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BEFORE

HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

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Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee, it is a privilege to appear before you today to discuss U.S. Customs and Border Protection's (CBP) efforts to modernize our ports of entry.

First, I would like to thank Congress for their support in the American Recovery and Reinvestment Act (ARRA) of 2009. As you know, Congress directed $720 million to U.S. Customs and Border Protection (CBP) and the General Services Administration (GSA) to improve security at our country's land ports of entry (LPOE). CBP received $420 million specifically for CBP-owned land ports of entry and GSA received $300 million specifically for GSA-owned ports of entry. Of the 43 CBP-owned ports of entry, 39 are located along the northern border. Most U.S. ports along the southern border, by contrast, are owned or leased by the GSA. In support of the goals of ARRA, Secretary Napolitano has made it clear that Americans should have confidence in the objectivity and openness with which Recovery Act funds are being spent at the Department of Homeland Security. Accordingly, CBP employed a thorough and merit-based process to allocate the funding provided for projects vital to our economic and national security.

Background

Several Government Accountability Office reports since 9/11 have documented the serious threats posed by deficient security infrastructure along the northern border. The average age of CBP-owned land ports of entry along the northern border is over four decades old.

Historically, CBP has received funding for the ports that it owns along the northern border, which has been limited to supporting intermittent maintenance and alterations. As a result, many of CBP's facilities have deficiencies that may pose health and safety concerns—such as

contaminated water supplies and asbestos hazards.. Many of these ports lack security requirements and the vast majority of these facilities were not built to support the enhanced security features that are now required at our ports of entry, including Non-Intrusive Inspection technology (Radiation Portal Monitors, Vehicle and Cargo Inspection System, X-rays) and License Plate Readers. The Recovery Act funding provided by Congress provides for critical security upgrades to enable law enforcement officers to do their jobs and protect national security along the northern border.

Project Prioritization

In 2005, Congress asked CBP to develop and implement a master construction planning process that included a strategy to prioritize land port of entry modernization projects and an implementation schedule for this prioritized modernization. Moreover, the U.S. Senate Appropriations Committee Report 108-086 requested CBP develop a nationwide strategy to prioritize and address infrastructure needs at land ports of entry, and Conference Report 108-280 requested CBP submit a master construction plan.

In response, CBP partnered with GSA to examine the total land port of entry modernization needs for all 163 U.S. land ports of entry. CBP's process for establishing a capital investment plan consists of five steps: gathering data using the Strategic Resource Assessment process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan.

Strategic Resource Assessments (SRAs): CBP conducts SRAs cyclically to compare facility modernization needs against 60 distinct criteria in four categories: Mission and Operations; Security and Life Safety; Space and Site Deficiency; and Personnel and Workload Growth. CBP employs the data collected through the SRA to present a uniform picture of needs across land port inspection facilities along the northern and southern borders.

Ranking by Need: After conducting the SRAs, CBP ranks facilities based on criticality of need for modernization by calculating a combined score for each facility using the data points collected in the SRA and the criteria of the predefined four categories, adjusted to reflect the relative weight of each category to the facility's overall score. Table 1 shows the main data categories and their assigned weights.

Table 1 – Weighted scaling criteria for LPOE project prioritization

Criteria and Weights	
Criterion	Weight
Mission and Operations	35%
Security and Life-Safety	25%
Space and Site Deficiencies	25%
Personnel and Workload Growth	15%

This overall score represents CBP's initial needs assessment of relative urgency at a given facility compared with the national inventory of inspection facilities. This initial ranking, however, does not represent the final prioritization or investment strategy. CBP applies two additional analyses to develop a prioritized investment plan for land port modernization projects.

Sensitivity Analysis: CBP applies a sensitivity analysis of the initial ranking to determine if the results should consider factors unaccounted for through the standard SRA process, such as any unique regional or local conditions. Recent examples of this type of data sensitivity include identification of new manufacturing developments immediately adjacent to an existing port facility that increase the demand for commercial processing capacity, facility damage resulting from floods that occurred after the SRA, and the development of new land port facility proposals in the same transportation region as an existing facility. This information helps CBP identify additional drivers, constraints, and legislative mandates that may change the critical needs ranking. CBP incorporates sensitivity analysis factors in the development of an initial prioritization list.

Assessing Feasibility and Risk: CBP then evaluates the proposed project's feasibility and risks associated with implementation, such as environmental conditions, cultural and historic preservation requirements, or land acquisition issues. In addition, CBP considers the likely availability of funding to determine whether sufficient resources exist to execute a project.

Establishing a Capital Investment Plan: Finally, CBP arrives at a final prioritization of proposed modernization projects and develops a capital investment plan. This capital investment plan divides the project list into feasible annual work plans that reflect the analytical conclusions and incorporate project phasing and funding requirements. CBP updates the capital investment plan annually, taking into account any changes in the Department of Homeland Security's (DHS) mission and strategy, changing conditions at the ports, and factors discovered in the course of projects already underway.

Additional ARRA Requirements: The enactment of ARRA imposed two specific requirements that directly impacted CBP's investment strategy: a delineation of funds by ownership category and a requirement that funds are obligated by September 2010.

Port Ownership

As previously noted, the United States has 163 land ports of entry, 96.5 of which are owned by the General Services Administration (GSA), 22.5 of which are leased by GSA, and 43 of which are owned by CBP. While ARRA allocated $720 million for LPOE modernization, the legislation explicitly stated that DHS receive $420 million specifically for ports owned by CBP. Of the 43 CBP-owned ports of entry, 39 are located along the northern border. Many of the CBP-owned facilities are small, rural, low-traffic ports that fall far short of modern security standards. ARRA appropriated the remaining $300 million to GSA for GSA-owned land port facilities.

As a result of this distinction, CBP was required to incorporate port ownership into the analysis used to develop program-specific plans for ARRA-funded land port modernization projects. Taking the original investment strategy that considered all 163 locations as a starting point, CBP was required to limit the pool of potential projects to receive the CBP ARRA funding to the 43 CBP-owned locations. For the remaining $300 million, the pool was limited to those ports directly owned by GSA, excluding GSA-leased land port facilities.

Risk Analyses and Shovel-Readiness

In addition to the ownership distinction, ARRA required CBP to incorporate additional risk analyses in the selection of projects to determine which would quickly infuse money into the economy as required by the law. CBP analyzed the risk factors that could impact the feasibility of implementing major construction projects at the ports, including land acquisition requirements, the presence of potential environmental conditions requiring mitigation, and engineering or design issues known at the time. By applying this risk analysis, CBP identified the most shovel-ready projects in order to comply with ARRA's time constraints.

Cost Estimates and Acquisition Strategy

In Spring and Summer 2009, CBP developed independent cost estimates for the ARRA modernization projects in coordination with the U.S. Army Corps of Engineers and the U.S. General Services Administration based on past construction projects, industry standard costs, federally mandated local wage rates, location, and anticipated inflation prior to awarding any contracts. Site specific costs were factored into initial estimates for some locations to account for land acquisition, environmental remediation, and higher than average site work costs (due to remoteness, terrain, site layout, wetland/flood plain mitigation, etc.). In addition to the design/build contract for the port facilities themselves, total project costs cover voice/data technology, land acquisition, moving services, risk-adjusted project contingencies, environmental remediation, and program/project management support.

The actual costs for the design/build construction portion of the project were driven down during the negotiation of contract awards in Summer and Fall 2009. Contracts for these modernization projects were awarded on a competitive, fixed-price basis, meaning CBP asks vendors to bid against a prescribed set of work packages that comprise the entire project and the vendor is

allowed to re-allocate the values between labor and materials within each work package but cannot exceed the overall bottom line. By comparing vendor proposals for each of these work packages against each other and the independent government cost estimate, and monitoring and reviewing each of these work packages as the project has progressed, CBP has been able to maximize the value of the government's investment—reducing costs by an average of 25% per port from the original cost estimates.

For each of the design/build projects, CBP is employing a multi-pronged acquisition strategy designed to balance our need to quickly infuse ARRA resources into the economy with the Department's commitment to providing small businesses with the opportunity to compete for these projects. For the first 17 projects awarded, CBP drew upon existing, previously-competed, multiple award design-build contracts established by GSA and the U.S. Army Corps of Engineers. Through these acquisition vehicles, we were able to quickly award task orders with significant small business subcontracting requirements. Our ability to utilize preexisting contracts created by other agencies provided an opportunity to save time, manpower, and procurement costs.

CBP plans to award the next six design/build contracts through direct small business set aside competitions. In an effort to reach as many small businesses as possible, CBP conducted market research to identify small businesses in each region, held a small business forum in Montana, conducted small business webinars for interested businesses, and coordinated with Small Business officers in the states where the targeted land ports of entry are located. We are currently developing the acquisition strategy for additional projects, and are continuing to search for opportunities to engage with the small business community.

Conclusion

Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee: thank you again for this opportunity to testify about CBP's efforts to modernize our ports of entry. ARRA provided CBP with a much-needed infusion of capital to modernize our land ports of entry so that we can better secure our borders and facilitate legitimate trade and travel into the U.S. I look forward to answering your questions.