



Section 559 Pilot Program Activities

June 15, 2016

FY 2016 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

June 15, 2016

U.S. Customs and Border Protection (CBP) is pleased to submit the “Section 559 Pilot Program Activities” report prepared in collaboration with the U.S. General Services Administration (GSA).



This document has been compiled pursuant to the language set forth in Section 559 of the *Fiscal Year (FY) 2014 Department of Homeland Security Appropriations Act* (P.L. 113-76), which establishes the Congressional requirement for annual reports describing the pilot program’s activities in FY 2015.

Pursuant to the Congressional requirement, this report is being provided to the following Members of Congress:

The Honorable Michael McCaul
Chairman, House Committee on Homeland Security

The Honorable Bennie G. Thompson
Ranking Member, House Committee on Homeland Security

The Honorable Ron Johnson
Chairman, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Thomas R. Carper
Ranking Member, Senate Committee on Homeland Security and Governmental Affairs

The Honorable Bill Shuster
Chairman, House Committee on Transportation and Infrastructure

The Honorable Peter A. DeFazio
Ranking Member, House Committee on Transportation and Infrastructure

The Honorable James M. Inhofe
Chairman, Senate Committee on Environment and Public Works

The Honorable Barbara Boxer
Ranking Member, Senate Committee on Environment and Public Works

I would be pleased to respond to any questions you may have. Please do not hesitate to contact my office at (202) 344-2001 or the Department's Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. McAleenan', with a long horizontal line extending to the right.

Kevin K. McAleenan
Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

Section 559 of the *FY 2014 DHS Appropriations Act* (P.L. 113-76), as amended by Section 552 of P.L. 114-4, authorizes a 5-year pilot program during which CBP may enter into partnerships with private-sector and government entities for certain reimbursable services and to accept certain donations. These authorities are referred to as the Reimbursable Services Agreement (RSA) Authority and the Donation Acceptance Authority (DAA), respectively. CBP, under the umbrella of its Resource Optimization Strategy, commits to exploring alternative sources of funding, such as Section 559, as a means of bridging current and anticipated mission resource gaps.

The RSA Authority, Subsection (e) of Section 559, expands on the authority previously provided in Section 560 of the *FY 2013 DHS Appropriations Act, 2013* (P.L. 113-6), which permitted CBP to enter into five reimbursable service agreements (each for a term of up to 5 years) before December 31, 2013, for the provision of customs and immigration inspection services with private-sector and government entities. Section 559 maintains the five-agreements-per-year limit at CBP-serviced air ports of entry (POE), but expands the reimbursable authority by removing the cap on the number of agreements at land and sea POEs; broadening the scope of services permitted under each reimbursable agreement to include agricultural processing and border security services; and eliminating the 5-year maximum term on the length of each partnership.

CBP announced this year's open application period for RSAs in March 2015 and received 16 applications (11 air, 3 land, and 2 sea). CBP selected nine applications for participation in the Reimbursable Services Program for 2015. All nine RSAs were signed by December 2015.

The DAA, Subsection (f) of Section 559, permits CBP and GSA to accept donations of real property, personal property (including monetary donations), and nonpersonal services from private- and public-sector entities. Partnerships entered into during the pilot program also may extend beyond the 5-year limitation of the pilot authority.

CBP launched its Donations Acceptance Program in support of the DAA on October 1, 2014, and shortly after opened the FY 2015 donation proposal submission period. CBP and GSA received seven proposals, of which three were selected for further planning and development.



Section 559 Pilot Program Activities Report

Table of Contents

I. Legislative Language	1
II. Background	2
III. Pilot Program Activities Report	3
A. Reimbursable Services Program	3
1. FY 2015 Notifications	3
2. FY 2015 Requests Received	3
3. FY 2015 Selection Process	4
4. FY 2015 Selections	4
5. FY 2015 Implementation	5
6. Billing and Hours	6
7. Standard Operating Procedures	7
B. Donation Acceptance Authority	7
1. FY 2015 Program Launch and Pre-Evaluation & Selection Activities	7
2. FY 2015 Evaluation & Selection Activities	8
3. FY 2015 Selections	8
C. Current Status	8
1. Reimbursable Services Program	8
2. Donations Acceptance Program	8
IV. Conclusion	10
V. Appendix: List of Acronyms	11

I. Legislative Language

This document was compiled pursuant to the language set forth in Section 559 of the *Fiscal Year (FY) 2014 Department of Homeland Security (DHS) Appropriations Act* (P.L. 113-76).

Subsection (g) of Division F of P.L. 113-76 states:

(g) ANNUAL REPORTS.—The Commissioner, in collaboration with the Administrator, shall annually submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Environment and Public Works of the Senate a report on the pilot program and activities undertaken pursuant thereto in accordance with this Act.

II. Background

In FY 2015, CBP inspected more than 382 million travelers at its air, land, and sea ports of entry (POE), with total passenger volume two percent higher than in FY 2014. As a result, CBP is frequently asked to provide new or additional services at POEs to support these rising traffic volumes, but is not always able to accommodate the requests due to ongoing resource constraints.

Subsection (e) of Section 559¹, referred to as the Reimbursable Services Agreement (RSA) Authority, expands on the authority previously provided in Section 560 of the *FY 2013 DHS Appropriations Act (P.L. 113-6)*, which permitted U.S. Customs and Border Protection (CBP) to enter into five reimbursable service agreements (each for a term of up to 5 years) before December 31, 2013, for the provision of customs and immigration inspections services with private-sector and government entities.

Section 559 maintains the five-agreements-per-year limit at CBP-serviced air POEs, but expands reimbursable authority by removing the cap on the number of agreements at land and sea POEs; broadening the scope of services permitted under each reimbursable agreement to include agricultural inspections and border security services; and eliminating the 5-year restriction from Section 560 on the term length of each partnership. Section 552 of the *FY 2015 Department of Homeland Security Appropriations Act (P.L. 114-4)* amended the Section 559 and Section 560 legislation to include reimbursement for support services.

Subsection (f) of Section 559, referred to as the Donation Acceptance Authority (DAA), permits CBP and the U.S. General Services Administration (GSA) to accept donations of real property, personal property (including monetary donations), and nonpersonal services from private- and public-sector entities. Accepted donations may be used for activities associated with POE construction, alteration, operations, and maintenance. These activities may include, but are not limited to, land acquisition, design, and the deployment of equipment and technologies.

To facilitate the planning, development, and ongoing implementation of these new and expanded authorities, CBP established the Reimbursable Services Program (RSP) and the Donations Acceptance Program (DAP).

¹ P.L. 113-76

III. Pilot Program Activities Report

The following sections outline key pilot program activities undertaken pursuant to Section 559 in FY 2015.

A. Reimbursable Services Program

1. FY 2015 Notifications

On March 2, 2015, CBP issued a public notice to inform the public and private stakeholders with general information about Section 559's RSA Authority on www.cbp.gov. This notification invited interested parties to submit a request for consideration to be selected for RSAs.

Additionally, state, local, and tribal governments and certain congressional committees were contacted by CBP's Office of Congressional Affairs to advise them of the public notice. Constituents of congressional offices and other private stakeholders who requested consideration under Section 559 prior to release of the public notice were contacted and advised of how to locate the now-public information. Periodically and upon request, CBP's Office of Congressional Affairs provided program status updates to congressional committees and individual Members' offices, including a public hearing on November 4, 2015, before the House Homeland Security Committee, Subcommittee on Border and Maritime Security, titled, "*A New Approach to Increase Trade and Security: An Examination of CBP's Public Private Partnerships.*"

2. FY 2015 Requests Received

CBP opened its application period, from March 2 - 31, 2015, for any parties interested in entering into RSAs. At the close of the application process, CBP received letters of application from 16 interested parties (11 for air, 3 for land, and 2 for sea).

Those applicants were:

Land

1. Ameron International Corporation (San Luis, Arizona)
2. Dell Inc. (Santa Teresa, New Mexico)
3. Rocky Mountaineer (Seattle King Street Train Station)

Sea

1. Port Freeport (Freeport, Texas)
2. Virginia Port Authority (Norfolk, Virginia)

Air

1. American Airlines (John F. Kennedy International Airport - Terminal 8)
2. Atlantic City International Airport (Atlantic City International Airport)
3. British Airways (John F. Kennedy International Airport - Terminal 7)
4. Broward County Government: Aviation Department (Fort Lauderdale/Hollywood International Airport)
5. Donjon Marine Co., Inc. (Lehigh Valley International Airport)
6. Philadelphia International Airport (Philadelphia International Airport)
7. Phoenix Sky Harbor International Airport (Phoenix Sky Harbor International Airport)
8. Saint Louis International Airport (Lambert-St. Louis International Airport)
9. SAS Institute Inc. (Raleigh Durham International Airport)
10. The Port Authority of New York and New Jersey/AvPorts (Stewart International Airport)
11. United States Postal Service (John F. Kennedy International Airport)

3. FY 2015 Selection Process

The evaluation panel, comprised of three Directors of Field Operations, scored each application with input from CBP's Office of the Chief Counsel and other subject matter experts. Field offices with application(s) that impacted their area of responsibility provided a review of the applicant's proposal(s).

The evaluation panel scored each application using a single set of objectives and weighted criteria as part of an analytical evaluation process. The criteria included: impact on current CBP operations; funding reliability; community concerns; health and safety issues; the ability to receive support from other necessary government agencies; community and economic benefits; and feasibility of implementing an agreement in a timely manner.

These findings were presented for Office of Field Operations (OFO) leadership review. OFO leadership analyzed the results of the combined reviews and scoring outcomes from the evaluation panel to provide a recommendation for final selections that supports the program and OFO's overarching mission requirements.

Based on the OFO leadership recommendation, and due to statutory limitations on the number of air POE agreements per year, CBP tentatively selected nine applications for participation in the RSP for 2015.

4. FY 2015 Selections

Land

1. Ameron International Corporation (San Luis, Arizona)

2. Dell Inc. (Santa Teresa, New Mexico)
3. Rocky Mountaineer (Seattle King Street Train Station)

Sea

1. Virginia Port Authority (Norfolk, Virginia)

Of the 11 air applications, the statute permits only five to be selected.

Air

1. American Airlines (John F. Kennedy International Airport - Terminal 8)
2. British Airways (John F. Kennedy International Airport - Terminal 7)
3. Broward County Government: Aviation Department (Fort Lauderdale/Hollywood International Airport)
4. Philadelphia International Airport (Philadelphia International Airport)
5. Phoenix Sky Harbor International Airport (Phoenix Sky Harbor International Airport)

CBP announced the nine tentative selectees for new RSAs to the public on July 14, 2015.

5. FY 2015 Implementation

To ensure that the new agreements are implemented in a transparent and coordinated manner, OFO headquarters is working closely with field offices to ensure that program policies, procedures, and protocols are followed; to coordinate efforts between RSA selectees and local operations; to develop and distribute reporting metrics on a regular basis that accurately reflect RSA operations and impact to stakeholders; and to work with other Federal agencies to ensure situational awareness and coordination between all parties.

CBP headquarters visited field offices with Section 559 RSA applicants to provide an overview of next steps and to ensure that program procedures were put into place to accurately record RSA efforts. Meetings were conducted between OFO headquarters, participating CBP field offices/port offices, and selected stakeholders. A generally standardized RSA template was executed by each selectee and memoranda of understanding (MOU) were negotiated between selectees and local CBP staff.

CBP established protocols with the selectees to guide the local implementation of this program, including establishing daily or weekly meetings to discuss baseline levels of service at each affected location. Baseline data represents the levels of service provided by CBP at each location over the previous fiscal year and provides a frame of reference for the stakeholders regarding CBP resource availability, workload volumes, and peak workload hours where supplemental reimbursable services could be applied most effectively. In September 2015, the affected field offices began conducting these

meetings with the tentative selectees. This effort provides the stakeholders with an opportunity to identify the most appropriate days, times, and events to request increased levels of services in order to maximize the program's effectiveness and to best meet the stakeholders' needs.

Understanding the significance of transparency for this program, CBP has provided and continues to provide unprecedented levels of disclosure to its program partners, including elevated wait time analysis of passenger composition breakdowns and commensurate staffing availability. These ongoing efforts will not only continue to be critical for both parties in identifying where increased services may be applied, but exemplify CBP's commitment to the partnership principle of the program.

Stakeholders may request reimbursable services from CBP electronically via program e-mailboxes established for each participating POE. These requests may be submitted as late as same day of service. CBP Port Directors review each request and, based on the availability of resources and impact on overall operations, determine whether they may accommodate the request. Procedures are also in place to address ad hoc or urgent requests that arise outside of the more routine requests received through the regularly established meetings described above.

6. Billing and Hours

CBP has established exclusive system codes to track hours assigned and worked by CBP personnel under this program. Electronic billing and collections systems are scheduled to occur after each billing activity cycle via the U.S. Treasury's Pay.gov system. Remittances are transferred electronically by the stakeholders into a dedicated CBP account within 15 days of receipt of their bill.

In addition, metrics reports coinciding with each monthly billing activity cycle are produced by CBP and provided to each stakeholder showing how the additional service hours requested were applied and the costs for those hours. Each cycle report contains a series of standardized measurements to demonstrate the comparative impact of the requested services such as wait time reductions, increased volume throughput, new or increased workload resulting from the program, and any other impacts in the operational areas where appropriate (e.g., secondary processing, baggage control, egress/exit points, etc.)

7. Standard Operating Procedures

CBP has established standard operating procedures to ensure that all participating CBP POEs maintain uniform guidelines and procedures for the management and execution of RSAs for requesting, tracking, and reporting of Section 559 reimbursable assignments.

A centralized Work Ticket Log on CBP's secure SharePoint site allows program managers at CBP headquarters to review and extract work ticket data input by the POEs in real time. CBP also performs weekly and cycle-end audits to validate Section 559 reimbursable work ticket data against headquarters billing systems.

As a new agency program, a training regime was developed by the RSP for the CBP field offices and port management overseeing and operating the program. The team began traveling to each location to deliver the program training through the month of January 2016.

B. Donation Acceptance Authority

Subsection (f) of Section 559, referred to as the DAA, grants CBP and GSA the ability to accept donations of real property, personal property (including monetary donations), and nonpersonal services from private sector and government entities. Partnerships entered into during the pilot program may extend beyond the initial 5-year timeframe.

The following summarizes the activities that CBP, in coordination with GSA, undertook in FY 2015, to stand up and implement the CBP DAP.

1. FY 2015 Program Launch and Pre-Evaluation & Selection Activities

Pursuant to paragraph (f)(4), CBP and GSA worked closely to develop the Section 559 DAP *Proposal Evaluation Procedures and Criteria Framework* (DAP Framework), which encompasses the procedures and criteria that CBP and GSA use to evaluate, select, plan, develop, and accept Section 559 donations. On October 1, 2014, CBP posted the DAP Framework as part of its official program launch announcement.

CBP and GSA conducted a live webinar on November 5, 2014, to provide a consolidated response to DAP inquiries and to field additional questions from potential donors, ports, and other stakeholders. The DAP FY 2015 proposal submission period ran for 60 days, from October 20 through December 23, 2014. Seven proposals were received.

2. FY 2015 Evaluation & Selection Activities

CBP and GSA coordinated in order to evaluate the seven proposals received during the FY 2015 proposal submission period. CBP's OFO conducted the first round of evaluations to determine operational viability. Four proposals received passing operational scores and were recommended for further evaluation. CBP's Office of Administration and GSA then coordinated to conduct the second round of evaluations to determine nonoperational viability. Of the remaining four proposals evaluated, three received passing non-operational scores and were recommended for further planning and development.

Working-level proposal recommendations were vetted for the GSA Public Buildings Service Commissioner's concurrence and CBP Commissioner's approval. The CBP Commissioner made proposal selections on July 17, 2015. CBP issued a press release announcing the FY 2015 selections on July 24, 2015.

3. FY 2015 Selections

The following proposals were selected for further planning and development.

1. City of Donna, Texas - Donna-Rio Bravo Land POE (LPOE) - Installing a new outbound inspection booth and fixed X-ray machine to support outbound empty commercial inspections.
2. City of El Paso, Texas - Ysleta LPOE - Removing two existing traffic islands to facilitate commercial throughput.
3. City of Pharr, Texas - Pharr LPOE - Implementing multiple improvements to include installing two new commercial booths, relocating existing exit booths, constructing a truck staging area, and further renovating existing agricultural inspection lab.

In September 2015, CBP and GSA traveled to the aforementioned locations to meet their new partners, toured their proposed improvements, and formally launched planning and development activities upon receipt of signed MOUs.

C. Current Status

1. Reimbursable Services Program

RSAs with all FY 2015 selectees were finalized and implemented.

2. Donations Acceptance Program

CBP has executed MOUs with selected donors and GSA. CBP and GSA planning leads currently are engaging FY 2015 selectees to plan and develop their proposals into executable projects. Concurrently, the DAP is coordinating internally and with GSA to prepare for the FY 2016 proposal evaluation and selection activities.

The DAP is continuously exploring opportunities to expedite and simplify its proposal evaluation and selection, and project planning and development processes. In FY 2016, the DAP will implement new procedures that seek to move proposals through the evaluation and selection process 20 percent more quickly than in FY 2015. Improving our program and our ability to respond more quickly to alternative funding opportunities as they arise is extremely important, as well as maintaining the level of structured coordination, review, and overall due diligence that the DAP has instituted to protect CBP, GSA, and donor interests.

IV. Conclusion

CBP faces an increasingly complex and expanding mission in the midst of competing demands for limited federal resources. It continues to see record increases in passenger and cargo volumes, which are outpacing its ability to sufficiently staff and modernize its POEs. Requests for increased services and a growing outside interest to invest in and expedite POE improvements have the potential to provide significant economic, traveler, and trade processing benefits. The RSP and DAP assist CBP and public or private entities in addressing these increasing demands by making resources and enhanced infrastructure more readily available where they are greatly needed.

V. Appendix: List of Acronyms

Acronym	Definition
CBP	U.S. Customs and Border Protection
DAA	Donation Acceptance Authority
DAP	Donations Acceptance Program
DHS	Department of Homeland Security
FY	Fiscal Year
GSA	U.S. General Services Administration
LPOE	Land Port of Entry
MOU	Memoranda of Understanding
OFO	Office of Field Operations
POE	Port of Entry
RSA	Reimbursable Services Agreement
RSP	Reimbursable Services Program