global War on Terrorism	---	162,692,000
Subtotal, Operating Expenses	\$6,986,815,000	\$7,079,628,000
(Defense, less OCO)	(340,000,000)	(340,000,000)

*Military Pay and Allowances.* A total of \$3,544,111,000 is provided for Military Pay and Allowances. The funded level reflects \$53,208,000 in savings resulting from a more realistic recruiting and retention level for the fiscal year.

*Civilian Pay and Benefits.* A total of \$808,969,000 is provided for Civilian Pay and Benefits, including \$8,355,000 in adjustments reflecting a more realistic hiring and attrition level for the fiscal year. The total includes \$788,000 for additional personnel needed to implement the Blended Retirement System.

*Overseas Contingency Operations/Global War on Terrorism Funding.* Funding for Coast Guard OCO/GWOT activities is provided directly through the Operating Expenses appropriation instead of through the Navy's Operation and Maintenance account. The Coast Guard is directed to brief the Committees not later than 30 days after the date of enactment of this Act on any changes expected in the funding requirement for OCO/GWOT activities during fiscal year 2017. Further, the Coast Guard is directed to include details of its current and future support to Central Command in the classified annex of the fiscal year 2018 budget request.

#### ENVIRONMENTAL COMPLIANCE AND RESTORATION

A total of \$13,315,000 is provided for Environmental Compliance and Restoration.



## RESERVE TRAINING

A total of \$112,302,000 is provided for Reserve Training.

## ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

A total of \$1,370,007,000 is provided for Acquisition, Construction, and Improvements.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Acquisition, Construction, and Improvements		
Vessels		
Survey and Design – Vessel and Boats	\$6,500,000	\$9,500,000
In-Service Vessel Sustainment	79,000,000	94,000,000
National Security Cutter	127,000,000	255,400,000
Offshore Patrol Cutter	100,000,000	75,000,000
Fast Response Cutter	240,000,000	325,000,000
Cutter Boats	4,000,000	4,000,000
Polar Ice Breaking Vessel	147,600,000	25,000,000
Subtotal, Vessels	\$704,100,000	\$787,900,000
Aircraft		
HC-144 Conversion/Sustainment	25,500,000	25,500,000
HC-27J Conversion/Sustainment	130,000,000	130,000,000
HC-130J Acquisition/Conversion/Sustainment	20,800,000	111,800,000
HH-65 Conversion/Sustainment Projects	25,000,000	40,000,000
Subtotal, Aircraft	\$201,300,000	\$307,300,000
Other Acquisition Programs		
Other Equipment and Systems	8,055,000	8,055,000
Program Oversight and Management	20,000,000	20,000,000
C4ISR	24,300,000	24,300,000
CG - Logistics Information Management System (CG-LIMS)	7,000,000	7,000,000
Subtotal, Other Acquisition Programs	\$59,355,000	\$59,355,000

## Shore Facilities and Aids to Navigation:

Major Construction; Housing; ATON; and Survey &amp; Design

18,100,000 44,519,000

Major Acquisition Systems Infrastructure

28,000,000 50,000,000

Minor Shore

5,000,000 5,000,000

Subtotal, Shore Facilities and Aids to Navigation

\$51,100,000 \$99,519,000

Personnel and Related Support Costs

\$120,933,000 \$115,933,000

Subtotal, Acquisition, Construction, and Improvements

\$1,136,788,000 \$1,370,007,000

## Vessels

*Survey and Design – Vessels and Boats.* A total of \$9,500,000 is provided in support of survey and design, including \$2,000,000 for initial survey and design work associated with the acquisition of icebreaking capacity on the Great Lakes as detailed in the Senate Report and \$1,000,000 for the Inland River Tender fleet.

*National Security Cutter.* A total of \$255,400,000 is provided for the National Security Cutter (NSC) program. The total includes \$95,000,000 for procurement of long lead time materials associated with a tenth National Security Cutter, and \$3,400,000 for post-delivery activities for the ninth NSC. In addition, \$30,000,000 is included to support a necessary Structural Enhancement Dry-dock Availability (SEDA) for the second NSC.

*Offshore Patrol Cutter.* The policy requiring the Coast Guard to obtain appropriations for the total acquisition cost of a vessel, including long lead time materials, production costs, and post-production costs, before a production contract can be awarded has the potential to create shipbuilding inefficiencies, force delays in the obligation of production funds, and require post-production funds far in advance of when they will be used. The Office of Management and Budget is expected to give the Coast Guard the flexibility to acquire vessels, including the Offshore Patrol Cutter (OPC), in the most efficient manner within the guidelines of strict governance measures.

*Fast Response Cutter.* A total of \$325,000,000 is provided for the Fast Response Cutter program for the acquisition of six cutters.

*Polar Ice Breaker.* To support the procurement of a heavy ice breaker, \$25,000,000 is provided for a new joint acquisition strategy developed by the Coast Guard and the U.S. Navy through a Polar Ice Breaking Vessel Integrated Program Office (IPO). These funds are in addition to \$30,000,000 already reprogrammed to this effort in fiscal year 2017. Under the new strategy, the IPO will obtain detailed industry feedback through trade-off analyses to further

refine and validate operational requirements. A report on polar icebreaker requirements, preferred design, overall acquisition strategy, and a breakout of funds necessary to support the acquisition shall be submitted to the Committees not later than 90 days after the date of enactment of this Act.

#### Aircraft

*HC-130J Aircraft.* An additional \$90,000,000 above the request is provided for one fully-missionized HC-130J aircraft.

#### Shore Facilities

Within the AC&I total, \$44,519,000 is for construction of shore facilities, including \$10,000,000 for addressing needs on the Unfunded Priorities List and \$15,005,000 to begin repairs on facilities damaged by Hurricane Matthew.

The Senate report encouraged the Coast Guard to explore the use of water purification systems free of bromine. Within 90 days of the date of enactment of this Act, the Coast Guard shall brief the Committees on the costs, benefits, and feasibility of adopting this new type of system.

*Major Acquisition Systems Infrastructure.* A total of \$50,000,000 is provided for ~~Major Acquisition System Infrastructure~~, including \$22,000,000 to support the Coast Guard's plan to homeport OPCs in the arctic region to replace aging assets.

#### RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

A total of \$36,319,000 is provided for Research, Development, Test, and Evaluation. The Coast Guard is directed to examine the feasibility, costs, and benefits of conducting intelligence, surveillance, and reconnaissance missions in transit zones using long range/ultra-long endurance, land based, unmanned aerial systems. Within the total provided for RDT&E, \$18,000,000 is included for the Coast Guard, in collaboration with ~~U.S. Customs and Border Protection and the Science & Technology~~ directorate, to perform an analysis of alternatives (AoA) on available systems and mission equipment packages before conducting a proof of concept demonstration of selected systems. The Coast Guard shall brief the Committees on its plans for conducting the AoA and proof of concept within 180 days after the date of enactment of this Act. Further, the Coast Guard, along with CBP and S&T, shall brief the Committees on the results of the demonstration within 90 days following its completion.

(RDT&E)

CBP  
and  
S&T

## UNITED STATES SECRET SERVICE

## OPERATIONS AND SUPPORT

A total of \$1,821,451,000 is provided for Operations and Support, including the following increases above the request: \$13,000,000 for additional overtime pay; \$28,500,000 for additional agent relocation costs; \$8,000,000 for retention efforts; an additional \$9,000,000 for the electronic crimes special agent training program; and \$6,000,000 for missing and exploited children investigations. The recommendation includes a decrease to the President's budget request of \$21,044,000 to fund a realistic and achievable number of FTE. Within the total, \$42,966,000 is available until September 30, 2018, to include \$6,000,000 for investigations related to missing and exploited children; \$5,557,000 for the James J. Rowley Training Center; \$8,909,000 for Operational Mission Support; \$18,000,000 for protective travel; and \$4,500,000 for National Special Security Events (NSSE).

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Protective Operations		
Protection of Persons and Facilities	\$586,988,000	\$599,759,000
Protective Countermeasures	58,193,000	58,193,000
Protective Intelligence	40,732,000	44,490,000
Presidential Campaigns and National Special Security Events	48,634,000	51,734,000
Subtotal, Protective Operations	\$734,547,000	\$754,176,000
Field Operations		
Domestic and International Field Operations	761,427,000	763,271,000
Support for Missing and Exploited Children Investigations	---	6,000,000
Support for Computer Forensics Training	4,869,000	13,869,000
Subtotal, Field Operations	\$766,296,000	\$783,140,000
Basic and In-Service Training and Professional Development	59,575,000	59,507,000
Mission Support	217,574,000	224,628,000

Subtotal, Operations and Support

\$1,777,992,000 \$1,821,451,000

The recommendation includes \$13,000,000 to implement new overtime payment authority for agents and officers authorized by Public Law 114-31. Due to the heavy demands of the 2016 presidential campaign, and also as a result of the attrition and hiring challenges that have plagued the USSS over the last several years, many agents and officers exceeded the previous legislative cap on overtime pay. This additional funding supports compensation for overtime, combined with basic pay, up to the annual rate of basic pay for level II of the Executive Schedule.

United  
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(USSS)

Increases to the request are also included to fully support permanent change of station requirements and for necessary retention initiatives. The USSS is directed to fully budget for all known requirements in future years for these efforts. Congress should not be forced to fund known requirements purposely omitted from the budget request.

The agreement includes \$13,869,000 to enhance current USSS investigative initiatives, including the Electronic Crimes Special Agent Program and Electronic Crimes Task Force missions, and basic and advanced computer forensics training. The Secret Service shall provide periodic briefings to the Committees on the status of investigations and ensure that the associated funding and personnel resources continue to be identified in future budgets.

The bill sustains the fiscal year 2016 funding level of \$2,366,000 for forensic and investigative support related to missing and exploited children and \$6,000,000 for grants related to investigations of missing and exploited children.

In addition, the bill continues to provide \$4,500,000, as requested, to defray costs specific to Secret Service execution of its statutory responsibilities to direct the planning and coordination of NSSEs. A general provision in the Act prohibits the use of funds to reimburse any federal department or agency for its participation in an NSSE. The Secret Service is directed to provide periodic updates to the Committees on NSSEs planned for fiscal year 2017 prior to and following each event.

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$90,627,000 is provided for Procurement, Construction, and Improvements, including reductions of \$10,000,000 from protection infrastructure and \$10,000,000 from investments in Information Integration and Technology Transformation programs due to carryover of prior year funds.

← [ ]

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Protection Assets and Infrastructure	\$47,737,000	\$37,737,000
Operational Communications/Information Technology	62,890,000	52,890,000
Subtotal, Procurement, Construction, and Improvements	\$110,627,000	\$90,627,000

## RESEARCH AND DEVELOPMENT

A total of \$2,500,000 is provided for Research and Development, as requested.

TITLE II—ADMINISTRATIVE PROVISIONS--THIS ACT

Section 201. A provision proposed by the House and Senate is continued and modified regarding overtime compensation.

Section 202. A provision proposed by the House and Senate is continued and modified allowing CBP to sustain or increase operations in Puerto Rico with appropriated funds.

Section 203. A provision proposed by the House and Senate is continued prohibiting the transfer of aircraft and related equipment out of CBP unless certain conditions are met.

Section 204. A provision proposed by the House and Senate is continued regarding the availability of COBRA fee revenue.

Section 205. A provision proposed by the House and Senate is continued and modified allowing CBP access to certain reimbursements for preclearance activities.

Section 206. A provision proposed by the House and Senate is continued regarding the importation of prescription drugs by an individual for personal use.

Section 207. A provision proposed by the House and Senate is continued and modified regarding waivers of the Jones Act.

Section 208. A provision proposed by the House and Senate is continued prohibiting the collection of new land border fees or the study of the imposition of such fees.

Section 209. A provision proposed by the House and Senate is continued allowing the Secretary to reprogram and transfer funds within and into “U.S. Immigration and Customs Enforcement – Operations and Support” to ensure the detention of aliens prioritized for removal.

Section 210. A provision proposed by the House and Senate is continued prohibiting the use of funds provided under the heading “U.S. Immigration and Customs Enforcement – Operations and Support” for the 287(g) program if the terms of the agreement governing the delegation of authority have been materially violated.

Section 211. A provision proposed by the House and Senate is continued prohibiting the use of funds provided under the heading “U.S. Immigration and Customs Enforcement – Operations and Support” to contract for detention services if the facility receives less than “adequate” ratings in two consecutive performance evaluations.

Section 212. A provision proposed by the Senate is included requiring the Secretary to submit a plan for immigration data improvement not later than 90 days after the date of enactment of this Act. The House proposed no similar provision.

Section 213. A provision proposed by the House and Senate is continued clarifying that certain elected and appointed officials are not exempt from federal passenger and baggage screening.

Section 214. A provision proposed by the House and Senate is continued that directs TSA to deploy explosives detection systems based on risk and other factors.

Section 215. A provision proposed by the House and Senate is continued authorizing TSA to use funds from the Aviation Security Capital Fund for the procurement and installation of explosives detection systems or for other purposes authorized by law.

Section 216. A provision proposed by the House and Senate is continued that requires TSA to submit a report on TSA passenger and baggage screening.

Section 217. A provision proposed by the House and Senate is continued prohibiting the use of funds in abrogation of the statutory requirement for TSA to monitor certain airport exit points.

Section 218. A provision proposed by the House and Senate is continued under the heading "Coast Guard – Operating Expenses" prohibiting funds made available by this Act for recreational vessel expenses, except to the extent fees are collected from owners of yachts and credited to this appropriation.

Section 219. A provision proposed by the House and Senate is continued and modified allowing up to \$10,000,000 to be reprogrammed to or from "Coast Guard – Operating Expenses" for Military Pay and Allowances.

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Section 220. A provision proposed by the House and Senate is continued prohibiting funds from being used to reduce the Coast Guard's Operations Systems Center mission or its government-employed or contract staff.

Section 221. A provision proposed by the Senate is continued prohibiting funds to be used to conduct or implement the results of a competition under Office of Management and Budget Circular A-76 with respect to the Coast Guard National Vessel Documentation Center. The House proposed no similar provision.



Section 222. A provision proposed by the House and Senate is continued prohibiting the Secretary from reducing operations within the Coast Guard's Civil Engineering Program except as specifically authorized by a statute enacted after the date of enactment of this Act.

Section 223. A provision proposed by the House and Senate is continued related to the allocation of funds for Overseas Contingency Operations/Global War on Terrorism.

Section 224. A provision proposed by the House and Senate is continued allowing the Secret Service to obligate funds in anticipation of reimbursement for personnel receiving training.

Section 225. A provision proposed by the House and Senate is continued prohibiting funds made available to the Secret Service for the protection of the head of a federal agency other than the Secretary of Homeland Security, except where the Director has entered into an agreement for such protection services.

Section 226. A provision proposed by the House and Senate is continued limiting the opening of domestic and international field offices by the Secret Service.

Section 227. A provision proposed by the House and Senate is continued and modified allowing the reprogramming of funds within "United States Secret Service – Operations and Support".

Section 228. A provision proposed by the House and Senate is continued and modified allowing for funds made available for the USSS Operations and Support to be available for travel of employees on protective missions without regard to the limitations on such expenditures.

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## TITLE III – PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

## NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

## OPERATIONS AND SUPPORT

A total of \$1,372,268,000 is provided for Operations and Support of the National Protection and Programs Directorate (NPPD), including \$235,429,000 for the Office of Biometric Identity Management (OBIM). Based on under-execution of funding for personnel, the Act reduces the request by \$37,781,890 and 386 FTE. To help address the need to retain and hire personnel with the requisite cybersecurity skills, however, the total includes all funding requested for special cyber pay and bonuses.

In lieu of the briefing required in Senate Report 114-264, NPPD is directed to include with the fiscal year 2018 budget request a 5-year plan to ensure appropriate office space for headquarters, regional, and field staff. The plan shall ensure headquarters staff is appropriately consolidated and whenever possible regional offices are collocated with other components to maximize mission collaboration. e [five]

Not later than 90 days after the date of enactment of this Act, NPPD shall provide a report to the Committees describing the definition and process used to categorize each amount in the NPPD PPAs as either defense or non-defense.

In lieu of the requirement in the Senate report regarding strategic documentation for proposed increases for Protective Security Advisors or Cyber Security Advisors, NPPD shall include detailed justifications in the budget request.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Cybersecurity		
Cyber Readiness and Response		
NCCIC Operations	\$116,168,000	\$108,402,000
(CERT)	(94,134,000)	(86,368,000)
NCCIC Planning and Exercises	92,683,000	88,502,000
(CERT)	(65,788,000)	(61,607,000)
Cyber Infrastructure Resilience		
Cybersecurity Advisors	13,535,000	12,970,000
Enhanced Cybersecurity Services	16,830,000	16,950,000
Cybersecurity Education and Awareness	7,886,000	14,133,000

Federal Cybersecurity		
Federal Network Resilience	37,005,000	35,013,000
Continuous Diagnostics and Mitigation	8,878,000	7,565,000
National Cybersecurity Protection System	389,355,000	385,879,000
Subtotal, Cybersecurity	\$682,340,000	\$669,414,000
Infrastructure Protection		
Infrastructure Capacity Building		
Sector Risk Management	41,611,000	42,396,000
Protective Security Advisors	39,490,000	39,723,000
Bombing Prevention	---	15,070,000
Infrastructure Information and Sensitive Data Protection	19,889,000	19,546,000
Infrastructure Security Compliance	76,876,000	69,557,000
Subtotal, Infrastructure Protection	\$177,866,000	\$186,292,000
Emergency Communications		
Emergency Communications Preparedness	43,260,000	44,097,000
Priority Telecommunications Services		
GETS/WPS/SRAS/TSP	55,406,000	55,730,000
Next Generation Networks Priority Services	1,966,000	2,214,000
Subtotal, Emergency Communications	\$100,632,000	\$102,041,000
Integrated Operations		
Cyber and Infrastructure Analysis		
National Infrastructure Simulation Analysis Center (NISAC)	12,993,000	18,650,000
Infrastructure Analysis	24,443,000	23,230,000
Critical Infrastructure Situational Awareness	16,344,000	16,176,000
Stakeholder Engagement and Requirements	43,150,000	41,959,000
Strategy, Policy, and Plans	14,707,000	9,669,000
Subtotal, Integrated Operations	\$111,637,000	\$109,684,000
Office of Biometric Identity Management		
Identity and Screening Program Operations	---	71,954,000
IDENT/Homeland Advanced Recognition	---	163,475,000

## Technology

Subtotal, Office of Biometric Identity Management	---	\$235,429,000
Mission Support	\$75,027,000	\$69,408,000
Defense	(23,390,000)	(21,516,000)
Subtotal, Operations and Support	\$1,147,502,000	\$1,372,268,000

## Cybersecurity

A total of \$669,414,000 is provided for Cybersecurity, including \$9,500,000 for the Multi-State Information Sharing and Analysis Center (MS-ISAC) to support its updated requirement for fiscal year 2017, and \$12,970,000 for Cyber Security Advisors. The National Cybersecurity and Communications Integration Center (NCCIC) is funded at \$196,904,000, including \$147,975,000 for Computer Emergency Response Teams (CERT).

Within 120 days of the date of enactment of this Act, NPPD shall brief the Committees on the types of assistance, including technical and formal ongoing engagement, available to state and local governments, including law enforcement agencies, to protect their networks. The Department shall also work to include state and local law enforcement agencies in the National Cybersecurity Review, and shall continue raising awareness among these agencies on the need to strengthen their own cyber-defenses and on the resources available for such purposes.

*Cybersecurity Education and Awareness.* The bill includes a total of \$14,133,000 for cybersecurity education, of which \$13,698,000 is provided through the Cyber Infrastructure Resilience PPA and ~~the~~ \$435,000 is provided through Mission Support. Any future proposed funding reductions to cybersecurity education will not be considered unless the Directorate provides a clear plan for how the funded activities would be fully realigned within other agencies in a manner that sustains the objectives of this critical effort.

*Federal Cybersecurity.* ~~The Committees continue to be supportive of NPPD's efforts to~~ find common strategies and security solutions across the federal government for cybersecurity, such as Einstein and Continuing Diagnostics and Mitigation. Funds appropriated to DHS, however, should supplement but not supplant appropriations of other federal departments and agencies. NPPD is directed to develop a strategic plan, in conjunction with OMB and partner departments and agencies, for securing civilian federal networks. The plan shall include an effective cost model whereby departments and agencies assume responsibility for the costs of their own systems while also using NPPD subject matter expertise and bulk-buying capabilities when it enhances security and is cost effective. NPPD shall provide the strategic plan to the Committees not later than 250 days after the date of enactment of this Act, including a proposed

governance structure, roles and responsibilities of departments and agencies, responsibilities inherent to NPPD, and a model for ensuring a long-term and sound financing structure for federal cybersecurity needs.

#### Infrastructure Protection

A total of \$186,292,000 is provided for Infrastructure Protection, including the requested level of funding for the National Infrastructure Coordination Center and \$39,723,000 for Protective Security Advisors. Reductions to the request reflect adjustments to hiring projections.

#### Emergency Communications

A total of \$102,041,000 is provided for Emergency Communications, including \$2,000,000 to continue projects supporting the development of the National Emergency Communications Plan.

#### Integrated Operations

A total of \$109,684,000 is provided for Integrated Operations of which \$1,679,000 is for Stakeholder Engagement and Requirements to continue the Software Assurance Program. (S)

#### Office of Biometric Identity Management

A total of \$235,429,000 is provided for OBIM, \$11,600,000 below the amount requested due to delays in the Homeland Advanced Recognition Technology (HART) program and \$8,000,000 in contract savings. Although the fiscal year 2017 request proposed the transfer of OBIM from NPPD to CBP, in the absence of authorizing legislation directing such a realignment the Committees continue to fund OBIM through NPPD. (S)

§ this Act } Until the Secretary or his designee briefs the Committees, as specified in section 301 of this Act, on how OBIM is addressing stakeholder concerns regarding requirements and priorities, \$20,000,000 is withheld from obligation.

#### FEDERAL PROTECTIVE SERVICE

A total of \$1,451,078,000 is made available for the Federal Protective Service (FPS), as requested. This funding is generated by collections of security fees from federal agencies based on security services provided by FPS. The Secretary and the Director of OMB shall certify in writing to the Committees, not later than 60 days after the date of enactment of this Act, that FPS operations will be fully funded in fiscal year 2017 through the collection of security fees. Should

sufficient revenue not be collected to fully fund operations, an expenditure plan is required describing how security risks will be adequately addressed. In lieu of direction in the Senate bill regarding a strategic human capital plan, the Director of FPS shall provide a semi-annual briefing to the Committees detailing the alignment of staffing resources with mission requirements based on a current threat assessment.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Federal Protective Service		
FPS Operations		
Operating Expenses	\$368,892,000	\$368,892,000
Countermeasures		
Protective Security Officers	1,059,825,000	1,059,825,000
Technical Countermeasures	22,361,000	22,361,000
Subtotal, Federal Protective Service (gross)	\$1,451,078,000	\$1,451,078,000
Offsetting Collections	-1,451,078,000	-1,451,078,000
Subtotal, Federal Protective Service (net)	---	---

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$440,035,000 is provided for Procurement, Construction, and Improvements.

Within the total is \$52,800,000 for OBIM's continued HART acquisition, which reflects savings realized by not transferring the program to CBP. As noted above, the Act includes a withholding of funds under Operations and Support until OBIM provides a plan to accelerate the multi-modal biometric capabilities of HART Increment 2.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Cybersecurity		
Continuous Diagnostics and Mitigation	\$266,971,000	\$217,409,000
National Cybersecurity Protection System	81,771,000	81,771,000
Subtotal, Cybersecurity	\$348,742,000	\$299,180,000

Emergency Communications

Next Generation Networks Priority Services	88,055,000	88,055,000
Subtotal, Emergency Communications	\$88,055,000	\$88,055,000
Biometric Identity Management		
IDENT/Homeland Advanced Recognition		
Technology	---	52,800,000
Subtotal, Biometric Identity Management	---	\$52,800,000
Subtotal, Procurement, Construction, and		
Improvements	\$436,797,000	\$440,035,000

## RESEARCH AND DEVELOPMENT

A total of \$6,469,000 is provided for Research and Development. Of the amount provided for Infrastructure Protection, \$2,000,000 is designated for the Technology Development and Deployment Program to define agency needs, identify requirements for community level critical infrastructure protection and resilience, and rapidly develop, test, and transition to use technologies that address these needs and requirements.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Research and Development		
Cybersecurity	\$2,030,000	\$2,030,000
Infrastructure Protection	2,439,000	4,439,000
Subtotal, Research and Development	\$4,469,000	\$6,469,000

## OFFICE OF HEALTH AFFAIRS

## OPERATIONS AND SUPPORT

A total of \$123,548,000 is provided for Operations and Support.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Chemical and Biological Readiness	---	\$82,689,000
Health and Medical Readiness	---	4,352,000
Integrated Operations	---	11,809,000
Mission Support	---	24,698,000
Subtotal, Operations and Support	---	\$123,548,000

## Chemical and Biological Readiness

A total of \$82,689,000 is provided for the Chemical and Biological Readiness PPA, which fully funds operations of the current BioWatch program. The bill includes a provision withholding \$2,000,000 from OHA Mission Support until OHA, in conjunction with the Science and Technology Directorate (S&T) and other components as appropriate, submits a strategic plan to the Committees. This plan shall include: a plan to advance early detection of a bioterrorism event; details on the responsibilities of OHA, S&T, and other departmental components as appropriate for implementing such strategy; details on coordination with other federal agencies, including the Department of Defense, which have made investments in bioterrorism detection research; specific timelines and benchmarks; an expenditure plan for fiscal year 2017 BioWatch funds; and cost estimates for the next generation of biosurveillance tools. The bill also permits the transfer of up to \$2,000,000 from OHA to S&T for activities related to implementation of this plan.

## Integrated Operations

A total of \$11,809,000 is provided for Integrated Operations. The amount includes an increase of \$2,500,000 above the request to support the operationalization of successful pilot programs of the National Biosurveillance Integration Center, promising new pilots, or other high priority or emerging requirements.



## FEDERAL EMERGENCY MANAGEMENT AGENCY

## OPERATIONS AND SUPPORT

A total of \$1,048,551,000 is provided for Operations and Support. This amount reflects reductions to the request totaling \$5,144,000 due to projected under execution of proposed FTE.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Regional Operations	\$157,134,000	\$157,134,000
Mitigation	24,887,000	28,213,000
Preparedness and Protection	146,356,000	146,356,000
Response and Recovery		
Response	178,500,000	187,806,000
(Urban Search and Rescue)	(27,513,000)	(38,280,000)
Recovery	58,687,000	56,126,000
Mission Support	472,916,000	472,916,000
Subtotal, Operations and Support	\$1,038,480,000	\$1,048,551,000
(Defense)	(46,788,000)	(46,788,000)

## Mitigation

A total of \$28,213,000 is provided for Mitigation. Within the total, not less than \$8,500,000 is for the National Earthquake Hazards Reduction Program and not less than \$9,100,000 is for the National Dam Safety Program, maintaining both programs at fiscal year 2016 funding levels.

## Preparedness and Protection

A total of \$146,356,000 is provided for Preparedness and Protection. Within the total, not less than \$2,000,000 is for the Emergency Management Assistance Compact.

## Response and Recovery

A total of \$243,932,000 is provided for Response and Recovery. Within the total, \$38,280,000 is for the Urban Search and Rescue Response System (USAR), which maintains the fiscal year 2016 funding level to support 28 USAR Task Forces and includes a one-time increase of \$3,100,000 to ensure teams are uniformly equipped.

In lieu of additional funding recommended in Senate Report 114-264, FEMA shall brief the Committees on efforts to build upon the findings of the 2011 Mid-Atlantic Supply Chain Resiliency Study by developing innovative and efficient ways to use the national supply chain for post-disaster delivery of commodities, including future budgetary needs to implement such a strategy.

#### Mission Support

A total of \$472,916,000 is provided for Mission Support, including \$3,460,000 for the Office of National Capital Region Coordination.

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$35,273,000 is provided for Procurement, Construction, and Improvements.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Procurement, Construction, and Improvements		
Operational Communications/Information Technology	\$2,800,000	\$2,800,000
Construction and Facility Improvements	21,050,000	21,050,000
Mission Support, Assets, and Infrastructure	11,423,000	11,423,000
Subtotal, Procurement, Construction, and Improvements	\$35,273,000	\$35,273,000
(Defense)	(15,500,000)	(15,500,000)

#### Construction and Facility Improvements

A total of \$21,050,000 is provided for Construction and Facility Improvements, including \$15,500,000 for the Mount Weather Emergency Operations Center.

FEMA shall provide an updated capital infrastructure investment plan for fiscal years 2017 through 2021, consistent with the direction in House Report 114-215.

#### FEDERAL ASSISTANCE

A total of \$2,983,458,000 is provided for Federal Assistance.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Federal Assistance		
Grants		
State Homeland Security Grant Program	\$200,000,000	\$467,000,000
(Operation Stonegarden)	---	(55,000,000)
Urban Area Security Initiative	330,000,000	605,000,000
(Nonprofit Security)	---	(25,000,000)
Public Transportation Security Assistance	85,000,000	100,000,000
(Amtrak Security)	(10,000,000)	(10,000,000)
(Over-the-Road Bus Security)	---	(2,000,000)
Port Security Grants	93,000,000	100,000,000
Countering Violent Extremism	49,000,000	---
Regional Competitive Grant Program	100,000,000	---
Assistance to Firefighter Grants	335,000,000	345,000,000
Staffing for Adequate Fire and Emergency		
Response (SAFER) Grants	335,000,000	345,000,000
Emergency Management Performance Grants	350,000,000	350,000,000
Predisaster Mitigation Fund	54,485,000	100,000,000
Flood Hazard Mapping and Risk Analysis		
Program (RiskMAP)	177,531,000	177,531,000
Emergency Food and Shelter	100,000,000	120,000,000
Subtotal, Grants	\$2,209,016,000	\$2,709,531,000
Education, Training, and Exercises		
Center for Domestic Preparedness	63,939,000	63,939,000
Center for Homeland Defense and Security	18,000,000	18,000,000
Emergency Management Institute	19,643,000	20,569,000
U.S. Fire Administration	40,812,000	42,500,000
National Domestic Preparedness Consortium	36,000,000	101,000,000
Continuing Training Grants	---	8,000,000
National Exercise Program	19,911,000	19,919,000
Subtotal, Education, Training, and		
Exercises	\$198,305,000	\$273,927,000

Subtotal, Federal Assistance	\$2,407,321,000	\$2,983,458,000
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### Grants

A total of \$2,709,531,000 is provided for Grants. FEMA grantees shall continue to provide reports on their use of funds, as determined necessary by the Secretary.

FEMA preparedness grants are primarily designed to build core capabilities to address terrorist attacks. Because the threat environment has become more dynamic, however, it has created a tension between sustaining current capabilities and addressing changes in the threat landscape. The FEMA risk formula, which determines the distribution of homeland security preparedness grants, should evolve with the changing threat environment while also maintaining capabilities for traditional and known threats. While FEMA updates data points for incorporation, and considers comments from grantees on how the risk formula might be improved, it is not clear that there is a comprehensive process for re-evaluating the risk formula as part of the larger strategic context. FEMA is directed to brief the Committees not later than 180 days after the date of enactment of this Act on how developing and maintaining core capabilities addresses current and emerging threats; how FEMA adjusts the risk formula and training needs for emerging threats; and on innovative ways to increase responsiveness of the annual grant allocation process to address current threats.

*Urban Area Security Initiative.* Consistent with the 9/11 Act, FEMA shall conduct risk assessments for the 100 most populous metropolitan statistical areas prior to making UASI grant awards. It is expected that UASI funding will be limited to urban areas representing up to 85 percent of the cumulative national terrorism risk to urban areas and that resources will continue to be allocated in proportion to risk.

*Countering Violent Extremism.* The fiscal year 2016 Consolidated Appropriations Act provided \$50,000,000, available until September 30, 2017, for emergent threats from violent extremism and from complex, coordinated terrorist attacks, like the 2015 incident in Paris, France. Of this total, \$10,000,000 was dedicated specifically for countering violent extremism (CVE) to explore ways to prevent radicalization and deter recruitment of vulnerable people who could be inspired to commit acts of terror. Although grant awards were announced in accordance with congressional intent on January 13, 2017, Congress has learned the grants have so far been withheld from obligation. The Department is reminded of the requirements set forth in the Impoundment Control Act (ICA). If the Administration is withholding this budget authority from obligation—temporarily or permanently—it is required under the ICA to send a “special message” to Congress and the Comptroller General of the United States that specifies why the funds are being withheld from obligation. Importantly, funds cannot be deferred for policy reasons. Given the current impasse and the currently available funds, no additional funds are provided for CVE grants in this Act. The Secretary is directed to fulfill congressional intent by releasing the fiscal year 2016 funding without delay.

*Flood Hazard Mapping and Risk Analysis.* A total of \$177,531,000 is provided for Flood Hazard Mapping and Risk Analysis. FEMA shall ensure data collection and modeling processes are transparent from beginning to end and involve the active participation of local jurisdictions to ensure maps accurately reflect local conditions and minimize costs to local communities.

*Emergency Food and Shelter Program.* A total of \$120,000,000 is provided for the Emergency Food and Shelter Program (EFSP). Once again, the budget request included a provision allowing the FEMA Administrator to transfer EFSP to the Department of Housing and Urban Development (HUD). While this proposal may have merit, Congress and other stakeholders have not been properly consulted in developing support for such a transfer. If future budget requests again propose moving EFSP to HUD, they should do so directly within the HUD budget, including the justification for moving the program; a plan for funds transfer, including previously obligated amounts and recoveries; a five-year strategic outlook for the program within HUD; a timeline for an interagency agreement effecting the transfer; and a description of efforts to consult with the EFSP National Board on the proposed move. (E)

#### Education, Training, and Exercises

A total of \$273,927,000 is provided for Education, Training, and Exercises. Within the total, \$8,000,000 is for Continuing Training, including \$3,500,000 for rural first responder training.

A total of \$44,000,000 is provided for the United States Fire Administration, including \$42,500,000 under this heading and \$1,500,000 under the Procurement, Construction, and Improvements appropriation. Funding described in the Senate report for facilities at the Center for Domestic Preparedness is also included as part of the Procurement, Construction, and Improvements appropriation.

#### DISASTER RELIEF FUND

A total of \$7,328,515,000 is provided for the Disaster Relief Fund (DRF), ~~as requested,~~ of which \$6,713,000,000 is designated as being for disaster relief for major disasters pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985. In lieu of transferring funding from the DRF to the OIG for audits of disaster-related grant awards, as proposed in the budget and directed in prior appropriations Acts, funding for DRF audits is provided directly to the OIG for better congressional oversight.

As directed in Senate Report 114-264, FEMA shall provide a report, not later than 180 days after the date of enactment of this Act, outlining specific actions and timeframes for state and local governments to better share information about fiscal preparation for disaster costs.

NATIONAL FLOOD INSURANCE FUND

A total of \$181,799,000 is provided for the National Flood Insurance Fund.

TITLE III—ADMINISTRATIVE PROVISIONS--THIS ACT

Section 301. A new provision proposed by the House is included restricting obligations until a briefing and plan for modernizing the biometric identity management system is submitted. The Senate proposed no similar provision.

(Including  
Transfer  
of funds)  
CISC

Section 302. A new provision is included requiring the submission of a report on bio-detection capabilities.

Section 303. A provision proposed by the House and Senate is continued and modified limiting expenses for administration of grants.

Section 304. A provision proposed by the House and Senate is continued specifying timeframes for certain grant applications and awards.

Section 305. A provision proposed by the House and Senate is continued that requires five day advance notification for certain grant awards under “FEMA—Federal Assistance”.

Section 306. A provision proposed by the House and Senate is continued that addresses the availability of certain grant funds for the installation of communications towers.

Section 307. A provision proposed by the House and Senate is continued that authorizes the use of funds for certain purposes pertaining to FEMA training facilities. Funding used for such purpose shall only come from funds specifically appropriated to the facility for which the property is acquired.

Section 308. A provision proposed by the House and Senate is continued and modified allowing reimbursements for the costs of providing humanitarian relief to unaccompanied alien children, and for public safety in support of a state declaration of emergency, to be an eligible use for certain Homeland Security grants.

Section 309. A provision proposed by the House and Senate is continued that requires the submission of the monthly DRF report.

Section 310. A new provision proposed by the Senate is included transferring unobligated balances from the Disaster Assistance Direct Loan Program to the Disaster Relief Fund.

Section 311. A new provision proposed by the Senate is included related to earthen levees. The House proposed no similar provision.

Section 312. A provision proposed by the House and Senate is continued providing for the receipt and expenditure of fees collected for the Radiological Emergency Preparedness Program, as authorized by Public Law 105-276.



## TITLE IV—RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

### U.S. ~~UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES~~

#### OPERATIONS AND SUPPORT

A total of \$103,912,000 is provided in discretionary appropriations for E-Verify. DHS is continuing to evaluate tools to analyze relevant social media in vetting for certain types of immigration benefits. It is crucial that DHS efficiently, effectively, and appropriately examine all relevant social media data sources from both conventional networks and the “dark web,” with special emphasis on those networks used outside the U.S. where most of the postings are in languages other than English. In addition, DHS must maintain persistent access to these sources throughout the adjudication process. Until DHS is able to incorporate social media more comprehensively into its vetting processes, USCIS is directed to work with the Department of State to ensure appropriate social media vetting for the highest risk persons seeking admission into the United States or seeking benefits while in the United States.

#### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$15,227,000 is provided in discretionary appropriations for E-Verify.

#### FEDERAL ASSISTANCE

In lieu of a discretionary appropriation for the Citizenship and Integration Grant Program, and consistent with prior years, an administrative provision is included at the end of title IV to permit USCIS to obligate not more than \$10,000,000 from user fee revenue to support grants to benefit individuals who are lawfully admitted into the United States. In addition to the fee revenue made available for this purpose, the Department has the authority to accept private donations that will support activities that promote citizenship and integration. To facilitate the acceptance and use of such donations by USCIS, the bill establishes a Treasury account for that purpose.

## FEDERAL LAW ENFORCEMENT TRAINING CENTERS

### OPERATIONS AND SUPPORT

A total of \$242,518,000 is provided for Operations and Support, including \$50,748,000, made available for two years, for materials and support costs related to Federal law enforcement basic training and \$27,553,000, made available for three years, for minor alterations and maintenance of facilities. FLETC shall provide to the Committees quarterly plans for the obligation of funds, as specified in the explanatory statement accompanying Public Law 114-113, and include a review of FLETC's hiring campaigns and attrition levels.

FLETC shall detail in its annual budget submission how data supports its core business decision-making processes, including its facility utilization processes, and shall provide semi-annual updates on this ongoing initiative, beginning within the first 90 days of the <sup>[date of</sup> enactment of this Act.

~~The Director of~~ FLETC is encouraged to support continued testing and evaluation of both prototype and proven active shooter response technologies and to share its findings with its partner organizations. <sup>e</sup>

## SCIENCE AND TECHNOLOGY

## OPERATIONS AND SUPPORT

Directorate

C+SC

A total of \$311,122,000 is provided for Operations and Support.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Operations and Support		
Laboratory Facilities	\$133,942,000	\$133,942,000
Acquisition and Operations Analysis	48,392,000	48,392,000
Mission Support	127,904,000	128,788,000
Subtotal, Operations and Support	\$310,238,000	\$311,122,000

## RESEARCH AND DEVELOPMENT

A total of \$470,624,000 is provided for Research and Development.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Research and Development		
Research, Development, and Innovation	\$417,420,000	\$430,124,000
University Programs	31,085,000	40,500,000
Subtotal, Research and Development	\$448,505,000	\$470,624,000

## Research, Development, and Innovation

A total of \$430,124,000 is provided for Research, Development, and Innovation (RD&I). In lieu of the \$12,000,000 transfer from BioWatch proposed by the Senate, the bill allows up to \$2,000,000 to be transferred from OHA to Science and Technology (S&T) for the advancement of next generation biosurveillance tools. In addition, \$3,900,000 is included for S&T RD&I to

initiate long-term research in leap-ahead technologies that can be applied across more varied operational biosurveillance environments. This work includes the establishment of key performance parameters for biodetection, while leveraging the bioterrorism research investments of other federal agencies, most notably the Department of Defense.

S&T is directed to brief the Committees on the proposed allocation of RD&I funds by not later than 60 days after the date of enactment of this Act.

In lieu of the direction in the Senate report, S&T is directed to brief the Committees not later than 90 days after the date of enactment of this Act on how external peer review is incorporated into its current processes.

As directed in the House report, DHS shall issue a Management Directive formalizing the Integrated Product Team construct to ensure continued progress towards institutionalizing repeatable processes within S&T.

S&T has formalized relationships with academic partners on ~~unmanned aerial system~~ (UAS) research, testing, and development, as directed in the Senate report. S&T is directed to expeditiously execute agreements for activities necessary to mature and institutionalize DHS's efficient, effective use of UAS.

As directed in the Senate report, S&T shall update the Committees on the outcome of the feasibility study for installing grid reliability technology not later than 30 days after its completion. In the event of a favorable outcome from the study, S&T is encouraged to continue development of the Resilient Electric Grid in partnership with the relevant utility companies.

#### University Programs

A total of \$40,500,000 is provided for University Programs. S&T shall prioritize collaborations with qualified research universities to support critical research topics in priority areas, including border security, cybersecurity, and first responder technology.

## DOMESTIC NUCLEAR DETECTION OFFICE

## OPERATIONS AND SUPPORT

A total of \$50,042,000 is provided for Operations and Support, which includes a reduction of \$500,000 due to personnel vacancies.

## PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

A total of \$101,053,000 is provided for Procurement, Construction, and Improvements, of which \$53,709,000 is for Large Scale Detection Systems and \$47,344,000 is for Human Portable Radiation/~~Nuc~~ Systems. The reduction below the request reflects \$1,300,000 in unobligated carryover balances that should be used to support planned Human Portable Radiation/~~Nuc~~ System procurements in fiscal year 2017.

*Nuclear  
Detection*

*Nuclear  
Detection*

## RESEARCH AND DEVELOPMENT

A total of \$155,061,000 is provided for Research and Development.

The amount provided for this appropriation by PPA is as follows:

	Budget Estimate	Final Bill
Research and Development		
Architecture Planning and Analysis	---	\$15,072,000
Transformational Research and Development	---	62,028,000
Detection Capability Development	---	19,851,000
Detection Capability Assessments	---	39,272,000
Nuclear Forensics	---	18,838,000
Subtotal, Research and Development	---	\$155,061,000

## FEDERAL ASSISTANCE

A total of \$46,328,000 is provided for Federal Assistance.

Including the funds provided within the Operations and Support appropriation, the bill provides a total of \$22,000,000 for Securing the Cities.

TITLE IV—ADMINISTRATIVE PROVISIONS--THIS ACT

Section 401. A provision proposed by the House and Senate is continued allowing USCIS to acquire, operate, equip, and dispose of up to five vehicles under certain scenarios.

Section 402. A provision proposed by the House and Senate is continued prohibiting USCIS from granting immigration benefits unless the results of background checks are completed prior to the granting of the benefit and the results do not preclude the granting of the benefit.

Section 403. A provision proposed by the Senate is continued limiting the use of A-76 competitions by USCIS.

The House proposed no similar provision.

Section 404. A provision proposed by the House and Senate is continued and modified making immigration examination fee collections explicitly available for immigrant integration grants, not to exceed \$10,000,000, in fiscal year 2017, and allowing for related donations.

Section 405. A provision proposed by the House and Senate is continued authorizing the Director of FLETC to distribute funds for incurred training accreditation.

Section 406. A provision proposed by the House and Senate is continued directing the Director of FLETC to ensure FLETC training facilities are operated at capacity throughout the fiscal year.

Section 407. A provision proposed by the House and Senate is continued directing the FLETC Accreditation Board to lead the Federal law enforcement training accreditation process to measure and assess federal law enforcement training programs, facilities, and instructors.

Section 408. A new provision proposed by the House is modified establishing the "Federal Law Enforcement Training Center/Procurement, Construction, and Improvements" appropriation, and allowing for the acceptance of transfers from government agencies into this appropriation. The Senate proposed no similar provision.

e- [S] (C)

Section 409. A provision proposed by the House and Senate is continued classifying FLETC instructor staff as inherently governmental for certain considerations.

## TITLE V – GENERAL PROVISIONS

(INCLUDING ~~RESCISSIONS AND TRANSFER~~ OF FUNDS)

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Section 501. A provision proposed by the House and Senate is continued directing that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. A provision proposed by the House and Senate is continued providing authority to merge unexpended balances of prior appropriations with new appropriation accounts, to be used for the same purpose, subject to reprogramming guidelines.

Section 503. A provision proposed by the House and Senate is continued and modified limiting reprogramming authority for funds within an appropriation and providing limited authority for transfers between appropriations. The Department must notify the Committees on Appropriations prior to each reprogramming of funds that would reduce programs, projects, activities, or personnel by more than ten percent. Notifications are also required for each reprogramming of funds that would increase a program, project, or activity by more than \$5,000,000 or ten percent, whichever is less. The Department must submit these notifications to the Committees on Appropriations at least 15 days in advance of any such reprogramming.

For transfers, accounts may not be reduced by more than five percent or increased by more than ten percent. The Committees on Appropriations must be notified 30 days in advance of any transfer.

Transfer authority is provided to give the Department flexibility in responding to emerging requirements and significant changes in circumstances, but is not primarily intended to facilitate the implementation of new programs, projects, or activities that were not proposed in a formal budget submission. To avoid violations of the Anti-Deficiency Act, the Secretary shall ensure that any transfer of funds is carried out in compliance with the limitations and requirements of section 503(b). In particular, the Secretary should ensure that any such transfers adhere to the opinion of the Comptroller General's decision in *the Matter of: John D. Webster, Director, Financial Services, Library of Congress, dated November 7, 1997*, with regard to the definition of an appropriation subject to transfer limitations.

For purposes of reprogramming notifications, "program, project, or activity" is defined as an amount identified in the detailed funding table located at the end of this statement or an amount directed for a specific purpose in this statement.

Also for purposes of reprogramming notifications, the creation of a new program, project, or activity is defined as any significant new activity that has not been explicitly justified to the Congress in budget justification material and for which funds have not been appropriated by the Congress. For further guidance when determining which movements of funds are subject to section 503, the Department is reminded to follow GAO's definition of "program, project, or activity" as detailed in the GAO's *A Glossary of Terms Used in the Federal Budget Process*. Within 30 days of the date of enactment of this Act, the Department shall submit to the



Committees a table delineating PPAs subject to section 503 notification requirements, as defined in this paragraph.

All agencies funded by the Department of Homeland Security Appropriations Act, 2017, must comply with these reprogramming requirements. In addition, the Department shall submit requests on a timely basis and provide complete explanations of the proposed reallocations, including detailed justifications for the increases and offsets, and any specific impact the proposed changes would have on the budget request for the following fiscal year and future-year appropriations requirements. Each notification submitted to the Committees should include a detailed table showing the proposed revisions to funding and FTE – at the account, program, project, and activity level –for the current fiscal year, along with any funding and FTE impacts on the budget year.

The Department shall manage its PPAs within the levels appropriated, and should only submit reprogramming or transfer notifications in cases of unforeseeable and compelling circumstances that could not have been predicted when formulating the budget request for the current fiscal year. When the Department submits a reprogramming or transfer notification and does not receive identical responses from the House and Senate Committees, it is expected to reconcile the differences before proceeding.

The Department is not to submit a reprogramming or transfer notification after June 30 except in extraordinary circumstances that imminently threaten the safety of human life or the protection of property. If an above-threshold reprogramming or a transfer is needed after June 30, the notice should contain sufficient documentation as to why it meets this statutory exception.

The section 503(a)(5) limitation on reprogramming funds for the purpose of reorganizing components is not intended to apply to routine or small reallocations of personnel or functions within components. Instead, this language is directed at larger reorganizations of the Department, to include the allocation or reallocation of functions across components and the establishment, consolidation, alteration, or discontinuation of organizational units authorized pursuant to Section 872 of the Homeland Security Act of 2002. A notification under this subsection is not required for a change of homeport for USCG vessels. (LC)

Deobligated funds are also subject to the reprogramming and transfer limitations and requirements set forth in this section.

Section 503(e) authorizes the Secretary to transfer up to \$20,000,000 to address immigration emergencies after notifying the Committees of such transfer at least five days in advance.

Section 504. A provision proposed by the House and Senate is continued prohibiting funds appropriated or otherwise made available to the Department to make payment to the Working Capital Fund (WCF), except for activities and amounts allowed in the President's fiscal year 2017 budget request. Funds provided to the WCF are available until expended. The Department can only charge components for direct usage of the WCF and these funds may be



used only for the purposes consistent with the contributing component. Any funds paid in advance or for reimbursement must reflect the full cost of each service. The Department shall submit a notification prior to adding a new activity to the fund or eliminating an existing activity from the fund. For activities added to the fund, such notifications shall detail the source of funds by PPA. In addition, the Department shall submit quarterly WCF execution reports to the Committees that include activity-level detail.

Section 505. A provision proposed by the House and Senate is continued and modified providing that not to exceed 50 percent of unobligated balances from prior year appropriations for each Operations and Support appropriation, the Coast Guard's Operating Expenses appropriation, and amounts for salaries and expenses in the Coast Guard's Reserve Training and Acquisition, Construction, and Improvements accounts, shall remain available through fiscal year 2018, subject to section 503 reprogramming requirements.

Section 506. A provision proposed by the House and Senate is continued that deems intelligence activities to be specifically authorized during fiscal year 2017 until the enactment of an Act authorizing intelligence activities for fiscal year 2017.

Section 507. A provision proposed by the House and Senate is continued requiring notification to the Committees at least three days before DHS executes or announces grant allocations; grant awards; contract awards, including contracts covered by the Federal Acquisition Regulation; other transaction agreements; letters of intent; a task or delivery order on multiple award contracts totaling \$1,000,000 or more; a task or delivery order greater than \$10,000,000 from multi-year funds; or sole-source grant awards. Notifications shall include a description of projects or activities to be funded and their location, including city, county, and state.

Section 508. A provision proposed by the House and Senate is continued prohibiting all agencies from purchasing, constructing, or leasing additional facilities for Federal law enforcement training without advance notification to the Committees.

Section 509. A provision proposed by the House and Senate is continued prohibiting the use of funds for any construction, repair, alteration, or acquisition project for which a prospectus, if required under chapter 33 of title 40, United States Code, has not been approved.

Section 510. A provision proposed by the House and Senate is continued and modified that includes and consolidates by reference prior-year statutory provisions related to a contracting officer's technical representative training; sensitive security information; and the use of funds in conformance with section 303 of the Energy Policy Act of 1992.

Section 511. A provision proposed by the House and Senate is continued prohibiting the use of funds in contravention of the Buy American Act.

Section 512. A provision proposed by the House and Senate is continued regarding the oath of allegiance required by section 337 of the Immigration and Nationality Act.

Section 513. A provision proposed by the House is continued prohibiting funds for the Principal Federal Official during a Stafford Act declared disaster or emergency, with certain exceptions. The Senate proposed no similar provision.

Section 514. A provision proposed by the House and Senate is continued and modified extending other transactional authority for DHS through fiscal year 2017.

Section 515. A provision proposed by the House and Senate is continued prohibiting funds for planning, testing, piloting, or developing a national identification card.

Section 516. A provision proposed by the House and Senate is continued directing that any official required by this Act to report or certify to the Committees on Appropriations may not delegate such authority unless expressly authorized to do so in this Act.

Section 517. A provision proposed by the House and Senate is continued prohibiting the use of funds for the transfer or release of individuals detained at United States Naval Station, Guantanamo Bay, Cuba into or within the United States.

Section 518. A provision proposed by the House and Senate is continued prohibiting funds in this Act to be used for first-class travel.

Section 519. A provision proposed by the House and Senate is continued prohibiting the use of funds to employ illegal workers as described in Section 274A(h)(3) of the Immigration and Nationality Act.

Section 520. A provision proposed by the House and Senate is continued prohibiting funds appropriated or otherwise made available by this Act to pay for award or incentive fees for contractors with below satisfactory performance or performance that fails to meet the basic requirements of the contract.

Section 521. A provision proposed by the House and Senate is continued requiring that any new processes developed to screen aviation passengers and crews for transportation or national security consider privacy and civil liberties, consistent with applicable laws, regulations, and guidance.

Section 522. A provision proposed by the House and Senate is continued prohibiting the use of funds to enter into a federal contract unless the contract meets requirements of the Federal Property and Administrative Services Act of 1949 or chapter 137 of title 10 U.S.C., and the Federal Acquisition Regulation, unless the contract is otherwise authorized by statute without regard to this section.

Section 523. A provision proposed by the House and the Senate is included and modified providing a total of \$13,253,000 for DHS headquarters consolidation activities at St. Elizabeths.

Section 524. A provision proposed by the House and Senate is included and modified providing \$41,215,000 for financial systems modernization activities, which the Secretary may transfer between appropriations for the same purpose after notifying the Committees 15 days in advance. Funding is available for two years.

Section 525. A provision proposed by the House and Senate is continued requiring DHS computer systems to block electronic access to pornography, except for law enforcement purposes.

Section 526. A provision proposed by the House and Senate is continued regarding the transfer of firearms by Federal law enforcement personnel.

Section 527. A provision proposed by the House and Senate is continued regarding funding restrictions and reporting requirements related to conferences occurring outside of the United States.

Section 528. A provision proposed by the House and Senate is continued prohibiting funds to reimburse any federal department or agency for its participation in a National Special Security Event.

Section 529. A provision proposed by the House and Senate is continued and modified requiring a notification, including justification materials, prior to implementing any structural pay reform that affects more than 100 full time positions or costs more than \$5,000,000.

Section 530. A provision proposed by the House and Senate is continued and modified directing the Department to post on a public website reports required by the Committees on Appropriations unless public posting compromises homeland or national security or contains proprietary information.

Section 531. A provision proposed by the House and Senate is continued related to the Arms Trade Treaty.

Section 532. A provision proposed by the Senate is continued and modified requiring submission of offsets should the fiscal year 2018 budget request assume revenue not enacted into law at the time of the budget submission. The House proposed no similar provision.

Section 533. A provision proposed by the House is included authorizing minor procurement, construction, and improvements under Operations and Support appropriations, as specified. The Senate proposed no similar provision.

Section 534. A provision proposed by the House and Senate is included and modified rescinding unobligated balances from specified programs.

Section 535. A provision proposed by the House and Senate is included and modified rescinding unobligated balances made available to the Department when it was created in 2003.

Section 536. A provision ~~proposed by the House and Senate is included~~ and modified rescinding lapsed balances made available pursuant to section 505 of this Act.

is continued

Section 537. A provision proposed by the House and Senate is included and modified rescinding specified funds from the Treasury Forfeiture Fund.

Section 538. A provision proposed by the House and Senate is included and modified rescinding unobligated balances from FEMA DRF.

Section 539. A new provision is included extending the authorization of USCIS' E-Verify Program until September 30, 2017.

Section 540. A new provision is included extending the non-minister religious worker immigrant visa authorization until September 30, 2017.

Section 541. A new provision is included extending until September 30, 2017, the authority to waive the two-year home-country physical presence requirement for foreign doctors with expiring J-1 visas who apply to remain in the United States and commit to working in medically underserved areas.

Section 542. A new provision is included extending the Regional Center program within the "EB-5" immigrant investor program authorization until September 30, 2017.

Section 543. A provision proposed by the House is continued and modified amending 8 U.S.C. 1184(g)(9)(A), related to H-2B visas. The Senate proposed no similar provision.

Section 544. A new provision is included providing an additional \$41,000,000 to reimburse extraordinary law enforcement personnel costs for protection activities directly and demonstrably associated with a residence of the President that is designated for protection. Although the federal government does not otherwise reimburse costs of state or local law enforcement for activities in support of the United States Secret Service protection mission, these funds are being provided in recognition of the extraordinary costs borne by a small number of jurisdictions in which a residence of the President is located. The funding may not be used to supplant state or local funds for personnel costs that would otherwise have been expended by a jurisdiction, and shall not be available to reimburse the cost of equipment.

TITLE VI—DEPARTMENT OF HOMELAND SECURITY – ADDITIONAL  
APPROPRIATIONS  
SECURITY, ENFORCEMENT, AND INVESTIGATIONS

A total of \$1,520,242,000 is provided for enhanced border security, including \$1,140,121,000 in this title and \$380,121,000 in title II of this Act. As directed in title I of this Act, DHS shall provide obligation plans to the Committees for these funds not later than 45 days after the date of enactment of this Act.

U.S. CUSTOMS AND BORDER PROTECTION

OPERATIONS AND SUPPORT

An additional appropriation of \$274,813,000 is provided for Operations and Support.

The Anti-Border Corruption Act (ABCA) of 2010 requires U.S. Customs and Border Protection (CBP) to administer polygraph examinations to all law enforcement applicants prior to their hiring. As an alternative to its current polygraph exam, the Law Enforcement Pre-employment Test (LEPET), CBP is considering adopting a shorter, alternative test, the Test for Espionage, Sabotage, and Corruption (TES-C). As a precursor to adopting any alternative to the LEPET, CBP is directed to first carry out a trial implementation of the alternative standard for a subset of Border Patrol applicants for no longer than a six month period. After completing the trial, CBP shall submit a detailed report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Government Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives describing the trial and its results, including the rationale for considering an alternate standard; changes in hiring efficiencies; comparisons between the results of the LEPET and the alternative standard; an analysis of risks that would be associated with adopting the alternative standard and planned efforts to mitigate such risk; and the costs of implementation.

The additional amount provided for this appropriation by PPA is as follows:

	Final Bill
Operations and Support	
Border Security Operations	
U.S. Border Patrol	
Operations	
United States Border Patrol Relocations	\$25,000,000
Surge Operations	8,920,000
Subtotal, Operations	33,920,000
Assets and Support	

Border Technology - Tactical Communications	20,000,000
Border Road Maintenance - 758 miles	22,400,000
Facilities Maintenance Backlog	30,000,000
Surge Operations	12,310,000
Subtotal, Assets and Support	84,710,000
Subtotal, Border Security Operations	118,630,000
Trade and Travel Operations	
Office of Field Operations	
Targeting Operations	
Border Technology - CBP National Targeting Center Enhancements	10,000,000
Surge Operations	14,460,000
Subtotal, Targeting Operations	24,460,000
Assets and Support	
Owned Facilities Maintenance Backlog	17,500,000
Border Technology - Port of Entry Technology Enhancements	39,804,000
Surge Operations	12,310,000
Subtotal, Assets and Support	69,614,000
Subtotal, Trade and Travel Operations	94,074,000
Integrated Operations	
Air and Marine Operations	
Assets and Support	
Border Technology - Tethered Aerostat Radar System	18,143,000
Subtotal, Assets and Support	18,143,000
Subtotal, Integrated Operations	18,143,000
Mission Support	
Enterprise Services	
Expand Human Resource Management (HRM) Capacity	21,129,000
Additional HRM and Internal Affairs Staffing	10,910,000
Border Technology - Office of Infrastructure and Technology	3,368,000
Surge Operations	198,000

Insert Line

Subtotal, Enterprise Services	35,605,000
Office of Professional Responsibility	
Polygraph Examiner Retention	4,271,000
Additional HRM and Internal Affairs Staffing	4,090,000
Subtotal, Office of Professional Responsibility	8,361,000
Subtotal, Mission Support	43,966,000
Subtotal, Operations and Support	\$274,813,000

## PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

An additional appropriation of \$497,400,000 is provided for Procurement, Construction, and Improvements.

The additional amount provided for this appropriation by PPA is as follows:

	Final Bill
Procurement, Construction, and Improvements	
Border Security Assets and Infrastructure	
Replacement of primary pedestrian fencing in high priority areas – 20 miles	\$146,000,000
Replacement of vehicle fencing with primary pedestrian fencing in high priority areas – 20 miles	146,000,000
Gates for existing barriers – 35 gates	49,200,000
Roads - New Road Construction – 26 miles	77,400,000
Border Technology - 18 Remote Video Surveillance Systems, Rio Grande Valley (RGV) and Laredo (LRT) Sector	37,000,000
Border Technology - 19 Mobile Video Surveillance Systems (MVSS) in LRT and Del Rio Sectors	11,500,000
Border Technology - Additional RVSS and MVSS in RGV	20,000,000
Subtotal, Border Security Assets and Infrastructure	487,100,000
Trade and Travel Assets and Infrastructure	
Border Technology - Port of Entry Technology	10,300,000



Subtotal, Trade and Travel Assets and Infrastructure	10,300,000
Subtotal, Procurement, Construction, and Improvements	\$497,400,000

## U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

### OPERATIONS AND SUPPORT

An additional appropriation of \$236,908,000 is provided in this title for Enforcement and Removal Operations (ERO). This amount augments the \$380,121,000 above the fiscal year 2017 budget request for custody operations and transportation provided in title II for ERO. The total ERO increase of \$617,029,000 supports custody and related transportation requirements, along with an increase in the average daily number of participants in the Alternatives to Detention program.

U.S. Immigration and Customs Enforcement (ICE) shall refrain from entering into new contracts or other agreements, or changing or significantly modifying existing contracts or other agreements, to detain individuals unless such contracts or agreements meet or exceed the Performance Based National Detention Standards (PBNDS) 2011, as revised in 2016 and which were in effect on January 1, 2017, unless the Secretary submits a report to the Committees on Appropriations of the Senate and the House of Representatives at least 30 days in advance justifying the rationale for requiring changed standards.

Within 45 days after the date of enactment of this Act, ICE shall report on its progress in implementing the 2011 PBNDS and requirements related to Public Law 108-79 (PREA). This report shall include a list of detention facilities delineated by the detention standards with which they are obligated to comply; a plan and schedule for bringing into compliance each facility that is not currently obligated to comply with PBNDS 2011 and PREA requirements; and estimated costs for fiscal year 2017 and future years for bringing all such facilities into compliance. If ICE does not plan to bring certain facilities or categories of facilities into compliance with PBNDS 2011, the plan shall include the rationale for such decision.

The additional amount provided for this appropriation by PPA is as follows:

	Final Bill
Operations and Support	
Enforcement & Removal Operations	
Custody Operations	\$147,870,000
Alternatives to Detention	57,392,000
Transportation & Removal Program	31,646,000
Subtotal, Enforcement & Removal Ops	236,908,000
Subtotal, Operations & Support	\$236,908,000

e Operations

## UNITED STATES SECRET SERVICE

### OPERATIONS AND SUPPORT

An additional appropriation of \$58,012,000 is provided for Operations and Support, of which \$24,000,000 is for the settlement of *Moore vs. Napolitano* and \$34,012,000 is for increased physical presidential and other security requirements.

### PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

An additional appropriation of \$72,988,000 is provided for Procurement, Construction, and Improvements, of which \$22,988,000 is for increased facilities security requirements and \$50,000,000 is for the installation of new White House Crown Fence segments.

### ADMINISTRATIVE PROVISIONS--THIS ACT

Section 601. A provision is included directing that funds made available in this title are additional to amounts appropriated or otherwise made available for DHS for fiscal year 2017.

Insert  
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	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
DEPARTMENT OF HOMELAND SECURITY					
TITLE I - DEPARTMENTAL MANAGEMENT, OPERATIONS, INTELLIGENCE, & INSIGHT					
Office of the Secretary and Executive Management					
Operations and Support					
Office of the Secretary.....	18,967	22,287	18,632	-335	-3,655
Office of Policy.....	39,077	37,049	37,461	-1,616	+412
Office of Public Affairs.....	5,472	5,384	5,000	-472	-384
Office of Legislative Affairs.....	5,363	5,287	5,080	-283	-207
Office of Partnership and Engagement.....	13,074	11,692	15,206	+2,132	+3,514
Office of General Counsel.....	19,472	19,298	19,298	-174	---
Office for Civil Rights and Civil Liberties.....	21,800	21,403	22,571	+771	+1,168
Office of the Citizenship and Immigration Services Ombudsman.....	6,272	6,200	5,935	-337	-265
Privacy Office.....	7,969	7,851	7,851	-118	---
Subtotal, Operations and Support.....	137,466	136,451	137,034	-432	+583
-----					
Total, Office of the Secretary and Executive Management.....	137,466	136,451	137,034	-432	+583

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Management Directorate					
Operations and Support					
Immediate Office of the Under Secretary for Management.....	3,393	3,758	3,564	+171	-194
Office of the Chief Readiness Support Officer.....	31,691	128,177	54,275	+22,584	-73,902
Office of the Chief Human Capital Officer.....	29,697	36,446	39,026	+9,329	+2,580
Office of the Chief Security Officer.....	69,120	61,723	63,102	-6,018	+1,379
Office of the Chief Procurement Officer.....	60,630	101,450	98,076	+37,446	-3,374
Office of the Chief Financial Officer.....	56,420	100,041	53,700	-2,720	-46,341
Office of the Chief Information Officer.....	291,800	296,176	286,074	-5,726	-10,102
Subtotal, Operations and Support.....	542,751	727,771	597,817	+55,066	-129,954
Procurement, Construction, and Improvements					
Construction and Facility Improvements.....	---	125,950	---	---	-125,950
Mission Support Assets and Infrastructure.....	17,955	18,839	18,839	+884	---
Subtotal, Procurement, Construction, and Improvements.....	17,955	144,789	18,839	+884	-125,950
Research and Development.....	2,500	2,500	2,500	---	---
Subtotal, Research and Development.....	2,500	2,500	2,500	---	---
Total, Management Directorate.....	563,206	875,060	619,156	+55,950	-255,904

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Intelligence, Analysis, and Operations Coordination					
Operations and Support.....	264,714	265,719	263,551	-1,163	-2,168
Subtotal, Operations and Support.....	264,714	265,719	263,551	-1,163	-2,168
-----					
Total, Intelligence, Analysis, and Operations Coordination.....	264,714	265,719	263,551	-1,163	-2,168
-----					
Office of Inspector General					
Operations and Support.....	137,488	157,144	175,000	+37,512	+17,856
Subtotal, Operations and Support.....	137,488	157,144	175,000	+37,512	+17,856
(Transfer from Disaster Relief Fund).....	(24,000)	(24,000)	---	(-24,000)	(-24,000)
Total, Office of Inspector General.....	137,488	157,144	175,000	+37,512	+17,856
(By transfer).....	(24,000)	(24,000)	---	(-24,000)	(-24,000)
-----					
Gross Budget Authority, Office of Inspector General.....	(161,488)	(181,144)	(175,000)	(+13,512)	(-6,144)
=====					
Total, Title I, Departmental Management, Operations, Intelligence, and Oversight.....	1,102,874	1,434,374	1,194,741	+91,867	-239,633
(Discretionary Funding).....	(1,102,874)	(1,434,374)	(1,194,741)	(+91,867)	(-239,633)
By transfer.....	24,000	24,000	---	-24,000	-24,000
=====					

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS					
U.S. Customs and Border Protection					
Operations and Support					
Border Security Operations					
U.S. Border Patrol					
Operations.....	3,632,456	3,760,054	3,681,084	+48,628	-78,970
(UAC Contingency Fund).....	---	(13,000)	---	---	(-13,000)
Assets and Support.....	515,513	492,508	486,508	-29,005	-6,000
Office of Training and Development.....	54,937	56,819	54,221	-716	-2,598
Subtotal, Border and Security Operations....	4,202,906	4,309,381	4,221,813	+18,907	-87,568
Trade and Travel Operations					
Office of Field Operations					
Domestic Operations.....	2,695,679	2,886,008	2,734,840	+39,161	-151,168
International Operations.....	125,867	126,225	131,425	+5,558	+5,200
Targeting Operations.....	89,909	131,941	149,773	+59,864	+17,832
Assets and Support.....	828,255	1,001,815	832,367	+4,112	-169,448
Office of Trade.....	213,844	196,997	192,330	-21,514	-4,667
Office of Training and Development.....	38,258	49,929	50,354	+12,096	+425
Subtotal, Trade and Travel Operations.....	3,991,812	4,392,915	4,091,089	+99,277	-301,826

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Integrated Operations</b>					
Air and Marine Operations					
Operations.....	288,434	301,908	266,764	-21,670	-35,144
Assets and Support.....	507,545	484,704	507,704	+159	+23,000
Air and Marine Operations Center.....	25,487	37,133	45,138	+19,651	+8,005
Office of International Affairs.....	32,579	35,018	36,513	+3,934	+1,495
Office of Intelligence.....	62,566	66,566	58,492	-4,074	-8,074
Office of Training and Development.....	---	5,807	5,807	+5,807	---
Operations Support.....	65,796	93,080	93,259	+27,463	+179
Subtotal, Integrated Operations.....	982,407	1,024,216	1,013,677	+31,270	-10,539
<b>Mission Support</b>					
Enterprise Services.....	1,251,565	1,336,054	1,312,986	+61,421	-23,068
(Harbor Maintenance Trust Fund).....	(3,274)	(3,274)	(3,274)	---	---
Office of Professional Responsibility.....	159,560	180,583	167,163	+7,603	-13,420
Executive Leadership and Oversight.....	86,255	97,809	93,908	+7,653	-3,901
Subtotal, Mission Support.....	1,497,380	1,614,446	1,574,057	+76,677	-40,389
Subtotal, Operations and Support.....	10,674,505	11,340,958	10,900,636	+226,131	-440,322

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Procurement, Construction, and Improvements					
Border Security Assets and Infrastructure.....	76,421	45,942	45,942	-30,479	---
Trade and Travel Assets and Infrastructure.....	116,553	130,349	60,842	-55,711	-69,507
Integrated Operations Assets and Infrastructure					
Airframes and Sensors.....	80,900	68,617	116,058	+35,158	+47,441
Operational Communications/Information Technology.....	7,000	---	---	-7,000	---
Construction and Facility Improvements.....	62,870	39,775	20,775	-42,095	-19,000
Mission Support Assets and Infrastructure.....	30,000	38,707	30,000	---	-8,707
Subtotal, Procurement, Construction, and Improvements.....	373,744	323,390	273,617	-100,127	-49,773
CBP Services at User Fee Facilities (Small Airport) (Permanent Indefinite Discretionary).....	9,097	9,415	9,415	+318	---
Fee Funded Programs					
Immigration Inspection User Fee.....	(652,699)	(677,894)	(677,894)	(+25,195)	---
Immigration Enforcement Fines.....	(633)	(860)	(860)	(+227)	---
Electronic System for Travel Authorization (ESTA) Fee.....	(57,332)	(58,301)	(58,301)	(+969)	---
Land Border Inspection Fee.....	(34,724)	(46,517)	(46,517)	(+11,793)	---
COBRA Passenger Inspection Fee.....	(506,877)	(523,737)	(523,737)	(+16,860)	---
APHIS Inspection Fee.....	(515,810)	(534,515)	(534,515)	(+18,705)	---



	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Global Entry Fee.....	(91,789)	(96,297)	(96,297)	(+4,508)	---
Puerto Rico Trust Fund.....	(99,058)	(99,551)	(99,551)	(+493)	---
Virgin Island Fee.....	(11,867)	(11,176)	(11,176)	(-691)	---
Customs Unclaimed Goods.....	(5,992)	(5,992)	(5,992)	---	---
Subtotal, Fee Funded Programs.....	1,976,781	2,054,840	2,054,840	+78,059	---
Administrative Provisions					
Colombia Free Trade Act Collections.....	220,000	220,000	231,000	+11,000	+11,000
Reimbursable Preclearance.....	14,000	39,000	39,000	+25,000	---
Subtotal, Administrative Provisions (Gross)....	234,000	259,000	270,000	+36,000	+11,000
Reimbursable Preclearance (Offsetting Collections)	-14,000	-31,000	-39,000	-25,000	-8,000
Subtotal, Administrative Provisions (Net).....	220,000	228,000	231,000	+11,000	+3,000
Total, U.S. Customs and Border Protection.....	11,277,346	11,901,763	11,414,668	+137,322	-487,095
(Discretionary Funding).....	(11,277,346)	(11,901,763)	(11,414,668)	(+137,322)	(-487,095)
(Non-Defense).....	(11,277,346)	(11,901,763)	(11,414,668)	(+137,322)	(-487,095)
(Discretionary Appropriation).....	(11,291,346)	(11,932,763)	(11,453,668)	(+162,322)	(-479,095)
(Offsetting Collection).....	(-14,000)	(-31,000)	(-39,000)	(-25,000)	(-8,000)
Fee Funded Programs.....	1,976,781	2,054,840	2,054,840	+78,059	---
Gross Budget Authority, U.S. Customs and Border Protection.....	13,268,127	13,987,603	13,508,508	+240,381	-479,095

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
U.S. Immigration and Customs Enforcement					
Operations and Support					
Homeland Security Investigations					
Domestic Investigations.....	1,761,829	1,892,183	1,834,017	+72,188	-58,166
International Investigations.....	139,771	146,751	159,035	+19,264	+12,284
Intelligence.....	79,768	81,996	80,141	+373	-1,855
	-----	-----	-----	-----	-----
Subtotal, Homeland Security Investigations..	1,981,368	2,120,930	2,073,193	+91,825	-47,737
Enforcement and Removal Operations					
Custody Operations.....	2,316,744	2,178,963	2,557,542	+240,798	+378,579
Fugitive Operations.....	156,572	133,133	151,795	-4,777	+18,662
Criminal Alien Program.....	317,177	347,455	312,350	-4,827	-35,105
Alternatives to Detention.....	114,275	125,966	125,883	+11,608	-83
Transportation and Removal Program.....	313,174	322,694	324,236	+11,062	+1,542
(UAC Contingency Fund).....	---	(7,000)	---	---	(-7,000)
	-----	-----	-----	-----	-----
Subtotal, Enforcement and Removal Operations	3,217,942	3,108,211	3,471,806	+253,864	+363,595

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Mission Support.....	339,837	364,489	364,533	+24,696	+44
Office of the Principal Legal Advisor.....	239,894	268,393	259,000	+19,106	-9,393
Subtotal, Operations and Support.....	5,779,041	5,862,023	6,168,532	+389,491	+306,509
Procurement, Construction, and Improvements					
Operational Communications/Information Technology...	44,000	21,000	16,000	-28,000	-5,000
Construction and Facility Improvements.....	---	7,000	---	---	-7,000
Mission Support Assets and Infrastructure.....	9,000	22,230	13,800	+4,800	-8,430
Subtotal, Procurement, Construction, and Improvements.....	53,000	50,230	29,800	-23,200	-20,430

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Fee Funded Programs					
Immigration Inspection User Fee.....	(135,000)	(135,000)	(135,000)	---	---
Breached Bond/Detention Fund.....	(42,000)	(42,000)	(55,000)	(+13,000)	(+13,000)
Student Exchange and Visitor Fee.....	(145,000)	(145,000)	(171,000)	(+26,000)	(+26,000)
	-----	-----	-----	-----	-----
Subtotal, Fee Funded Programs.....	322,000	322,000	361,000	+39,000	+39,000
	-----	-----	-----	-----	-----
Total, U.S. Immigration and Customs Enforcement.	5,832,041	5,912,253	6,198,332	+366,291	+286,079
(Discretionary Funding).....	(5,832,041)	(5,912,253)	(6,198,332)	(+366,291)	(+286,079)
(Non-Defense).....	(5,832,041)	(5,912,253)	(6,198,332)	(+366,291)	(+286,079)
(Discretionary Appropriation).....	(5,832,041)	(5,912,253)	(6,198,332)	(+366,291)	(+286,079)
Fee Funded Programs.....	322,000	322,000	361,000	+39,000	+39,000
Gross Budget Authority, U.S. Immigration and Customs Enforcement.....	6,154,041	6,234,253	6,559,332	+405,291	+325,079

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Transportation Security Administration					
Operations and Support					
Aviation Screening Operations					
Screening Workforce					
Screening Partnership Program.....	166,928	170,382	177,982	+11,054	+7,600
Screeners Personnel, Compensation, and Benefits..	2,973,839	3,045,941	3,221,124	+247,285	+175,183
Screeners Training and Other.....	239,025	235,668	239,119	+94	+3,451
Airport Management.....	571,916	572,564	572,967	+1,051	+403
Canines.....	121,709	131,391	153,969	+32,260	+22,578
Screening Technology Maintenance.....	284,284	284,834	284,834	+550	---
Secure Flight.....	105,651	101,721	101,721	-3,930	---
Subtotal, Aviation Screening Operations.....	4,463,352	4,542,501	4,751,716	+288,364	+209,215
Other Operations and Enforcement					
Inflight Security					
Federal Air Marshals.....	805,076	815,313	802,953	-2,123	-12,360
Federal Flight Deck Officer and Crew Training...	20,758	19,773	22,273	+1,515	+2,500

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Aviation Regulation.....	215,636	218,296	218,296	+2,660	---
Air Cargo.....	93,659	95,692	94,682	+1,023	-1,010
Intelligence and ISOC.....	77,986	83,520	80,820	+2,834	-2,700
Surface programs.....	110,798	122,716	122,716	+11,918	---
Vetting Programs.....	74,939	65,751	65,751	-9,188	---
Subtotal, Other Operations and Enforcement..	1,398,852	1,421,061	1,407,491	+8,639	-13,570
Mission Support.....	924,015	951,375	945,840	+21,825	-5,535
Subtotal, Operations and Support (Gross).....	6,786,219	6,914,937	7,105,047	+318,828	+190,110
Aviation Passenger Security Fees (offsetting collections).....	-2,130,000	-2,130,000	-2,130,000	---	---
Passenger Security Fee Increase (offsetting collections)(legislative proposal).....	---	-460,000	---	---	+460,000
Aviation Security Infrastructure Fee (offsetting collections)(legislative proposal).....	---	-420,000	---	---	+420,000
Subtotal, Operations and Support (Net).....	4,656,219	3,904,937	4,975,047	+318,828	+1,070,110

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Procurement, Construction, and Improvements					
Aviation Screening Infrastructure					
Checkpoint Support.....	107,198	111,079	111,079	+3,881	---
Checked Baggage.....	60,574	59,331	59,331	-1,243	---
Infrastructure for Other Operations					
Air Cargo.....	14,007	14,383	14,383	+376	---
Surface Programs.....	13,845	15,000	15,000	+1,155	---
Vetting Programs.....	4,100	6,300	6,300	+2,200	---
	-----				
Subtotal, Procurement, Construction, and Improvements.....	199,724	206,093	206,093	+6,369	---
Research and Development.....	5,000	5,000	5,000	---	---
	-----				
Subtotal, Research and Development.....	5,000	5,000	5,000	---	---

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Fee Funded Programs					
TWIC Fee.....	(82,267)	(88,314)	(88,314)	(+6,047)	---
Hazardous Materials Endorsement Fee.....	(21,083)	(21,083)	(21,083)	---	---
General Aviation at DCA Fee.....	(400)	(400)	(400)	---	---
Commercial Aviation and Airports Fee.....	(6,500)	(6,500)	(6,500)	---	---
Other Security Threat Assessments Fee.....	(50)	(50)	(50)	---	---
Air Cargo/Certified Cargo Screening Program Fee...	(3,500)	(3,500)	(3,500)	---	---
TSA PreCheck Fee.....	(80,153)	(80,153)	(80,153)	---	---
Alien Flight School Fee.....	(5,200)	(5,200)	(5,200)	---	---
Subtotal, Fee Funded Programs.....	(199,153)	(205,200)	(205,200)	(+6,047)	---
Aviation Security Capital Fund (Mandatory).....	(250,000)	(250,000)	(250,000)	---	---
<hr/>					
Total, Transportation Security Administration...	4,860,943	4,116,030	5,186,140	+325,197	+1,070,110
(Discretionary Funding).....	(4,860,943)	(4,116,030)	(5,186,140)	(+325,197)	(+1,070,110)
(Discretionary Appropriations).....	(6,990,943)	(7,126,030)	(7,316,140)	(+325,197)	(+190,110)
(Offsetting Collections).....	(-2,130,000)	(-2,130,000)	(-2,130,000)	---	---
(Offsetting Collections) (Legislative Proposals).....	---	(-880,000)	---	---	(+880,000)
Aviation Security Capital Fund (mandatory)....	250,000	250,000	250,000	---	---
Fee Funded Programs.....	199,153	205,200	205,200	+6,047	---
Gross Budget Authority, Transportation Security Administration.....	7,440,096	7,581,230	7,771,340	+331,244	+190,110



	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Coast Guard					
Operating Expenses					
Military Pay and Allowances.....	3,488,617	3,597,319	3,544,111	+55,494	-53,208
Civilian Pay and Benefits.....	792,229	817,324	808,969	+16,740	-8,355
Training and Recruiting.....	206,498	198,605	196,346	-10,152	-2,259
Operating Funds and Unit Level Maintenance.....	1,027,780	996,204	995,519	-32,261	-685
Centrally Managed Accounts.....	329,906	329,099	328,746	-1,160	-353
Intermediate and Depot Level Maintenance.....	1,056,458	1,048,264	1,043,245	-13,213	-5,019
Overseas Contingency Operations/Global War on Terrorism (Defense).....	160,002	---	162,692	+2,690	+162,692
Subtotal, Operating Expenses.....	7,061,490	6,986,815	7,079,628	+18,138	+92,813
(Defense).....	(500,002)	(340,000)	(502,692)	(+2,690)	(+162,692)
(Overseas Contingency Operations/Global War on Terrorism).....	(160,002)	---	(162,692)	(+2,690)	(+162,692)
(Other Defense).....	(340,000)	(340,000)	(340,000)	---	---
Environmental Compliance and Restoration.....	13,221	13,315	13,315	+94	---
Reserve Training.....	110,614	112,302	112,302	+1,688	---
Acquisition, Construction, and Improvements					
Vessels					
Survey and Design-Vessel and Boats.....	15,000	6,500	9,500	-5,500	+3,000
In-Service Vessel Sustainment.....	68,000	79,000	94,000	+26,000	+15,000
National Security Cutter.....	743,400	127,000	255,400	-488,000	+128,400
Offshore Patrol Cutter.....	89,000	100,000	75,000	-14,000	-25,000
Fast Response Cutter.....	340,000	240,000	325,000	-15,000	+85,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Cutter Boats.....	3,000	4,000	4,000	+1,000	---
Polar Ice Breaking Vessel.....	6,000	147,600	25,000	+19,000	-122,600
Subtotal, Vessels.....	1,264,400	704,100	787,900	-476,500	+83,800
Aircraft					
HC-144 Conversion/Sustainment.....	3,000	25,500	25,500	+22,500	---
HC-27J Conversion/Sustainment.....	102,000	130,000	130,000	+28,000	---
HC-130J Acquisition/Conversion/Sustainment.....	150,000	20,800	111,800	-38,200	+91,000
HH-65 Conversion/Sustainment Projects.....	40,000	25,000	40,000	---	+15,000
Subtotal, Aircraft.....	295,000	201,300	307,300	+12,300	+106,000
Other Acquisition Programs					
Other Equipment and Systems.....	---	8,055	8,055	+8,055	---
Program Oversight and Management.....	20,000	20,000	20,000	---	---
C4ISR.....	36,600	24,300	24,300	-12,300	---
CG-Logistics Information Management System (CG-LIMS).....	8,500	7,000	7,000	-1,500	---
Subtotal, Other Acquisition Programs.....	65,100	59,355	59,355	-5,745	---

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Shore Facilities and Aids to Navigation					
Major Construction; Housing; ATON; and Survey and					
Design.....	124,600	18,100	44,519	-80,081	+26,419
Major Acquisition Systems Infrastructure.....	52,000	28,000	50,000	-2,000	+22,000
Minor Shore.....	5,000	5,000	5,000	---	---
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Subtotal, Shore Facilities and Aids to					
Navigation.....	181,600	51,100	99,519	-82,081	+48,419
Military Housing.....	21,000	---	---	-21,000	---
Personnel and Related Support Costs.....	118,069	120,933	115,933	-2,136	-5,000
-----					
Subtotal, Acquisition, Construction, and					
Improvements.....	1,945,169	1,136,788	1,370,007	-575,162	+233,219
Research, Development, Test, and Evaluation.....	18,019	18,319	36,319	+18,300	+18,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Health Care Fund Contribution (Permanent Indefinite Discretionary).....	169,306	176,000	176,000	+6,694	---
Mandatory Retired Pay (Mandatory).....	1,604,000	1,666,940	1,666,940	+62,940	---
Subtotal, Mandatory.....	1,604,000	1,666,940	1,666,940	+62,940	---
Total, Coast Guard.....	10,921,819	10,110,479	10,454,511	-467,308	+344,032
(Discretionary Funding).....	(9,317,819)	(8,443,539)	(8,787,571)	(-530,248)	(+344,032)
(Non-Defense).....	(8,817,817)	(8,103,539)	(8,284,879)	(-532,938)	(+181,340)
(Defense).....	(500,002)	(340,000)	(502,692)	(+2,690)	(+162,692)
(Overseas Contingency Operations/Global War on Terrorism ).....	(160,002)	---	(162,692)	(+2,690)	(+162,692)
(Other Defense).....	(340,000)	(340,000)	(340,000)	---	---
(Mandatory Funding).....	(1,604,000)	(1,666,940)	(1,666,940)	(+62,940)	---
United States Secret Service					
Operations and Support					
Protective Operations					
Protection of Persons and Facilities.....	509,825	586,988	599,759	+89,934	+12,771
Protective Countermeasures.....	55,000	58,193	58,193	+3,193	---
Protective Intelligence.....	38,700	40,732	44,490	+5,790	+3,758
Presidential Campaigns and National Special Security Events.....	149,487	48,634	51,734	-97,753	+3,100
Subtotal, Protective Operations.....	753,012	734,547	754,176	+1,164	+19,629

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Field Operations</b>					
Domestic and International Field Operations.....	792,348	761,427	763,271	-29,077	+1,844
Support for Missing and Exploited Children Investigations.....	8,366	---	6,000	-2,366	+6,000
Support for Computer Forensics Training.....	12,784	4,869	13,869	+1,085	+9,000
Subtotal, Field Operations.....	813,498	766,296	783,140	-30,358	+16,844
<b>Basic and In-Service Training and Professional Development.....</b>					
Mission Support.....	59,709	59,575	59,507	-202	-68
	243,694	217,574	224,628	-19,066	+7,054
Subtotal, Operations and Support.....	1,869,913	1,777,992	1,821,451	-48,462	+43,459
<b>Procurement, Construction, and Improvements</b>					
Protection Assets and Infrastructure.....	11,000	47,737	37,737	+26,737	-10,000
Operational Communications/Information Technology.....	34,332	62,890	52,890	+18,558	-10,000
Construction and Facility Improvements.....	18,050	---	---	-18,050	---
Subtotal, Procurement, Construction, and Improvements.....	63,382	110,627	90,627	+27,245	-20,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Research and Development.....	250	2,500	2,500	+2,250	---
Subtotal, Research and Development.....	250	2,500	2,500	+2,250	---
Total, United States Secret Service.....	1,933,545	1,891,119	1,914,578	-18,967	+23,459
=====	=====	=====	=====	=====	=====
Total, Title II, Security, Enforcement, and Investigations.....	34,825,694	33,931,644	35,168,229	+342,535	+1,236,585
(Discretionary Funding).....	(33,221,694)	(32,264,704)	(33,501,289)	(+279,595)	(+1,236,585)
(Non-Defense).....	(32,721,692)	(31,924,704)	(32,998,597)	(+276,905)	(+1,073,893)
(Discretionary Appropriation).....	(34,865,692)	(34,965,704)	(35,167,597)	(+301,905)	(+201,893)
(Offsetting Collections).....	(-2,144,000)	(-2,161,000)	(-2,169,000)	(-25,000)	(-8,000)
(Offsetting Collections)(Legislative Proposals).....	---	(-880,000)	---	---	(+880,000)
(Defense).....	(500,002)	(340,000)	(502,692)	(+2,690)	(+162,692)
(Overseas Contingency Operations/Global War on Terrorism).....	(160,002)	---	(162,692)	(+2,690)	(+162,692)
(Other Defense).....	(340,000)	(340,000)	(340,000)	---	---
(Mandatory Funding).....	(1,604,000)	(1,666,940)	(1,666,940)	(+62,940)	---
Aviation Security Capital Fund (Mandatory).....	250,000	250,000	250,000	---	---
Fee Funded Programs.....	2,497,934	2,582,040	2,621,040	+123,106	+39,000
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	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Title III - PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY					
National Protection and Programs Directorate					
Operations and Support					
Cybersecurity					
Cyber Readiness and Response					
NCCIC Operations.....	87,491	116,168	108,402	+20,911	-7,766
(CERT).....	(64,119)	(94,134)	(86,368)	(+22,249)	(-7,766)
NCCIC Planning and Exercises.....	64,942	92,683	88,502	+23,560	-4,181
(CERT).....	(48,590)	(65,788)	(61,607)	(+13,017)	(-4,181)
Cyber Infrastructure Resilience					
Cybersecurity Advisors.....	8,243	13,535	12,970	+4,727	-565
Enhanced Cybersecurity Services.....	16,597	16,830	16,950	+353	+120
Cybersecurity Education and Awareness.....	17,350	7,886	14,133	-3,217	+6,247
Federal Cybersecurity					
Federal Network Resilience.....	28,186	37,005	35,013	+6,827	-1,992
Continuous Diagnostics and Mitigation.....	5,149	8,878	7,565	+2,416	-1,313
National Cybersecurity Protection System.....	367,948	389,355	385,879	+17,931	-3,476
Subtotal, Cybersecurity.....	595,906	682,340	669,414	+73,508	-12,926

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Infrastructure Protection					
Infrastructure Capacity Building					
Sector Risk Management.....	42,227	41,611	42,396	+169	+785
Protective Security Advisors.....	36,294	39,490	39,723	+3,429	+233
Bombing Prevention.....	14,206	---	15,070	+864	+15,070
Infrastructure Information and Sensitive Data					
Protection.....	23,119	19,889	19,546	-3,573	-343
Infrastructure Security Compliance.....	76,609	76,876	69,557	-7,052	-7,319
Subtotal, Infrastructure Protection.....	192,455	177,866	186,292	-6,163	+8,426
Emergency Communications					
Emergency Communications Preparedness.....	44,306	43,260	44,097	-209	+837
Priority Telecommunications Service					
GETS/WPS/SRAS/TSP.....	55,173	55,406	55,730	+557	+324
Next Generation Networks Priority Services.....	1,824	1,966	2,214	+390	+248
Subtotal, Emergency Communications.....	101,303	100,632	102,041	+738	+1,409



	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Integrated Operations					
Cyber and Infrastructure Analysis					
National Infrastructure Simulation Analysis					
Center (NISAC).....	18,650	12,993	18,650	---	+5,657
Infrastructure Analysis.....	21,605	24,443	23,230	+1,625	-1,213
Critical Infrastructure Situational Awareness.....	13,702	16,344	16,176	+2,474	-168
(Defense).....	(12,082)	(14,724)	(14,720)	(+2,638)	(-4)
Stakeholder Engagement and Requirements.....	46,603	43,150	41,959	-4,644	-1,191
(Defense).....	(42,843)	(38,830)	(37,763)	(-5,080)	(-1,067)
Strategy, Policy and Plans.....	13,759	14,707	9,669	-4,090	-5,038
(Defense).....	(9,619)	(10,207)	(6,382)	(-3,237)	(-3,825)
Subtotal, Integrated Operations.....	114,319	111,637	109,684	-4,635	-1,953
Office of Biometric Identity Management					
Identity and Screening Program Operations.....	69,828	---	71,954	+2,126	+71,954
IDENT/Homeland Advanced Recognition Technology...	145,425	---	163,475	+18,050	+163,475
Subtotal, Office of Biometric Identity					
Management.....	215,253	---	235,429	+20,176	+235,429
Mission Support.....	76,727	75,027	69,408	-7,319	-5,619
(Defense).....	(22,695)	(23,390)	(21,516)	(-1,179)	(-1,874)
Subtotal, Operations and Support.....	1,295,963	1,147,502	1,372,268	+76,305	+224,766

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Federal Protective Service					
FPS Operations					
Operating Expenses.....	336,458	368,892	368,892	+32,434	---
Countermeasures					
Protective Security Officers.....	1,079,534	1,059,825	1,059,825	-19,709	---
Technical Countermeasures.....	27,457	22,361	22,361	-5,096	---
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Subtotal, Federal Protective Service (Gross)...	1,443,449	1,451,078	1,451,078	+7,629	---
	-----				
Offsetting Collections.....	-1,443,449	-1,451,078	-1,451,078	-7,629	---
	-----				
Subtotal, Federal Protective Service (Net)....	---	---	---	---	---
Procurement, Construction, and Improvements					
Cybersecurity					
Continuous Diagnostics and Mitigation.....	97,435	266,971	217,409	+119,974	-49,562
National Cybersecurity Protection System.....	91,738	81,771	81,771	-9,967	---
	-----				
Subtotal, Cybersecurity.....	189,173	348,742	299,180	+110,007	-49,562
Emergency Communications					
Next Generation Networks Priority Services.....	78,550	88,055	88,055	+9,505	---
	-----				
Subtotal, Emergency Communications.....	78,550	88,055	88,055	+9,505	---

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Biometric Identity Management					
IDENT/Homeland Advanced Recognition Technology...	65,800	---	52,800	-13,000	+52,800
Subtotal, Biometric Identity Management.....	65,800	---	52,800	-13,000	+52,800
Subtotal, Procurement, Construction, and Improvements.....	333,523	436,797	440,035	+106,512	+3,238
Research and Development					
Cybersecurity.....	2,030	2,030	2,030	---	---
Infrastructure Protection.....	4,089	2,439	4,439	+350	+2,000
Subtotal, Research and Development.....	6,119	4,469	6,469	+350	+2,000
Total, National Protection and Programs					
Directorate.....	1,635,605	1,588,768	1,818,772	+183,167	+230,004
(Discretionary Funding).....	(1,635,605)	(1,588,768)	(1,818,772)	(+183,167)	(+230,004)
(Non-Defense).....	(344,605)	(62,077)	(345,060)	(+455)	(+282,983)
(Discretionary Appropriations).....	(1,788,054)	(1,513,155)	(1,796,138)	(+8,084)	(+282,983)
(Offsetting Collections).....	(-1,443,449)	(-1,451,078)	(-1,451,078)	(-7,629)	---
(Defense).....	(1,291,000)	(1,526,691)	(1,473,712)	(+182,712)	(-52,979)
Gross Budget Authority, National Protection and Programs Directorate.....	3,079,054	3,039,846	3,269,850	+190,796	+230,004

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<b>Office of Health Affairs</b>					
Operations and Support					
Chemical and Biological Readiness.....	82,902	---	82,689	-213	+82,689
Health and Medical Readiness.....	4,495	---	4,352	-143	+4,352
Integrated Operations.....	10,962	---	11,809	+847	+11,809
Mission Support.....	27,010	---	24,698	-2,312	+24,698
Subtotal, Operations and Support.....	125,369	---	123,548	-1,821	+123,548
Total, Office of Health Affairs.....	125,369	---	123,548	-1,821	+123,548
<b>Federal Emergency Management Agency</b>					
Operations and Support					
Regional Operations.....	151,460	157,134	157,134	+5,674	---
Mitigation.....	27,957	24,887	28,213	+256	+3,326
Preparedness and Protection.....	149,281	146,356	146,356	-2,925	---
Response and Recovery					
Response.....	172,624	178,500	187,806	+15,182	+9,306
(Urban Search and Rescue).....	(35,180)	(27,153)	(38,280)	(+3,100)	(+11,127)
Recovery.....	49,763	58,687	56,126	+6,363	-2,561
Mission Support.....	367,869	472,916	472,916	+105,047	---
Subtotal, Operations and Support.....	918,954	1,038,480	1,048,551	+129,597	+10,071
(Defense).....	(46,500)	(46,788)	(46,788)	(+288)	---

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Procurement, Construction, and Improvements					
Operational Communications/Information Technology.....	2,800	2,800	2,800	---	---
Construction and Facility Improvements.....	29,000	21,050	21,050	-7,950	---
Mission Support, Assets, and Infrastructure.....	11,500	11,423	11,423	-77	---
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Subtotal, Procurement, Construction, and Improvements.....	43,300	35,273	35,273	-8,027	---
(Defense).....	(27,500)	(15,500)	(15,500)	(-12,000)	---
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Federal Assistance					
Grants					
State Homeland Security Grant Program.....	467,000	200,000	467,000	---	+267,000
(Operation Stonegarden).....	(55,000)	---	(55,000)	---	(+55,000)
Urban Area Security Initiative.....	600,000	330,000	605,000	+5,000	+275,000
(Nonprofit Security).....	(20,000)	---	(25,000)	(+5,000)	(+25,000)
Public Transportation Security Assistance.....	100,000	85,000	100,000	---	+15,000
(Amtrak Security).....	(10,000)	(10,000)	(10,000)	---	---
(Over-the-Road Bus Security).....	---	---	(2,000)	(+2,000)	(+2,000)
Port Security Grants.....	100,000	93,000	100,000	---	+7,000
Countering Violent Extremism.....	---	49,000	---	---	-49,000
Regional Competitive Grant Program.....	---	100,000	---	---	-100,000
Assistance to Firefighter Grants.....	345,000	335,000	345,000	---	+10,000
Staffing for Adequate Fire and Emergency Response (SAFER) Grants.....	345,000	335,000	345,000	---	+10,000
Emergency Management Performance Grants.....	350,000	350,000	350,000	---	---
National Predisaster Mitigation Fund.....	100,000	54,485	100,000	---	+45,515

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Flood Hazard Mapping and Risk Analysis Program	190,000	177,531	177,531	-12,469	---
Emergency Food and Shelter.....	120,000	100,000	120,000	---	+20,000
Subtotal, Grants.....	2,717,000	2,209,016	2,709,531	-7,469	+500,515
Education, Training, and Exercises					
Center for Domestic Preparedness.....	64,991	63,939	63,939	-1,052	---
Center for Homeland Defense and Security.....	18,000	18,000	18,000	---	---
Emergency Management Institute.....	20,569	19,643	20,569	---	+926
U.S. Fire Administration.....	42,500	40,812	42,500	---	+1,688
National Domestic Preparedness Consortium.....	98,000	36,000	101,000	+3,000	+65,000
Continuing Training Grants.....	11,521	---	8,000	-3,521	+8,000
National Exercise Program.....	19,919	19,911	19,919	---	+8
Subtotal, Education, Training, and Exercises	275,500	198,305	273,927	-1,573	+75,622
Subtotal, Federal Assistance.....	2,992,500	2,407,321	2,983,458	-9,042	+576,137
Disaster Relief Fund					
Base Disaster Relief.....	661,740	639,515	615,515	-46,225	-24,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Disaster Relief Category.....	6,712,953	6,709,000	6,713,000	+47	+4,000
Subtotal, Disaster Relief Fund (Gross).....	7,374,693	7,348,515	7,328,515	-46,178	-20,000
(transfer to Office of Inspector General).....	(-24,000)	(-24,000)	---	(+24,000)	(+24,000)
Subtotal, Disaster Relief Fund (Net).....	7,350,693	7,324,515	7,328,515	-22,178	+4,000
National Flood Insurance Fund					
Floodplain Management and Mapping.....	158,192	168,363	168,363	+10,171	---
Mission Support.....	23,006	13,436	13,436	-9,570	---
Subtotal, National Flood Insurance Fund.....	181,198	181,799	181,799	+601	---
Offsetting Fee Collections.....	-181,198	-181,799	-181,799	-601	---

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Administrative Provisions					
Radiological Emergency Preparedness Program.....	-305	-265	-265	+40	---
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Total, Federal Emergency Management Agency.....	11,329,142	10,829,324	11,395,532	+66,390	+566,208
(Discretionary Funding).....	(11,329,142)	(10,829,324)	(11,395,532)	(+66,390)	(+566,208)
(Non-Defense).....	(11,255,142)	(10,767,036)	(11,333,244)	(+78,102)	(+566,208)
(Discretionary Appropriations).....	(4,723,387)	(4,239,835)	(4,802,043)	(+78,656)	(+562,208)
(Offsetting Collections).....	(-181,198)	(-181,799)	(-181,799)	(-601)	---
(Disaster Relief Category).....	(6,712,953)	(6,709,000)	(6,713,000)	(+47)	(+4,000)
(Defense).....	(74,000)	(62,288)	(62,288)	(-11,712)	---
Transfer Out.....	-24,000	-24,000	---	+24,000	+24,000
Gross Budget Authority, Federal Emergency Management Agency.....	11,486,340	10,987,123	11,577,331	+90,991	+590,208
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Total, Title III, Protection, Preparedness, Response, and Recovery.....	13,090,116	12,418,092	13,337,852	+247,736	+919,760
(Discretionary Funding).....	(13,090,116)	(12,418,092)	(13,337,852)	(+247,736)	(+919,760)
(Non-Defense).....	(11,725,116)	(10,829,113)	(11,801,852)	(+76,736)	(+972,739)
(Discretionary Appropriations).....	(6,636,810)	(5,752,990)	(6,721,729)	(+84,919)	(+968,739)
(Offsetting Collections).....	(-1,624,647)	(-1,632,877)	(-1,632,877)	(-8,230)	---
(Disaster Relief Category).....	(6,712,953)	(6,709,000)	(6,713,000)	(+47)	(+4,000)
(Defense).....	(1,365,000)	(1,588,979)	(1,536,000)	(+171,000)	(-52,979)
Transfer out.....	-24,000	-24,000	---	+24,000	+24,000
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	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES					
United States Citizenship and Immigration Services					
Operations and Support					
Employment Status Verification.....	104,560	103,912	103,912	-648	---
Subtotal, Operations and Support.....	104,560	103,912	103,912	-648	---
Procurement, Construction, and Improvements.....	15,111	15,227	15,227	+116	---
Subtotal, Procurement, Construction, and Improvements.....	15,111	15,227	15,227	+116	---
Federal Assistance.....	---	10,000	---	---	-10,000
Subtotal, Federal Assistance.....	---	10,000	---	---	-10,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Fee Funded Programs					
Immigration Examinations Fee Account					
Adjudication Services					
District Operations.....	(1,615,409)	(1,607,655)	(1,675,716)	(+60,307)	(+68,061)
(Immigrant Integration Grants).....	(10,000)	---	(10,000)	---	(+10,000)
Service Center Operations.....	(669,891)	(1,001,363)	(609,387)	(-60,524)	(-391,996)
Asylum, Refugee, and International Operations...	(259,042)	(274,437)	(358,474)	(+99,432)	(+84,037)
Records Operations.....	(124,177)	(124,671)	(133,509)	(+9,332)	(+8,838)
Premium Processing (Including Transformation)...	(226,380)	(226,380)	(573,976)	(+347,596)	(+347,596)
Subtotal, Adjudication Services.....	(2,894,899)	(3,234,506)	(3,351,042)	(+456,143)	(+116,536)
Information and Customer Services					
Operating Expenses.....	(124,041)	(138,915)	(103,625)	(-20,416)	(-35,290)
Administration					
Operating Expenses.....	(384,585)	(418,639)	(509,420)	(+124,835)	(+90,781)
Systematic Alien Verification for Entitlements (SAVE).....	(27,021)	(37,071)	(34,410)	(+7,389)	(-2,661)
Subtotal, Immigration Examinations Fee Account.....	(3,430,546)	(3,829,131)	(3,998,497)	(+567,951)	(+169,366)

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
H1-B Non-Immigrant Petitioner Account					
Adjudication Services					
Service Center Operations.....	(15,000)	(15,000)	(15,000)	---	---
Subtotal, H-1B Non-Immigrant Petitioner Account.....	(15,000)	(15,000)	(15,000)	---	---
Fraud Prevention and Detection Account					
Adjudication Services					
District Operations.....	(29,523)	(29,523)	(28,789)	(-2,734)	(-2,734)
Service Center Operations.....	(15,169)	(15,169)	(19,631)	(+4,462)	(+4,462)
Asylum and Refugee Operating Expenses.....	(308)	(308)	(308)	---	---
Subtotal, Fraud Prevention and Detection Account.....	(45,000)	(45,000)	(46,728)	(+1,728)	(+1,728)
Subtotal, Fee Funded Programs.....	(3,490,546)	(3,889,131)	(4,060,225)	(+569,679)	(+171,094)

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Administrative Provisions					
H2B returning worker.....	1,000	---	1,000	---	+1,000
Immigration Authorization Extensions.....	1,000	---	1,000	---	+1,000
U-Visa Immigration Proposal.....	---	3,000	---	---	-3,000
-----					
Subtotal, Administrative Provisions.....	2,000	3,000	2,000	---	-1,000
-----					
Total, United States Citizenship and Immigration Services.....	121,671	132,139	121,139	-532	-11,000
(Discretionary Funding).....	(121,671)	(132,139)	(121,139)	(-532)	(-11,000)
Fee Funded Programs.....	3,490,546	3,889,131	4,060,225	+569,679	+171,094
-----					
Gross Budget Authority, United States Citizenship and Immigration Services.....	3,612,217	4,021,270	4,181,364	+569,147	+160,094

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Federal Law Enforcement Training Centers					
Operations and Support					
Law Enforcement Training.....	216,963	213,804	213,804	-3,159	---
Mission Support.....	28,075	28,714	28,714	+639	---
Subtotal, Operations and Support.....	245,038	242,518	242,518	-2,520	---
Total, Federal Law Enforcement Training Centers.	245,038	242,518	242,518	-2,520	---
Science and Technology Directorate					
Operations and Support					
Laboratory Facilities.....	125,412	133,942	133,942	+8,530	---
Acquisition and Operations Analysis.....	47,103	48,392	48,392	+1,289	---
Mission Support.....	131,530	127,904	128,788	-2,742	+884
Subtotal, Operations and Support.....	304,045	310,238	311,122	+7,077	+884

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<hr/>					
Procurement, Construction, and Improvements					
Laboratory Facilities.....	8,319	---	---	-8,319	---
Subtotal, Procurement, Construction, and Improvements.....	8,319	---	---	-8,319	---
Research and Development					
Research, Development, and Innovation.....	434,850	417,420	430,124	-4,726	+12,704
University Programs.....	39,724	31,085	40,500	+776	+9,415
Subtotal, Research and Development.....	474,574	448,505	470,624	-3,950	+22,119
Total, Science and Technology.....	786,938	758,743	781,746	-5,192	+23,003
Domestic Nuclear Detection Office					
Operations and Support					
Mission Support.....	51,545	---	50,042	-1,503	+50,042
Subtotal, Operations and Support.....	51,545	---	50,042	-1,503	+50,042

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
<hr/>					
Procurement, Construction, and Improvements					
Large Scale Detection Systems.....	36,527	---	53,709	+17,182	+53,709
Human Portable Rad/Nuclear Detection Systems.....	51,762	---	47,344	-4,418	+47,344
<hr/>					
Subtotal, Procurement, Construction, and Improvements.....	88,289	---	101,053	+12,764	+101,053
<hr/>					
Research and Development					
Architecture Planning and Analysis.....	15,758	---	15,072	-686	+15,072
Transformational Research and Development.....	64,684	---	62,028	-2,656	+62,028
Detection Capability Development.....	21,029	---	19,851	-1,178	+19,851
Detection Capability Assessments.....	39,503	---	39,272	-231	+39,272
Nuclear Forensics.....	19,031	---	18,838	-193	+18,838
<hr/>					
Subtotal, Research and Development.....	160,005	---	155,061	-4,944	+155,061
<hr/>					
Federal Assistance					
Federal, State, Local, Territorial, and Tribal Support.....	26,168	---	25,193	-975	+25,193
Securing the Cities.....	21,113	---	21,135	+22	+21,135
<hr/>					
Subtotal, Federal Assistance.....	47,281	---	46,328	-953	+46,328
<hr/>					
Total, Domestic Nuclear Detection Office.....	347,120	---	352,484	+5,364	+352,484

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Chemical, Biological, Radiological, Nuclear, and Explosives Office					
Operations & Support					
Chemical, Biological, and Emerging Infectious Diseases Capability					
Chemical and Biological Capability.....	---	94,862	---	---	-94,862
Health and Emerging Infectious Diseases.....	---	9,951	---	---	-9,951
Integrated Operations.....	---	13,107	---	---	-13,107
Subtotal, Chemical, Biological, Radiological, Nuclear, and Explosives Office.....	---	117,920	---	---	-117,920
Rad/Nuclear Detection, Forensics, and Prevention Capability.....	---	20,552	---	---	-20,552
Management & Administration.....	---	41,561	---	---	-41,561
Subtotal, Operations and Support.....	---	180,033	---	---	-180,033
Procurement, Construction, and Improvements					
Rad/Nuclear Detection Equipment Acquisition.....	---	103,860	---	---	-103,860
Subtotal, Procurement, Construction, and Improvements.....	---	103,860	---	---	-103,860



	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Research and Development					
Rad/Nuclear Detection, Forensics, and Prevention					
Capability					
Transformational Research and Development.....	---	64,771	---	---	-64,771
Detection Capability Development.....	---	21,536	---	---	-21,536
Detection Capability Assessments.....	---	44,722	---	---	-44,722
Nuclear Forensics.....	---	20,576	---	---	-20,576
-----					
Subtotal, Rad/Nuclear Detection, Forensics, and Prevention Capability.....	---	151,605	---	---	-151,605
-----					
Subtotal, Research and Development.....	---	151,605	---	---	-151,605

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Federal Assistance					
Rad/Nuclear Detection, Forensics, and Prevention					
Capability.....	---	51,684	---	---	-51,684
Bombing Prevention (Defense Function).....	---	14,263	---	---	-14,263
-----					
Subtotal, Rad/Nuclear Detection, Forensics, and Prevention Capability.....	---	65,947	---	---	-65,947
-----					
Subtotal, Federal Assistance.....	---	65,947	---	---	-65,947
-----					
Total, Chemical, Biological, Radiological, Nuclear, and Explosives Office.....	---	501,445	---	---	-501,445
(Discretionary Funding).....	---	(501,445)	---	---	(-501,445)
(Non-Defense).....	---	(487,182)	---	---	(-487,182)
(Defense).....	---	(14,263)	---	---	(-14,263)
=====					
Total, Title IV, Research and Development, Training, and Services.....	1,500,767	1,634,845	1,497,887	-2,880	-136,958
(Discretionary Funding).....	(1,500,767)	(1,634,845)	(1,497,887)	(-2,880)	(-136,958)
(Non-Defense).....	(1,500,767)	(1,620,582)	(1,497,887)	(-2,880)	(-122,695)
(Defense).....	---	(14,263)	---	---	(-14,263)
Fee Funded Programs.....	3,490,546	3,889,131	4,060,225	+569,679	+171,094
=====					

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
TITLE V - GENERAL PROVISIONS					
DHS HQ Consolidation Project.....	215,679	---	13,253	-202,426	+13,253
Financial Systems Modernization.....	52,977	---	41,215	-11,762	+41,215
OCIO Cyber Security Fund.....	100,000	---	---	-100,000	---
OCIO Unobligated Balances (Rescission).....	---	---	-3,000	-3,000	-3,000
Emergent Threats.....	50,000	---	---	-50,000	---
FEMA Disaster Assistance Direct Loan Program Account (P.L. 109-88) (FY05) (Rescission).....	-27,338	-95,000	-95,000	-67,662	---
Analysis and Operations (Rescission).....	-4,188	---	---	+4,188	---
CBP Automation Modernization (Rescission).....	-7,000	---	-31,293	-24,293	-31,293
CBP Air and Marine Operations (Rescission).....	---	---	-21,450	-21,450	-21,450
CBP, BSFIT (P.L. 114-4) (Rescission).....	-21,856	---	---	+21,856	---
CBP, BSFIT (Prior Year Balances) (Rescission).....	---	---	-21,150	-21,150	-21,150
CBP Construction and Facilities Management (Rescission).....	-4,500	---	-20,690	-16,190	-20,690
ICE Salaries and Expenses (P.L. 114-4) (FY 15) (Rescission).....	---	---	-13,500	-13,500	-13,500
ICE Salaries and Expenses (P.L. 114-113)(FY16) (Rescission).....	---	---	-45,000	-45,000	-45,000
ICE Construction (Rescission).....	---	---	-2,900	-2,900	-2,900
TSA Aviation Security (P.L. 114-113) (FY16) (Rescission).....	---	---	-104,650	-104,650	-104,650
TSA Surface Transportation Security (P.L. 114-113) (FY16) (Rescission).....	---	---	-2,582	-2,582	-2,582
TSA Intelligence and Vetting (P.L. 114-113) (FY16) (Rescission).....	---	---	-9,930	-9,930	-9,930

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
TSA Transportation Security Support (P.L. 114-113)					
(FY16) (Rescission).....	---	---	-2,518	-2,518	-2,518
TSA Aviation Security (P.L. 114-4) (FY15) (Rescission)	-158,414	---	---	+158,414	---
TSA Surface Transportation Security (P.L. 114-4)					
(FY15) (Rescission).....	-14,000	---	---	+14,000	---
Coast Guard AC&I (P.L. 112-74) (FY12) (Rescission)....	-5,800	---	---	+5,800	---
Coast Guard AC&I (P.L. 113-6) (FY13) (Rescission)....	---	---	-4,200	-4,200	-4,200
Coast Guard AC&I (P.L. 113-76) (FY14) (Rescission)....	-16,445	---	-19,300	-2,855	-19,300
Coast Guard AC&I (P.L. 114-4) (FY15) (Rescission)....	---	---	-16,500	-16,500	-16,500
Coast Guard AC&I (P.L. 114-113) (FY16) (Rescission)....	---	---	-31,000	-31,000	-31,000
FEMA Predisaster Mitigation (Rescission).....	-13,758	---	---	+13,758	---
FEMA State and Local Programs (70X0560) (Rescission)..	---	---	-11,071	-11,071	-11,071
S&T RDA&O (PL113-6) (FY13) (Rescission).....	-393	---	---	+393	---
S&T RDA&O (PL113-76) (FY14) (Rescission).....	-8,500	---	-977	+7,523	-977
S&T RDA&O (PL114-4) (FY15) (Rescission).....	-1,107	---	-5,000	-3,893	-5,000
S&T RDA&O (PL114-113) (FY16) (Rescission).....	---	---	-1,523	-1,523	-1,523
Legacy Funds (Rescission).....	-1,006	---	-1,841	-835	-1,841
DHS Lapsed Balances (Rescission).....	-23,968	---	-42,343	-18,375	-42,343
Treasury Asset Forfeiture Fund (Rescission).....	-176,000	---	-187,000	-11,000	-187,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
FEMA Disaster Relief Fund (DRF) (Rescission).....	-1,021,879	-325,000	-789,248	+232,631	-464,248
Presidential Residence Protection Assistance.....	---	---	41,000	+41,000	+41,000
	=====	=====	=====	=====	=====
Total, Title V, General Provisions.....	-1,087,496	-420,000	-1,388,198	-300,702	-968,198
(Discretionary Funding).....	(418,656)	---	(95,468)	(-323,188)	(+95,468)
(Rescissions/Cancellations).....	(-1,506,152)	(-420,000)	(-1,483,666)	(+22,486)	(-1,063,666)
	=====	=====	=====	=====	=====
Grand Total, Titles I-V.....	49,431,955	48,998,955	49,810,511	+378,556	+811,556
(Discretionary Funding).....	(47,827,955)	(47,332,015)	(48,143,571)	(+315,616)	(+811,556)
(Non-Defense).....	(45,962,953)	(45,388,773)	(46,104,879)	(+141,926)	(+716,106)
(Discretionary Appropriations).....	(44,524,799)	(43,773,650)	(44,677,422)	(+152,623)	(+903,772)
(Offsetting Collections).....	(-3,768,647)	(-3,793,877)	(-3,801,877)	(-33,230)	(-8,000)
(Offsetting Collections)(Legislative Proposals).....	---	(-880,000)	---	---	(+880,000)
(Disaster Relief Category).....	(6,712,953)	(6,709,000)	(6,713,000)	(+47)	(+4,000)
(Rescissions).....	(-1,506,152)	(-420,000)	(-1,483,666)	(+22,486)	(-1,063,666)
(Defense).....	(1,865,002)	(1,943,242)	(2,038,692)	(+173,690)	(+95,450)
(Overseas Contingency on Operations/Global War on Terrorism).....	(160,002)	---	(162,692)	(+2,690)	(+162,692)
(Other Defense).....	(1,705,000)	(1,943,242)	(1,876,000)	(+171,000)	(-67,242)
(Mandatory Funding).....	(1,604,000)	(1,666,940)	(1,666,940)	(+62,940)	---
	=====	=====	=====	=====	=====

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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TITLE VI - ADDITIONAL APPROPRIATIONS					
SECURITY ENFORCEMENT AND INVESTIGATIONS					
Office of the Secretary and Executive Management					
Operations and Support					
Office of Policy (budget amendment).....	---	11,304	---	---	-11,304
Subtotal, Operations and Support.....	---	11,304	---	---	-11,304
Total, Office of the Secretary and Executive Management.....	---	11,304	---	---	-11,304
U.S. Customs and Border Protection					
Operations and Support					
Border Security Operations					
U.S. Border Patrol					
Operations (budget amendment).....	---	53,920	33,920	+33,920	-20,000
Assets and Support (budget amendment).....	---	89,575	84,710	+84,710	-4,865
Subtotal, Border Security Operations.....	---	143,495	118,630	+118,630	-24,865

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Trade and Travel Operations					
Office of Field Operations					
Domestic Operations (budget amendment).....	---	28,798	24,460	+24,460	-4,338
Assets and Support (budget amendment).....	---	30,492	69,614	+69,614	+39,122
Subtotal, Trade and Travel Operations.....	---	59,290	94,074	+94,074	+34,784
Integrated Operations					
Air and Marine Operations					
Assets and Support (budget amendment).....	---	43,284	18,143	+18,143	-25,141
Operations Support (budget amendment).....	---	6,000	---	---	-6,000
Subtotal, Integrated Operations.....	---	49,284	18,143	+18,143	-31,141
Mission Support					
Enterprise Services (budget amendment).....	---	45,859	35,605	+35,605	-10,254
Office of Professional Responsibility (budget amendment).....	---	8,361	8,361	+8,361	---
Executive Leadership and Oversight (budget amendment).....	---	2,112	---	---	-2,112
Subtotal, Mission Support.....	---	56,332	43,966	+43,966	-12,366
Subtotal, Operations and Support.....	---	308,401	274,813	+274,813	-33,588

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
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Procurement, Construction, and Improvements					
Border Security Assets and Infrastructure (budget amendment).....	---	1,355,083	487,100	+487,100	-867,983
Trade and Travel Assets and Infrastructure.....	---	---	10,300	+10,300	+10,300
-----					
Subtotal, Procurement, Construction, and Improvements.....	---	1,355,083	497,400	+497,400	-857,683
-----					
Total, U.S. Customs and Border Protection.....	---	1,663,484	772,213	+772,213	-891,271
(Discretionary Funding).....	---	(1,663,484)	(772,213)	(+772,213)	(-891,271)
-----					
U.S. Immigration and Customs Enforcement					
Operations and Support					
Homeland Security Investigations (budget amendment).	---	15,136	---	---	-15,136
Enforcement and Removal Operations					
Custody Operations (budget amendment).....	---	994,914	147,870	+147,870	-847,044
Criminal Alien Program (budget amendment).....	---	5,000	---	---	-5,000
Alternatives to Detention (budget amendment).....	---	57,392	57,392	+57,392	---
Transportation and Removal Program (budget amendment).....	---	98,946	31,646	+31,646	-67,300
-----					
Subtotal, Enforcement and Removal Operations	---	1,156,252	236,908	+236,908	-919,344



	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Mission Support (budget amendment).....	---	65,824	---	---	-65,824
Subtotal, Operations and Support.....	---	1,237,212	236,908	+236,908	-1,000,304
Total, U.S. Immigration and Customs Enforcement. (Discretionary Funding).....	---	1,237,212 (1,237,212)	236,908 (236,908)	+236,908 (+236,908)	-1,000,304 (-1,000,304)
United States Secret Service					
Operations and Support					
Protective Operations					
Protection of Persons and Facilities.....	---	---	28,228	+28,228	+28,228
Subtotal, Protective Operations.....	---	---	28,228	+28,228	+28,228
Field Operations					
Domestic and International Field Operations.....	---	---	4,875	+4,875	+4,875
Subtotal, Field Operations.....	---	---	4,875	+4,875	+4,875
Mission Support.....	---	---	24,909	+24,909	+24,909
Subtotal, Operations and Support.....	---	---	58,012	+58,012	+58,012

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
-----					
Procurement, Construction, and Improvements					
Protection Assets and Infrastructure.....	---	---	16,103	+16,103	+16,103
Operational Communications/Information Technology.....	---	---	6,885	+6,885	+6,885
Construction and Facility Improvements.....	---	---	50,000	+50,000	+50,000
-----					
Subtotal, Procurement, Construction, and Improvements.....	---	---	72,988	+72,988	+72,988
-----					
Total, United States Secret Service.....	---	---	131,000	+131,000	+131,000
-----					
Federal Law Enforcement Training Centers					
Operations and Support					
Law Enforcement Training (budget amendment).....	---	24,291	---	---	-24,291
Mission Support (budget amendment).....	---	709	---	---	-709
-----					
Subtotal, Operations and Support.....	---	25,000	---	---	-25,000

	FY 2016 Enacted	FY 2017 Request	Final Bill	Final Bill vs Enacted	Final Bill vs Request
Procurement, Construction, and Improvements Construction and Facility Improvements (budget amendment).....	---	63,000	---	---	-63,000
Subtotal, Procurement, Construction, and Improvements.....	---	63,000	---	---	-63,000
Total, Federal Law Enforcement Training Centers.	---	88,000	---	---	-88,000
Total, Title VI, Additional Appropriations.....	---	3,000,000	1,140,121	+1,140,121	-1,859,879
Grand Total, Titles I-VI.....	49,431,955	51,998,955	50,950,632	+1,518,677	-1,048,323
(Discretionary Funding).....	(47,827,955)	(50,332,015)	(49,283,692)	(+1,455,737)	(-1,048,323)

Note: The FY 2017 Request column reflects the budget submitted on February 9, 2016, as amended.

# **Exhibit H**



David Abell &lt;david.abell@sierraclub.org&gt;

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## CBP-2017-054695 - Narrow the Scope

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CBPFOIA@cbp.dhs.gov &lt;CBPFOIA@cbp.dhs.gov&gt;

Tue, Aug 29, 2017 at 9:47 PM

To: "david.abell@sierraclub.org" &lt;david.abell@sierraclub.org&gt;

After careful review of your FOIA request, CBP-2017-054695, we have determined that your request **is too broad in scope** or did not specifically identify the records which you are seeking. *FOIA is not a search mechanism*. Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the event that would have created the record, a date range for the request, and subject matter of the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please narrow the scope of your request, a search for records responsive to your request in it's present state could potentially return a massive amount of documents which would create an reasonable burden on the agency. Additionally, please provide a time frame for items 4 through 8 of your request.

This is not a denial of your request for records. Please log into your FOIA online account at <https://foiaonline.regulations.gov>, to narrow the scope of your request and provide the additional information. Your request will be put in a hold status until the required information is provided.

You may contact a FOIA Public Liaison by sending an email via your FOIAonline account or call [202-325-0150](tel:202-325-0150). Please notate file number CBP-2017-054695 on any future correspondence to CBP related to this request. Additionally, you have a right to right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at [202-741-5770](tel:202-741-5770); toll free at [1-877-684-6448](tel:1-877-684-6448); or facsimile at [202-741-5769](tel:202-741-5769).



CBP-2017-054695 - Narrow the Scope.pdf

3K

1300 Pennsylvania Avenue  
Washington, DC 20229

David Abell  
Sierra Club, Environmental Law Program  
2101 Webster St.  
Suite 1300  
Oakland, CA 94612

August 30, 2017

Dear David Abell,

After careful review of your FOIA request, CBP-2017-054695, we have determined that your request is too broad in scope or did not specifically identify the records which you are seeking. *FOIA is not a search mechanism.* Records must be described in reasonably sufficient detail to enable government employees who are familiar with the subject area to locate records without placing an unreasonable burden upon the agency. For this reason, §5.3(b) of the DHS regulations, 6 C.F.R. Part 5, require that you describe the records you are seeking with as much information as possible to ensure that our search can locate them with a reasonable amount of effort. Whenever possible, a request should include specific information about each record sought, such as the event that would have created the record, a date range for the request, and subject matter of the records. The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify specific records.

Please narrow the scope of your request, a search for records responsive to your request in its present state could potentially return a massive amount of documents which would create an unreasonable burden on the agency. Additionally, please provide a time frame for items 4 through 8 of your request.

This is not a denial of your request for records. Please log into your FOIA online account at <https://foiaonline.regulations.gov>, to narrow the scope of your request and provide the additional information. Your request will be put in a hold status until the required information is provided.

You may contact a FOIA Public Liaison by sending an email via your FOIAonline account or call 202-325-0150. Please note file number CBP-2017-054695 on any future correspondence to CBP related to this request. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Jodi Drengson  
U.S. Customs and Border Protection