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Homeland
Security

April 3, 2018

SENT VIA EMAIL TO: russkick@gmail.com

Russ Kick
PO Box 36914
Tucson, AZ 85740-6914

Re: **2017-HQFO-01130**

Dear Mr. Kick:

This is the electronic final response to your July 29, 2017, Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) for the complete comprehensive study of the security of the southern border including all appendices, attachments, etc. required by Executive Order titled "Border Security and Immigration Enforcement Improvements." This office received your request on July 31, 2017.

A search of the Office of the Executive Secretary (ESEC) for documents responsive to your request produced a total of 18 pages. Of those pages, I have determined that 11 pages of the records are released in their entirety, and 7 pages are partially released pursuant to Title 5 U.S.C. § 552 (b)(5), and (b)(7)(E), FOIA Exemptions 5, and 7(E).

Enclosed are 18 pages with certain information withheld as described below:

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that the responsive documents qualify for protection under the deliberative process privilege. The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or 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. I determined that disclosure of law enforcement systems checks, and surveillance techniques could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the analyst below who processed your request and refer to **2017-HQFO-00397**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner. 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; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

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

Angela Washington
Director, FOIA Disclosure

Enclosure(s): 1 Document, 18 Pages

~~LAW ENFORCEMENT SENSITIVE~~

**90-day Progress Report to the President
on Executive Order 13767:
Border Security and Immigration
Enforcement Improvements**

April 25, 2017



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List of Acronyms

BEST	Border Enforcement Security Task Force
CBP	U.S. Customs and Border Protection
CGAP	Capability Gap Analysis Process
DBFTF	Document and Benefit Fraud Task Force
DCW	Dual Comp Waiver
DHA	Direct Hire Authority
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
EOIR	Executive Office for Immigration Review
EOUSA	Executive Office of U.S. Attorneys
ERO	Enforcement and Removal Operations
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
OPM	Office of Personnel Management
NLDC	National Lead Development Center
RFI	Request for Information
RFP	Request for Proposals
RGV	Rio Grande Valley
TSA	Transportation Security Administration
TVPRA	William Wilberforce Trafficking Victims Protection Reauthorization Act
UAC	Unaccompanied Alien Children
USBP	U.S. Border Patrol
USCIS	U.S. Citizenship and Immigration Services

Introduction

On January 25, 2017, President Donald J. Trump signed Executive Order 13767 (Executive Order), *Border Security and Immigration Enforcement Improvements*. Pursuant to Section 15 of the Executive Order, this 90-day progress report outlines the progress the Department of Homeland Security (DHS or Department) has made on the implementation of each provision.

Section 4. Physical Security of the Southern Border of the United States: Section 4 of the Executive Order directs the Secretary of Homeland Security to take immediate steps to obtain complete operational control of the southern border.

Progress: DHS, primarily through U.S. Customs and Border Protection (CBP), is taking all appropriate actions to immediately plan, design, and construct a physical wall or similarly secure a contiguous and impassable physical barrier along the Southern Border in response to Section 4(a), in adherence to three strategic goals:

- Meet the border security requirements outlined in the Executive Order;
- Address U.S. Border Patrol (USBP) operational requirements and agent safety; and
- Procure barrier construction solutions and administer contracts using fiscally-responsible acquisition practices and adhering to departmental oversight.

Tactical infrastructure, specifically physical barriers, has long been a critical component of CBP's multi-layered and risk-based approach to securing the Southern Border. Border barriers have and will continue to enhance USBP's operational requirements by creating persistent impediments, serving as a deterrent and successfully preventing illegal entries. The terrain across the 2,000 miles of border between the United States and Mexico is extremely diverse, consisting of deserts, mountains, and modern urban areas. In light of this diverse topography, there is no one-size-fits-all border barrier solution. Today, there are two types of pedestrian "fencing" - steel bollard fencing and levee - that meet requirements in specific geographic areas of responsibility.

CBP is partnering with industry to design and construct wall prototypes to expand CBP's border barrier and infrastructure toolkit in an effort to construct a border wall and/or levee wall system in USBP's identified priority areas. These solutions will provide additional, alternative designs (b)(7)(E) or other innovative solutions for border barrier and levee wall system construction. Border barrier and levee wall systems are comprehensive solutions that include a combination of various types of infrastructure (b)(7)(E)

(b)(7)(E)

(b)(7)(E) CBP is on track with implementing the following schedule:

- March 2, 2017: Request for Information – DHS Border Wall Long-Term Strategy
- March 17, 2017: Request for Proposals
- July 31, 2017: Award Indefinite Delivery Indefinite Quantity and Prototype Construction Contracts
- August 9, 2017: Start Prototype Construction
- September 5, 2017: Complete Prototype Construction

Pursuant to Section 4(b) of the Executive Order, CBP submitted a reprogramming request to the Appropriations Committees of the U.S. Congress for \$20 million to support prototype construction, toolkit expansion, and initial planning efforts. As of March 24, 2017, CBP received letters from the Chairmen of the House and Senate Appropriations Subcommittees on Homeland Security permitting CBP to move forward.

CBP's funding requirements for the \$20 million reprogramming are as follows:

- \$10 million to support initial survey, drainage design, real estate and environmental planning, and title searches to position CBP to execute on USBP requirements in Fiscal Years (FYs) 2017 and 2018;
- \$4 million for wall design standard development; and
- \$6 million for prototype construction and related support, including proposal planning and development.

As directed in Section 4(c) of the Executive Order, CBP, in anticipation of constructing several different types of structures, and to ensure industry input is captured, is developing and expanding a Border Barrier Toolkit to capture the potential solutions identified during the prototype design process, which will ultimately inform CBP's comprehensive physical barrier solution deployment program.

CBP has been working to execute funding provided in the FY 2017 Omnibus (Pub.L.No. 115-31). Congress provided approximately \$341 million for projects that include the replacement of (b)(7)(E) of existing barrier in San Diego, El Centro and El Paso sectors (b)(7)(E), (b)(7)(E)

(b)(7)(E)

The President's FY 2018 budget request includes a \$1.6 billion investment in high-priority tactical infrastructure to plan, design, and construct a physical wall along the southern border. Pending funding availability, CBP will leverage lessons learned and best practices from prior border barrier and levee wall system construction. Planning is underway for 60 miles of new Wall System in Rio Grande Valley Sector and (b)(7)(E) replacement secondary wall in San Diego Sector.

Section 5. Detention Facilities: Section 5 of the Executive Order directs the Secretary of Homeland Security to immediately construct, operate, control, or establish contracts to construct, operate, or control facilities to detain aliens at or near the land border with Mexico.

Progress: During a migration surge cumulating in record numbers in October 2016, CBP had developed a rapidly deployable, turnkey, and scalable solution to support the Southern Border ports of entry and Border Patrol stations with temporary holding facilities in November 2016. Initial deployment of this system, and the associated support services, provided facilities in Tornillo, Texas, and Donna, Texas, with holding space for (b)(7)(C) inadmissible aliens, including family units and unaccompanied alien children (UAC), at each location.

In February 2017, CBP placed the Tornillo and Donna facilities in a ‘warm-standby’ status. This status kept contract vendors in place ensuring the capability to resume operations within 72 hours in the event of a surge. As a result of the continued decrease in illegal migration and apprehensions beginning in February 2017, and an expansion of ICE detention and Health and Human Services capacity, CBP’s Ports of Entry and Border Patrol stations were able to return to normal operations, and the Tornillo and Donna soft-sided temporary holding facilities were decommissioned.

The CBP Migration Crisis Action Team is maturing its contingency plans for future immigration surges and has developed a number of contingency actions, which include options to enhance CBP’s ability to temporarily hold up to (b)(7)(E) inadmissible aliens across (b)(7)(E) sites. As of July 14, 2017, CBP continues to see record declines in apprehension and individuals deemed inadmissible and CBP facilities are not above their capacity to justify the stand up of additional short term facilities.

ICE recently increased its detention capacity by approximately 1,100 beds to ensure sufficient detention space for CBP apprehensions along the Southwest Border (SWB). Currently, ICE has over 14,000 beds along the SWB. ICE has also identified over 4,000 additional beds in facilities that can be activated along the SWB, should a need for more beds arise. However, ICE has not procured any additional beds along the SWB. Notably, the SWB has been experiencing significantly reduced border activity in comparison to recent years.

Section 6. Detention for Illegal Entry: Section 6 of the Executive Order directs the Secretary of Homeland Security to immediately take all appropriate actions to ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings or their removal from the country to the extent permitted by law.

Progress: Subject to Section 235(b) of the Immigration and Nationality Act (INA) (8 U.S.C. § 1225(b)), most inadmissible aliens apprehended or encountered by CBP are subject to mandatory detention. CBP endeavors to transfer all aliens subject to removal proceedings under INA Section 240 (8 U.S.C. § 1229a), to U.S. Immigration and Customs Enforcement (ICE) as expeditiously as possible. Aliens subject to expedited removal, pursuant to INA Section 235(b)(1) (8 U.S.C. § 1225(b)(1)), are subject to mandatory detention until removal, subject to certain limited exceptions, primarily regarding aliens who claim fear of returning to their home country and are found to have a credible fear of return by an asylum officer.

On February 21, 2017, ICE issued field guidance to all ICE Enforcement and Removal Operations (ERO) employees implementing Secretary Kelly’s memoranda entitled, “*Implementing the President’s Border Security and Immigration Enforcement Improvements Policies*” and “*Enforcement of the Immigration Laws to Serve the National Interest.*” The Secretary’s implementation guidance directs ICE agents and officers to employ prosecutorial discretion, release on bond, and other conditions of release on a case by case basis in order to comply with the Executive Orders and the new enforcement priorities.

Upon the signing of EO 13767, ICE immediately began to identify additional detention capacity. ICE identified 27 potential locations capable of providing 21,000 additional bed spaces. ICE contacted five commercial contractor facilities and two governmental providers for cost estimates including for on-site medical support. Although ICE detention capacity has been expanded by 1,100 beds since January, the additional beds have not yet been used due to the reduction of Southwest Border apprehensions. Today, there is a greater need for increased beds in the interior due to increased interior enforcement, which was not the case prior to the President signing the Executive Orders. ICE ERO administrative arrests have increased steadily at more than 40 percent since the signing of the EO compared to the same period last year. ICE continues to assess needs and analyze costs for all resource needs for additional detention space.

Section 7. Return to Territory: Section 7 of the Executive Order directs the Secretary of Homeland Security to take all appropriate action to ensure that aliens described in Section 235(b)(2)(C) of the INA (8 U.S.C. § 1225(b)(2)(C)) are returned to the territory from which they came pending a formal removal proceeding.

Progress: Should an agreement be reached with the Government of Mexico to have third country nationals remain in Mexico pending their removal proceedings (in accordance with INA § 235(b)(2)(C)), CBP, ICE, and the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) have collaborated to develop an implementation strategy for the establishment of immigration court hearings at or near ports of entry. Through these collaborative efforts, CBP identified two pilot locations and two options for immigration port court operations. The first option consists of establishing a video teleconference system that will allow Immigration Judges to remotely hear cases. The second option consists of having Immigration Judges physically present at the port court.

The video teleconference system option could be established in approximately 90 days, estimated at a one-time cost of \$50,000 per location. The physical presence of Immigration Judges would require additional space, security, and support personnel to proceed. This would also require the use of modular trailers that could be operational in 6 months at an estimated one-time cost of \$400,000 per site.

CBP is determining whether a regulation is necessary to implement this section.

Section 8. Additional Border Patrol Agents: Section 8 of the Executive Order directs the Secretary of Homeland Security, through the Commissioner of CBP, to hire 5,000 additional Border Patrol agents, and take all appropriate action to ensure that such agents enter on duty and are assigned to duty stations as soon as is practicable.

Progress: The Executive Order directs CBP to hire 5,000 additional Border Patrol Agents as soon as is practicable to meet the stated purpose of improving border security and obtaining operational control along the Southern Border. Further, Secretary Kelly's February 20, 2017 memorandum entitled, *Implementing the President's Border Security and Immigration Enforcement Improvement Policies*, directs CBP to hire an additional 500 Air and Marine Agents to ensure complete operational control of the border.

CBP has worked aggressively during the past two years to implement its multifaceted recruitment strategy and execute large-scale improvements to its frontline hiring process and capability. While these efforts have led to considerable progress areas across many key indicators, many of the recent improvements require more time to mature and take effect. We are on track to hire more Border Patrol Agents in FY 2017 than in FY 2016, and we expect an even greater increase in FY 2018. CBP will continue strengthening all aspects of its recruitment and hiring strategy to meet the Executive Order hiring mandate.

CBP's current hiring process reflects high standards of integrity, and although those standards remain uncompromising, CBP is taking a systematic approach toward addressing staffing requirements under the Executive Order without compromising quality for quantity. This approach includes reducing the overall time-to-hire, improving and modifying processes, and reducing attrition. While the changes under consideration may result in more applicants passing the pre-employment process, successful applicants must still meet the qualifications for the position, and if selected, undergo basic training at our academies. The core function of the academies is to uphold our frontline standards and ensure mission-readiness.

As of June 10, 2017, the number of Border Patrol Agents onboard at CBP was 19,468. CBP is assessing how modifications and improvements to various parts of its rigorous multi-step frontline hiring process, which is intended to ensure that only the best qualified applicants are hired, may impact the time to onboard an additional 5,000 agents.

In support of these efforts, Congress supported the President's proposal for an additional \$25 million to support the USBP Voluntary Relocation Program (\$15 million) and the initiation of a USBP relocation incentive strategy (\$10 million for a USBP relocation incentive strategy for remote locations); \$21.1 million to expand CBP Human Resources Management hiring capacity (including, \$9.7 million towards the Hiring Hub program; \$7.8 million for additional applicant processing; \$2 million for recruiter training; and \$1.63 million for a recruitment and digital media strategy); and \$15 million for additional Human Resources Management and Office of Professional Responsibility staff to support CBP recruitment, hiring, and law enforcement efforts to increase staffing.

As reflected in the President's FY 2018 Budget Request, CBP anticipates that it will begin to yield net gains beginning in FY 2018 and has requested an additional \$100 million to support the hiring of an additional 500 agents. CBP is continuing to examine every aspect of its pre-employment process to identify areas in which improvements can be made. While many modifications to the process are being considered, CBP will not implement any change without carefully weighing its risks and identifying mitigation measures. Process improvement opportunities are highlighted below:

Polygraph Examination

- *Polygraph Waiver Expansion:* DHS supports amendments to the *Anti-Border Corruption Act of 2010* (Pub. L. No. 111-376), which fosters integrity in the workplace by requiring that all CBP applicants for law enforcement positions receive

a polygraph examination before being offered employment. The amendments proposed by S. 595 and H.R. 2213 would enable CBP to develop a risk-based approach to extend polygraph waiver eligibility to an applicant who falls under one of three categories and satisfies specific criteria including but not limited to current federal, state, or local law enforcement, or veterans, transitioning service members, and members of the Reserves and National Guard, who maintain current background examinations and in some cases have completed a polygraph examination previously.

- *Polygraph Test for Espionage, Sabotage, and Corruption:* On April 17, 2017, CBP began a six month pilot of this test as a possible alternative to the Law Enforcement Pre-employment Test. (b)(7)(E)

(b)(7)(E)

Entrance Examination

- *Removal of the Artificial Language Test (ALT) or Spanish Language Proficiency Test (SLPT):* CBP has removed these test modules from the USBP Entrance Exam as of May 2017. Spanish language proficiency remains a core requirement of Border Patrol Agents, but CBP has refocused the training and assessment of this requirement on the Academy. Since a low percentage of applicants fail the entrance exam solely because of the SLPT or ALT, little risk is associated with this decision. The language training enhancements during Academy training are part of a curriculum update that began in 2014 and increased the number of hours spent in Spanish training from 320 hours to 427 hours (33 percent). The new Academy curriculum extends the total Academy training from 66 to 117 days.
- *Remote Testing:* CBP is exploring its ability to administer remote testing for applicants to increase exam completion rates. Since March 2017, CBP has allowed the Candidate Experience Record portion of the exam to be completed remotely and is continuing the development of a remote version of the Logical Reasoning Test. The remote test will use computer adaptive testing technology that makes the exam more accessible to applicants without compromising the exam's standards or integrity.

Physical Fitness Tests (PFT)

- *Removal of PFT-2 (OFO)/Conversion of PFT-2 to Non-adjudicative Phase (USBP):* PFT-2 was first implemented in 2012, when the time-to-hire was much greater. The second test was added to ensure that applicants maintained their fitness throughout a lengthy hiring process, an initiative that improved the attrition rate at the Academies. Given the implementation of our expedited hiring process, which has significantly reduced the amount of time between PFT-1 and PFT-2, the need for a second physical fitness test is less critical. By removing/not adjudicating PFT-2, CBP is ensuring that the few applicants who do fail—but already passed every other step of the pre-

employment process—have the opportunity to attend the Academy and receive additional training to meet CBP’s fitness standards.

Additionally, CBP will work to further improve brand awareness and convey the importance and scope of our mission within the public sphere. CBP will also continue to focus on increasing its digital and social media presence to reach the millennial generation; expanding outreach at high schools, colleges, and universities; and collaborating with the Department of Defense to help transitioning service members find a rewarding and suitable career on the frontline.

CBP will also continue using its new expedited hiring process, which has led to a significant decrease in CBP’s time-to-hire. Through the implementation of hiring hubs, we have demonstrated the ability to hire applicants in as little as 160 days. This is down from an average of 469 days in January 2016. We continue to look carefully at our processes and outside factors to find ways to expedite this process and keep applicants informed. On July 10, 2017, CBP announced the launch of CBP Jobs, a new mobile app for prospective agents and officers to track their progress through the hiring process. CBP Jobs offers frontline applicants updates about the status of their application and provides important notifications about upcoming appointments and next steps – this is the latest initiative designed to further improve a prospective applicant’s experience within CBP.

Lastly, while the Executive Order specifies the hiring of 5,000 additional Border Patrol Agents, the stated purpose of improving border security to prevent illegal immigration, drug and human trafficking, and acts of terror, also necessitates the hiring of additional CBP Officers to accomplish these goals at our Nation’s ports of entry.

Section 9. Foreign Aid Reporting Requirements: Section 9 of the Executive Order directs the head of each executive department and agency to identify and quantify all sources of direct and indirect Federal aid or assistance to the Government of Mexico on an annual basis over the past five years. Within 30 days, of the effective date of the Executive Order, the head of each executive department and agency shall submit this information to the Secretary of State. Within 60 days of the effective date of the Executive Order, the Secretary of Homeland Security shall submit to the President a consolidated report reflecting the levels of such aid and assistance that has been provided annually over each of the past five years.

Progress: DHS has completed its reporting on foreign aid and assistance provided to Mexico for FYs 2012-2016. Per guidance from the U.S. Department of State, DHS did not include foreign assistance funding that originated with the Departments of State or Defense. Only aid and assistance provided under DHS-specific authorities was included. The total among all DHS Components for FYs 2012-2016 was \$973,000.

Section 10. Federal-State Agreements: Section 10 of the Executive Order directs the Secretary of Homeland Security to engage with Governors of States, as well as local officials, for the purpose of preparing to enter into agreements under Section 287(g) of the INA (8 U.S.C. § 1357(g)). Additionally, the Secretary of Homeland Security is directed to, through agreements under Section 287(g) of the INA, authorize State or local law enforcement officials to perform

the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

Progress: Greater security at the Nation's borders is the focus of each phase of the 287(g) Program expansion by identifying operational gaps and vulnerabilities, planning against them, conducting targeted immigration enforcement against threat sources, and measuring results. Implementation of the 287(g) Program expansion requires complex planning processes, outside agency assessments, organizational education, training, outreach, and new performance measure development. CBP is not developing a separate 287(g) program. Accordingly, USBP consulted with ICE, to develop and define CBP-wide support efforts to expand the 287(g) Program and enhance border security efforts with state and local law enforcement agencies.

To strengthen the ICE 287(g) Program, CBP field leadership examined local operational needs and liaised with potential partners. CBP sectors performed outreach and a Gap Analyses to determine possible partnership interest, enforcement application, asset deployment, and operational impact. As a part of outreach, CBP and ICE personnel discussed the ICE 287(g) Program with interested parties and lay out how to begin the process toward formal partnership under a Memorandum of Agreement. ICE agreed to work with any jurisdictions which CBP identifies for a possible jail model agreement. CBP is advocating for ICE to develop and implement task force and patrol models under the current 287(g) program. To support the training need for existing and new partners, CBP is reviewing the ICE 287(g) training curriculum to develop informed recommendations for notional task force and patrol model 287(g) training programs. Current CBP efforts to support 287(g) program expansion include:

- CBP-USBP has a representative on the ICE 298(g) Program Advisory Board (PAB), to provide advice on prospective border 287(g) Program participants;
- CBP-USBP will continue providing Law Enforcement Agency (LEA) referrals to ICE as applicable to support the 287(g) Program Expansion; and
- CBP will continue collaborating with ICE to support the 287(g) Program Expansion.

ICE was provided the CBP Gap Analyses with identifying LEA information to inform training, budgeting and strategic resource deployment decision for the ICE 287(g) program. CBP's Sector Gap Analyses results revealed the following:

- 130 LEAs have sufficient interest in the 287(g) program that they would submit a letter of interest for 287(g) participation;
- 56 LEAs were interested in the Jail Model;
- 68 LEAs were interested in the Task Force Model (if offered); and
- 148 LEAs would be willing to pay for 287(g) training/certification for the task force or combination patrol if funding was not available and the model was offered.

The ICE 287(g) Program is in the process of expanding its national footprint to 62 partnerships by the end of FY 2017, marking unprecedented program growth and doubling the program from 31 partnerships.

In February 2017, ICE conducted a Program Advisory Board (PAB) review of eight jurisdictions that had pending applications for consideration for inclusion in the 287(g) Program, and recommended approval of each jurisdiction to the ICE Director. The ICE Director approved each of the partnerships on March, 27, 2017. Subsequent to legal reviews of the Memoranda of Agreement (MOA) conducted by ICE and its new partners, seven agreements were signed, including two that were signed by ICE on June 19, 2017. A remaining MOA is still pending mutual legal review by ICE and its partner.

ICE conducted a second PAB in April 2017, which resulted in the ICE Director's approval of 17 applications for a 287(g) partnership on June 9, 2017. The next step in the process is mutual approval of the MOA by ICE and the partners after thorough legal review.

Section 11. Parole, Asylum, and Removal: Section 11 of the Executive Order directs the Secretary of Homeland Security to ensure that the parole and asylum provisions of federal immigration law are not illegally exploited to prevent the removal of otherwise removable aliens. The Secretary of Homeland Security shall ensure that asylum referrals and credible fear determinations, pursuant to Section 235(b)(1) of the INA (8 U.S.C. § 1225(b)(1)) and 8 CFR 208.30, as well as reasonable fear determinations, pursuant to 8 CFR § 208.31, are conducted in a manner consistent with the plain language of those provisions. Additionally, the Secretary of Homeland Security is directed to take appropriate action to apply the provisions of Section 235(b)(1)(A)(i) and (ii) of the INA to the aliens designated under Section 235(b)(1)(A)(iii)(II). The Secretary of Homeland Security is further directed to ensure that parole authority under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole. Finally, the Secretary of Homeland Security shall require that all DHS personnel are properly trained on the proper application of Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) (8 U.S.C. § 1232) and Section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)(2)).

Progress: U.S. Citizenship and Immigration Services (USCIS) has taken several steps to review and/or revise its protection screening and processing of asylum and parole requests. Regarding Subsections 11(a), (b) and (e) of the Executive Order, USCIS has done the following:

- Detailed Fraud Detection and National Security Immigration Officers to border detention facilities to enhance the integrity of the protection screening interview and determination process;
- Approved an increase in the number of Fraud Detection and National Security positions assigned to the Asylum Division;
- Recommended the establishment of a centralized screening and vetting center for asylum cases;
- Issued revised guidance to asylum officers for the application of the screening standard for credible fear and reasonable fear cases (effective February 28, 2017), plus trained and deployed certain refugee officer staff to conduct credible fear screening interviews;

- Increased the number asylum officers at detention facilities in Texas, Arizona, and California for in-person credible fear and reasonable fear interviews;
- Drafted proposed additional changes to the credible fear and reasonable fear screening process to improve efficiency and efficacy;
- Neared completion of a draft report on asylum program vulnerabilities and steps needed to mitigate and eliminate such vulnerabilities; and
- Drafted revised instructions on the proper application of TVPRA.

For Section 11(d) of the Executive Order, USCIS has taken several steps to review its exercise of parole authority. Shortly after the issuance of the Executive Order, USCIS formed working groups, led by its Office of Policy and Strategy, to review current uses of parole under Section 212(d)(5)(A) of the INA. On February 2, 2017, USCIS forwarded to the Office of the Secretary an overview of its current uses of parole, and recommendations for termination or modification of certain uses of parole as consistent with the Executive Order.

Currently, USCIS has finalized papers on various uses of its parole authority, recommending

(b)(5)
[Redacted]

USCIS has ensured that the guidance to officers adjudicating humanitarian parole applications for individuals outside the United States is consistent with the Executive Order and Secretary Kelly's February 20, 2017 implementing memorandum. USCIS is also developing formal policy and operational guidance on the exercise of its parole authority consistent with the Executive Order.

Section 12. Authorization to Enter Federal Lands: Section 12 of the Executive Order directs the Secretary of Homeland Security, in conjunction with the Secretary of the Interior, to take appropriate action to permit all officers and employees of the United States, as well as State and local officers, as authorized, to have access to all Federal lands as necessary and appropriate, and to enable those officers and employees to perform such actions on Federal lands as the Secretary of Homeland Security deems necessary and appropriate to implement the Executive Order.

Progress: Generally, there has been and will continue to be regular coordination between CBP and federal land management partners.

USBP is able to gain the access required to patrol federal lands on an as needed basis. USBP maintains patrol activities under the auspices of the 2006 *Memorandum of Understanding between the Departments of Homeland Security, Interior, and Agriculture regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders*, which governs a host of operational and other access issues on federal lands. In general, where access is needed to new areas of federal land, USBP (b)(7)(E)

(b)(7)(E)

(b)(7)(E) by explaining the need for the access. This process is normally approved within a short time via a telephone call. Depending on the required duration of the

access. (b)(7)(E)

(b)(7)(E)

For both USBP and its federal land management partners, federal wilderness areas present the most significant challenges regarding operational access. Those challenges are largely a function of *The Wilderness Act of 1964* (Pub.L. 88-577), which places strict limits on the types of activities that can be carried out within federal wilderness areas. For instance, the *Wilderness Act* limits mechanized access and prohibits permanent improvements within wilderness.

(b)(7)(E)

(b)(7)(E)

CBP is not anticipating any impediments concerning access to federal lands with regards to the construction of a physical barrier along the Southern Border.

Section 13. Priority Enforcement: Section 13 of the Executive Order directs the Attorney General of the United States to take all appropriate steps to establish prosecution guidelines and allocate appropriate resources to ensure that federal prosecutors accord a high priority to prosecutions of offenses having a nexus to the Southern Border.

Progress: On February 9, 2017, ICE representatives met with the Executive Office of U.S. Attorneys (EOUSA) to discuss how the Executive Orders will affect ICE's and DOJ's collective efforts in investigating and prosecuting criminal immigration fraud. As a result of this meeting, on February 23, 2017, the EOUSA included the following language in its newsletter that was distributed to all U.S. Attorneys Offices:

“The President’s recent EO ‘Enhancing Public Safety in the Interior of the United States’ prioritized immigration fraud cases. In response, ICE is immediately shifting more of its resources towards the investigation and criminal prosecution of immigration fraud. ICE will establish new Document and Benefit Fraud Task Forces (DBFTFs) throughout the nation, as well as increase staffing at existing DBFTFs. ICE anticipates this increase in resources dedicated to combatting immigration fraud will result in an increase in immigration fraud cases presented for prosecution. Please let your criminal chiefs know of this shift in resources by ICE.”

On March 3, 2017, ICE met with the Human Rights and Special Prosecutions Section of the DOJ Criminal Division, to discuss implementation of the immigration aspects of the Executive Orders, in particular ICE human smuggling and immigration fraud programs. In addition, local ICE representatives are discussing with their respective U.S. Attorneys Offices prosecution thresholds and opportunities for collaboration.

On March 27, 2017, CBP began reporting enforcement data summarizing enforcement actions related to inadmissibilities, apprehensions, arrests of individuals with criminal

convictions, and individuals who have been apprehended multiple times crossing the border illegally. The data reflects FY 2015 and FY 2016 totals as well as FY 2017 information through January 31, 2017.¹

Since the issuance of the Executive Order, three ICE Border Enforcement Security Task Forces (BESTs) have added groups to their current rosters. BEST is a comprehensive response to the growing threat to border security, public safety, and national security. BESTs eliminate the barriers between federal, local, tribal, and international investigations, and create an environment that minimizes law enforcement vulnerabilities that transnational criminal organizations have traditionally capitalized on to exploit our nation's land and sea borders. Earlier this year, BEST Yuma added a group dedicated to human smuggling and human trafficking; BEST Seattle expanded by adding a group that also focuses on human trafficking called Trafficking in Proceeds and Trafficking in Persons Group; and BEST Ft. Lauderdale added an airport group to complement the seaport group. There are currently 55 BESTs located across 22 states and Puerto Rico. These BESTs are comprised of more than 1,000 members representing more than 150 law enforcement agencies.

Section 14. Government Transparency: Section 14 of the Executive Order directs the Secretary of Homeland Security to, on a monthly basis and in a publicly available way, report statistical data on aliens apprehended at or near the Southern Border using a uniform method of reporting by all DHS Components, in a format that is easily understandable by the public.

Progress: On March 8, 2017, CBP published an update to its Southwest Border Migration statistics website, including apprehension and inadmissibility data for the month of February.² CBP continues to update the public site monthly and it currently contains data through the month of June. On March 27, 2017, CBP began reporting enforcement data summarizing enforcement actions related to inadmissibilities, apprehensions, arrests of individuals with criminal convictions, and individuals who have been apprehended multiple times crossing the border illegally as a first step toward Section O of Secretary Kelly's implementation guidance memorandum entitled, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*.³ The data reflects FY 2015 and FY 2016 totals as well as FY 2017 information through June 30, 2017.⁴ CBP updates the webpage monthly and has expanded it with additional data elements, including additional criminal alien, gang affiliation, drug, and other border enforcement statistics. In his April 5, 2017 testimony before the Senate Committee on Homeland Security and Governmental Affairs, Secretary Kelly noted a 70 percent decline in the flow of illegal border crossings, as measured by apprehensions, from February to March 2017.

Pursuant to Section H of the Secretary Kelly's implementation guidance memorandum entitled, *Enforcement of the Immigration Laws to Serve the National Interest*, ICE is also charged with issuing monthly reports that provide statistical data relating to alien apprehension, release, and removal. To date, ICE has developed a draft template for the

¹ The data is available at: <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

² The statistics are available at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

³ The statistics are available at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

⁴ The data is available at: <https://www.cbp.gov/newsroom/stas/cbp-enforcement-statistics>.

“Monthly Arrest Report” that captures administrative arrests of prior immigration violators and gang member, arrests by country of citizenship, and most serious criminal convictions associated with aliens administratively arrested. This template is currently under development and is pending further review.

In addition to the separate CBP and ICE monthly enforcement reports, DHS Office of Policy is preparing to perform follow-on analysis on enforcement outcomes, which will include administrative arrests by ICE custody status, administrative arrests of aliens ordered removed, those released from ICE custody by release reasons, and those released from ICE custody by city/state of detention facility. This report will present more robust information about the fraction of border apprehensions being detained so the Department can trace the aliens through the enforcement system and demonstrate the degree to which the Executive Order initiative to end Catch-and-Release is being implemented. This type of integration analysis will go beyond simple apprehension counts and will require more production time, thereby resulting in a quarterly release schedule.

Section 15. Reporting: Section 15 of the Executive Order directs the Secretary of Homeland Security is to, within 90 days of the effective date of the Executive Order, submit to the President a report on the progress of the directives contained therein.

Progress: The requirement of Section 15 of the Executive Order is satisfied by issuance of this report.

Section 16. Hiring: Section 16 of the Executive Order directs the Office of Personnel Management (OPM) to take all appropriate action as may be necessary to facilitate hiring personnel to implement this order.

Progress: The DHS Office of the Chief Human Capital Officer has worked extensively with OPM during the past five months to identify and address barriers in the hiring process. In consultation with the Components responsible for hiring the personnel required to implement the Executive Order, there are several areas that could have a significant impact on the Department’s ability to expedite hiring. The following provides a summary of pending and approved requests:

- Requests approved by OPM:
 - On March 17, 2017, CBP gained authority to conduct National Agency Checks or a permissible alternative.
 - On April 5, 2017, OPM approved Direct Hire Authority (DHA) for the following positions: CBP Border Patrol Agents and Customs and Border Protection Officers (Southern Border only), Air Interdiction Agents, Marine Interdiction Agents, Aviation Enforcement Agents, Human Resources Specialists; FLETC Law Enforcement Specialists (Instructors); ICE Deportation Officers, Criminal Investigators, Human Resources Specialists, Personnel Security Specialists; USCIS Adjudication Officers, Supervisory Adjudication Officers, Immigration Analysts/Officers, Supervisory Immigration Officers, Immigration Services Officers, Supervisory Immigration Services Officers, Asylum Officers, Supervisory Asylum

Officers, Human Resources Specialists; USCG Criminal Investigators, Security Specialists, Intelligence Officer Specialists, Human Resources Specialists.

- On April 5, 2017, OPM issued a memo to DHS that the revised qualifications standard for Border Patrol Agents within CBP.
- DHS Special Salary Rate (SSR) Requests
 - OPM approved SSRs for 150 authorized Polygraph Examiner positions (series 1801) in CBP. Effective: February 17, 2017
 - OPM approved SSRs for Customs and Broder Protection Officers (series 1895) in CBP who are duty stationed in the Area Port of Portal, ND (one of CBP's hardest to fill locations). Effective: June 7, 2017
- Requests awaiting OPM approval:
 - (b)(5)
 -
- Legislative proposals ;
 - There are 13 legislative proposals that have been developed, reviewed by the components and OGC; and are currently being finalized. A strategy for introducing these proposals on the Hill is currently under review. These proposals include:
 - Delegate Direct Hire Authority for Mission Critical Occupations in the Department of Homeland Security
 - Delegate Dual Compensation/Dual Employment Waiver for Reemployed Annuitants
 - Noncompetitive Temporary or Term Appointments for not more than 18 months
 - Noncompetitive Appointment of Former Employees of DHS
 - Interchange Agreement between the Competitive Service System and DHS Excepted Service Merit Systems Employees

- Delegate authority to use Voluntary Early Retirement Authority for DHS
- Delegate authority to use Voluntary Separation Incentive Payment Authority for DHS
- Two-year Probationary Period for Department of Homeland Security Positions Requiring Academy or Extensive Formal Training
- Cybersecurity Recruitment and Retention at DHS
- Relocation Incentives for Current Federal Employees
- Rank-In-Person for DHS Intelligence Community
- Increase Age for Mandatory Separation of Law Enforcement Officers, Firefighters, and Customs and Border Protection Officers from Age 60 to Age 65
- Direct Hire Authority for Financial Management Positions

Conclusion and Next Steps

As the President noted, border security is critically important to the national security of the United States. In the coming months, DHS will continue to work in close consultation with interagency partners to ensure the proper and timely enforcement of Executive Order 13767.