

**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 of 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
USBP	U.S. Border Patrol

Introduction

On January 25, 2017, the President of the United States signed Executive Order 13767 (the “Executive Order”) entitled, *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 “the Department”) has made on the implementation of each provision.

Section 4. Physical Security of the Southern Border of the United States: In accordance with Section 4 of the Executive Order, the Secretary of Homeland Security is directed 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 action to immediately plan, design, and construct a physical wall or similarly secure, contiguous, and impassible 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 enhanced – and will continue to enhance – USBP’s operational requirements by creating persistent impedance, and facilitating the deterrence and prevention of successful illegal entries. The terrain across the 2,000 miles of border between the United States and Mexico is extremely diverse, consisting of sandy deserts, rocky mountains, and modern urban areas. In light of this diverse topography, there can be no one-size-fits-all border barrier solution. Today, there are two types of pedestrian “fencing” that meet requirements in specific geographic areas of responsibility (e.g., steel bollard fencing and levee).

CBP is partnering with industry and partners at the U.S. Army Corps of Engineers 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 that may include a concrete base, or other innovative solutions into our 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 such as wall, fence, lighting, enforcement cameras and other related technology, and all-weather roads, which provide persistent impedance and facilitates the deterrence and prevention of successful entries. DHS is on track with the following schedule:

- Request for Information – DHS Border Wall Long-Term Strategy– March 2, 2017
- Request for Proposals Issued – March 17, 2017
- Identify USBP prioritized operational requirements for border barrier – April 30, 2017

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- Award Indefinite Delivery Indefinite Quantity and Prototype Construction Contracts – June 14, 2017
- Prototype Construction Start – June 22, 2017
- Prototype Construction Completion – July 22, 2017

Pursuant to Section 4(b), CBP submitted a reprogramming to the Appropriations Committees of the U.S. Congress for \$20 million to support prototype construction, toolkit expansion, and initial planning efforts. CBP's funding requirements for the \$20 million reprogramming request are as follows:

- \$12 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;
- \$6 million for wall design standard development; and
- \$2 million for prototype construction including proposal planning and development.

As of March 24, 2017, letters were received from the Homeland Security Appropriation Committee Chairmen permitting CBP to move forward.

As directed in Section 4(c), 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.

In FY 2017, pending funding availability, CBP will work with the U.S. Army Corps of Engineers to begin planning for the construction of approximately 34 miles of levee wall and/or border barrier system in the Rio Grande Valley Sector, the highest priority area for USBP. CBP will also construct 14 miles of border barrier system in San Diego Sector, based on site accessibility and USBP's need to replace both the primary and secondary barrier in the existing Border Infrastructure System.

The President's FY 2018 budget will include \$2.6 billion investment in high-priority tactical infrastructure and border security technology, including funding to plan, design, and construct a physical wall along the southern border. Pending funding availability, CBP will leverage lessons learned and best practices from FY 2017 border barrier and levee wall system construction.

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

Progress: In November 2016, CBP developed a rapidly deployable, turnkey, and scalable solution to support the southwest border ports of entry and Border Patrol stations with temporary holding facilities during a recent migration surge. First deployment of this system, and the associated support services, provided facilities in Tornillo, TX and

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Donna, TX with holding space for 500 inadmissible aliens, including family units and unaccompanied minors, at each location.

As a result of recent downward trends in illegal migration, CBP placed the Tornillo and Donna facilities into a 'warm-standby' status in February 2017. This status keeps contract vendors in place and ensures the ability to return to an operational status within 72 hours. Current contract options extend this status through April 14, 2017 for Tornillo and April 21, 2017 for Donna.

The CBP Migration Crisis Action Team is maturing its contingency plans for future migration surges and has developed a number of contingency actions, which include options to enhance the Agency's ability to temporarily hold up to 12,500 inadmissible aliens across six sites.

Section 6. Detention for Illegal Entry: In accordance with Section 6 of the Executive Order, the Secretary of Homeland Security is directed 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)), all 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 for the duration of these proceedings, subject to certain limited exceptions.

On February 21, 2017, ICE issued field guidance to each of its operational programs, implementing Secretary Kelly's memorandum entitled, *Enforcement of the Immigration laws to serve the National Interest*. The implementation guidance directs ICE agents and officers to employ limited use of prosecutorial discretion, release on bond and other conditions of release in order to comply with the EO and the new enforcement priorities, on a case-by-case basis.

ICE detention capacity has been expanded by 1,100 beds, though the additional beds have not been used. ICE has identified 27 potential locations capable of providing 21,000 additional bed spaces. Five commercial contractor facilities and two governmental providers were contacted for cost estimates including for on-site medical support. ICE continues to analyze costs for all resource needs for additional detention space, but ICE will be unable to secure additional detention capacity until funding has been identified.

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Section 7. Return to Territory: In accordance with Section 7 of the Executive Order, the Secretary of Homeland Security is directed 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 section 235(b)(2)(C)), CBP, ICE, and the Department of Justice's Executive Office of Immigration Review (EOIR) have collaborated to develop an implementation strategy for the establishment of immigration court hearings at, or near its 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 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 six months at an estimated cost of \$400,000 per site.

Section 8. Additional Border Patrol Agents: In accordance with Section 8 of the Executive Order, the Secretary of Homeland Security, through the Commissioner of U.S. Customs and Border Protection (CBP), is directed to hire 5,000 additional Border Patrol agents, and take all appropriate action to ensure that such agents enter of 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 over 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 in many areas, CBP will continue strengthening all aspects of its recruitment and hiring strategy in order to meet the Executive Order hiring mandate.

Our current hiring process reflects our 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

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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.

CBP's annual appropriation requires an active duty presence of not less than appropriated to staff a mandatory 21,370 Border Patrol Agent full-time equivalents. CBP anticipates that additional funding will be required to ensure the training, hiring, and equipping of an additional 5,000 Border Patrol Agents. As of February 8, 2017, the number of Border Patrol Agents onboard at CBP was 19,602, which is 92 percent of the statutorily required 21,370 agents. CBP is aggressively working to hire agents required under the statutory floor, and is assessing how modifications and improvements to various parts of our 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, the President has proposed additional funding in the FY 2017 Budget Amendment including \$25 million to support the USBP Voluntary Relocation Program and to initiate a USBP relocation incentive strategy (\$15 million will be used for USBP Relocations specifically utilizing VRP authority, and \$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.

Assuming available funding, CBP anticipates that it will begin to yield net gains beginning in FY 2018 and has proposed an additional \$100 million in FY 2018 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 our process are being considered, we 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:** CBP is exploring options, such as a legislative amendment to the Anti-Border Corruption Act of 2010, Pub. L. 111-376, to permit a risk-based approach to extend polygraph waiver eligibility to groups of applicants who have a demonstrated track record of integrity and service, including 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.
- **Test for Espionage, Sabotage, and Corruption:** CBP will pilot the use of this test as a possible alternative to the Law Enforcement Pre-employment Test beginning in April 2017. The new test format utilizes a National Center for Credibility Assessment–approved counterintelligence test format with an additional focus on

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corruption-related issues. The test also places more focus on serious crimes, to include felony crimes and serious misdemeanors.

Entrance Examination

- **Removal of the Artificial Language Test or Spanish Language Proficiency Test:** CBP is removing these test modules of the USBP Entrance Exam. Since few applicants fail the entrance exam solely because of these tests, little risk is associated with this decision. The USBP Academy will continue to ensure all applicants obtain the appropriate level of proficiency in Spanish to meet graduation requirements.
- **Remote Testing:** CBP is exploring its ability to administer remote testing for applicants to increase exam completion rate. As of March 2017, CBP allows 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

- **Removal/Conversion to Non-adjudicative Phase:** CBP currently requires that all applicants for frontline positions complete two Physical Fitness Tests with a passing score. CBP will continue to administer both fitness tests for Border Patrol Agent applicants but will make Physical Fitness Test-2 a non-adjudicative portion of the pre-employment process and will remove it entirely for CBP Officers. While additional applicants may pass the pre-employment process as a result of these changes, the physical training standards remain intact at the CBP Academies. Individuals who do not meet these standards at the Academy will receive additional training.

Additionally, CBP will work to further improve brand awareness and convey the importance and scope of our mission within the public sphere. We will also continue to focus on increasing our digital and social media presence to reach the millennial generation; expanding our 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 our frontline.

CBP will also continue using its new expedited hiring process, which has led to a significant decrease in CBP's time-to-hire. In January 2016, the time-to-hire for frontline personnel averaged 469 days. As of March 2017, the time-to-hire is just under 300 days—an average that includes more than half of all frontline applicants being processed through the expedited hiring process. This new process has shown the ability to hire applicants in an average time of as low as 160 days and will now be used for all CBP frontline applicants. We anticipate the overall time-to-hire will continue to decrease as more applicants are routed through the expedited hiring process.

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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: In accordance with Section 9 of the Executive Order, the head of each executive department and agency shall 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 (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: In accordance with Section 10 of the Executive Order, the Secretary of Homeland Security is directed 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) expansion by identifying 287(g) Program operational gaps and vulnerabilities, planning against them, conducting targeted immigration enforcement against threat sources, and measuring the results. Implementation of the 287(g) Program expansion requires complex planning processes, outside agency assessments, organizational education, training, outreach, and new performance measure development. Accordingly, the USBP in collaboration with ICE is developing a CBP-wide agency plan to expand the 287(g) Program and enhance border security efforts with state and local law enforcement agencies, including updated operational enforcement models within the existing 287(g) Program, expanded locations, increased agency and personnel participation, as well as outreach and recruitment strategies.

To strengthen the 287(g) Program, CBP field leadership is examining local operational needs and liaising with potential 287(g) partners. CBP sectors are performing gap analyses to determine possible 287(g) partnership interest, enforcement application, asset deployment, and operational impact. As part of ICE and CBP's outreach, agency personnel will discuss the 287(g) Program and how interested parties can begin the

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process toward 287(g) partnership under a Memorandum of Agreement. Also, existing 287(g) Program applications are undergoing an expedited review process. To support the training needed for existing and new 287(g) partners, CBP is reviewing the ICE 287(g) training curriculum.

On February 21, 2017, ICE conducted a Program Advisory Board review of all eight (8) jurisdictions that had pending applications for consideration for inclusion in the 287(g) program, and approved each one. All of the approved jurisdictions will now begin the legal review process of the Memorandum of Agreement between ICE and the new partners.

ICE has scheduled another Program Advisory Board on April 6, 2017, where 18 new applications will be reviewed. In addition, ICE has been conducting outreach with future partners and has identified over 50 jurisdictions that are interested in applying for participation in the 287(g) program. ICE is currently engaged in discussion with the proposed new partners about participation in the 287(g) program and the commitments involved with the process. It is worth noting that ICE has determined that current resources may limit the expansion of the program in FY 2017 to no more than 20 new partnerships for the year.

Section 11. Parole, Asylum, and Removal: In accordance with Section 11 of the Executive Order, the Secretary of Homeland Security is directed 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. 1125(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 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)(95)) 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: USCIS has taken several steps related to review and/or revise its processing of protection screening, asylum, and parole requests. Regarding Subsections 11(a), (b) and (e), 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 increase in the number of Fraud Detection and National Security positions assigned to the Asylum Division;

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- Recommended the establishment of a centralized screening and vetting center for asylum cases;
- Issued revised guidance to asylum officers for the proper application of the screening standard for credible fear and reasonable fear cases (effective February 28, 2017), plus trained refugee officer staff to conduct credible fear screening interviews;
- Increased the number of detention facilities in Texas, Arizona, and California where asylum officers conduct in-person credible fear and reasonable fear interviews;
- Drafted paper proposing additional changes to the credible fear and reasonable fear screening process to improve efficiency and efficacy;
- Neared completion on a draft report on vulnerabilities in the asylum program and steps to be taken to mitigate/eliminate such vulnerabilities; and
- Drafted revised instructions on the proper application of TVPRA.

For Section 11(d), USCIS has taken several steps to review its exercise of parole authority. Shortly after the issuance of the Executive Order, USCIS formed a working group, 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 a recommendation for termination or modification of its uses of parole consistent with the Executive Order.

Currently USCIS is finalizing papers for each use of its parole authority, recommending the process (or providing options) for terminating or modifying each use. USCIS has added the Executive Order and Secretary Kelly's February 20, 2017 implementing memorandum to its guidance to officers adjudicating humanitarian parole applications. The Office of Policy and Strategy is preparing regulatory actions consistent with direction already provided by the Department regarding certain uses of parole, and is also drafting new guidance for the USCIS Policy Manual to explain how USCIS will apply its parole authority consistent with the Executive Order and contingent on final decisions by the Department on the termination or modification of USCIS's uses of parole.

Section 12. Authorization to Enter Federal Lands: In accordance with Section 12 of the Executive Order, the Secretary of Homeland Security, in conjunction with the Secretary of the Interior, is directed 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 this 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*

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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 to new areas of federal land, USBP Public Lands Liaison Agents will contact the relevant federal land manager and request access via an established road or gate, explaining the need for the access. This process is normally approved within a short period via a phone call. Depending on the required duration of the access, the Border Patrol and land manager may decide on the issuance of a Special Use Permit to set the access parameters (e.g., duration, geographical limits, special instructions).

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 Wilderness Act, 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. Per the 2006 memorandum, however, where there are emergency or exigent circumstances, such as operations to initiate a rescue and/or apprehension, Border Patrol agents may use the most expedient means to resolve the situation. USBP then notifies the applicable land management agency after the incident. The collaborative relationship between USBP and its federal land management partners is supportive and operationally beneficial in completing our border security mission.

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: In accordance with Section 13 of the Executive Order, the Attorney General of the United States is directed 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: ICE representatives met with the Executive Office of U.S. Attorneys (EOUSA) on February 9, 2017, to discuss how the Executive Orders will affect ICE's and U.S. Department of Justice's (DOJ) collective efforts in investigating and prosecuting criminal immigration fraud. As a result of this meeting, on February 23, 2017, the EOUSA included the below language in its newsletter that is distributed to all U.S. 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."

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On March 3, 2017, ICE met with the Human Rights and Special Prosecutions Section of the DOJ Criminal Division, which oversees the majority of DOJ's immigration portfolio, to discuss implementation of the immigration aspects of the EOs, 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. The web page can be found on CBP's public website at: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

Since the issuance of the Executive Order, three Border Enforcement Security Task Forces (BESTs) have added groups to their current rosters. BEST Yuma has added a group dedicated to human smuggling and human trafficking. BEST Seattle expanded by adding a group that also focuses on human trafficking and will be called Trafficking in Proceeds and Trafficking in Persons Group. And BEST Ft. Lauderdale added an airport group that will complement the seaport group. To date, the BEST program is comprised of 44 BESTs composed of 74 individual groups supervised by both HSI Group Supervisors and TFO Supervisors.

Section 14. Government Transparency: In accordance with Section 14 of the Executive Order, the Secretary of Homeland Security is directed 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 webpage (<https://www.cbp.gov/newsroom/stats/sw-border-migration>), which included a statement from Secretary Kelly regarding the 40 percent decline in the flow of illegal border crossings, as measured by apprehensions and the prevention of inadmissible persons at our southern border, from January to February.

On March 27, 2017, CBP published another webpage (<https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>) designed to report criminal alien and recidivism statistics as a first step toward Section O of the Secretary Kelly's implementation guidance memorandum entitled, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*. CBP's plan is to update the webpage monthly and expand it with additional data elements, including additional criminal alien, gang affiliation, drug, and other border enforcement statistics.

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

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apprehension, release, and removal. To date, ICE has developed a template for the "Monthly Arrest, Removal, and Release Report" that captures administrative arrests that have resulted in final orders of removal and removals. The draft template also captures releases and reasons for releases. This template is currently under development and is pending further review. ICE will issue the initial report in the April timeframe using available apprehensions data.

In addition to these separate CBP and ICE monthly reports, DHS Office of Policy intends to perform follow-on analysis that presents more robust information about the fraction of border apprehensions detained so the Department can trace the migrants through the enforcement system and show the degree to which Executive Order initiatives are being implemented. This type of integration analysis will go beyond simple apprehension counts and therefore require more production time, resulting in a quarterly release schedule.

Section 15. Reporting: In accordance with Section 15 of the Executive Order, the Secretary of Homeland Security is directed 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 addressed by issuance of this report.

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

Progress: On March 23, 2017, DHS Chief Human Capital Officer requested Direct Hire Authority (DHA) from OPM as a result of the Department's critical hiring needs to fully implement the hiring goals outlined within the Executive Order, including DHA for Border Patrol Agent (GS-1896), Air and Marine Officers/Agents (multiple series), CBP Officers (GS-1895), and Human Resources Management Specialists (GS-0201).

CBP has made requests for the following authorities from OPM, which are currently pending OPM review/approval:

- Amendment to qualifications standard for Border Patrol Agent, GS-1896
- Special salary rates for remote and hard-to-fill locations

Additionally, CBP is finalizing the request for Dual Compensation Waivers (DCWs) for Mission/Operation Support Positions. Once finalized, this request will be submitted to DHS (for inclusion in the Department's request to OPM).

In consultation with the Components responsible for hiring the personnel required to implement the Executive Order, CBP has determined a number of areas that could have a significant impact on the Department's ability to expedite hiring. The status of these efforts with OPM include:

- High likelihood OPM will approve:

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- Direct Hire Authority (DHA) for mission critical positions. The Department's request for DHA for the highest priority positions was submitted to OPM on March 24, 2017 and is awaiting OPM response.
- Dual Comp Waiver (DCW) for mission critical positions. CBP is coordinating with OPM now and plans to submit initial draft to OPM for critical positions by April 1, 2017.
- The ability for the Department to conduct National Agency Checks or a permissible alternative. ICE currently has this authority. On March 17, 2017 OPM indicated CBP now has this authority.
- High likelihood OPM will not approve, without modification:
 - Delegate establishment and approval of qualification standards for CBP's Border Patrol Agents (occupational series 1896). OPM will not approve the delegation of qualification standards. However, OPM is willing to address the specific modifications that CBP is requesting for the 1896 qualification standard. The request was submitted to OPM on March 24, 2017 and is awaiting OPM response.
 - Interchange agreement between excepted service and competitive service. OPM is unwilling to approve a DHS-wide Interchange Agreement. However, OPM is willing to address the Transportation Security Administration's (TSA) long standing Interchange Agreement, including extending that agreement. The DHS Office of the Chief Human Capital Officer is working with TSA to submit their request for an extension of the Interchange Agreement.
- OPM cannot approve because it requires a legislative change:
 - Extend probationary period to two years after Entrance-On-Duty. OPM has indicated they will support a DHS legislative proposal. The Department is consulting internally on a legislative proposal to address this issue.
- OPM will not approve and is unwilling to change their regulations to:
 - Delegate DHA for mission critical occupations to DHS. The Department is consulting internally on a legislative proposal to address this issue.
 - Delegate DCW Authority for mission critical occupations to DHS. The Department is consulting internally on a legislative proposal to address this issue.
 - Delegate the authority for 30 percent or more Passovers to DHS. If OPM grants DHA to the Department and/or our legislative proposal identified in 4.a. above is approved, this issue will be resolved.
 - Delegate to DHS the ability to establish an Interchange Agreement between excepted service and competitive service department-wide. DHS is consulting internally on a legislative proposal to address this issue.
- Issue not submitted or forwarded to OPM.
 - "3Rs" (recruitment, retention, and relocation). The Department is exploring alternative solutions within DHS current authorities for hard to fill /hard to find/hard to keep positions.

Conclusion and Next Steps

As the President noted, border security is critically important to the national security of the United States. Over 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.

