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A NEW APPROACH TO INCREASE TRADE AND SECURITY: AN EXAMINATION OF CBP'S PUBLIC PRIVATE
PARTNERSHIPS
BORDER AND MARITIME SECURITY SUBCOMMITTEE
HOUSE COMMITTEE ON HOMELAND SECURITY
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Chairwoman Miller, Ranking Member Vela and members of the Subcommittee, my name is Sam Vale. I am the president of the Starr-Camargo Bridge Company, a privately owned Port of Entry (POE) in Rio Grande City, Texas. Our bridge spans the Rio Grande and connects two communities of about 20,000 inhabitants each: Rio Grande City and Camargo, Tamaulipas, Mexico. We are one of the smallest passenger and commercial POEs along the Southern Border. In addition to bridge operations, my company and its subsidiaries are involved in a host of businesses related to cross-border trade and commerce in both the U.S. and Mexico.

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

The Border Trade Alliance

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

The South Texas Assets Consortium

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

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

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

Sections 559 and 560

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

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

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

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

The benefits for STAC under Sec. 559

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

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

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

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

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

El Paso

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

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

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

Responding to the skeptics

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

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

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

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

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

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

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

Areas for improvement

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

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

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

Looking ahead

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

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

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

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

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

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

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

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

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

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