



Section 559 Pilot Program Activities

June 24, 2015

Fiscal Year 2015 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

June 24, 2015

On behalf of the Commissioner of U.S. Customs and Border Protection (CBP), I am pleased to submit the Section 559 Pilot Program Activities Report prepared by CBP 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 Division F of the *Consolidated Appropriations Act, 2014* (P.L. 113-76), which establishes the Congressional requirement for annual reports describing the pilot program's activities.

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

Senator Thad Cochran
Chairman, Committee on Appropriations

Senator Barbara Mikulski
Ranking Member, Committee on Appropriations

Rep. Harold Rogers
Chairman, Committee on Appropriations

Rep. Nita M. Lowey
Ranking Member, Committee on Appropriations

Senator Ron Johnson
Chairman, Committee on Homeland Security and Governmental Affairs

Senator Thomas R. Carper
Ranking Member, Committee on Homeland Security and Governmental Affairs

Rep. Michael McCaul
Chairman, Committee on Homeland Security

Rep. Bennie G. Thompson
Ranking Member, Committee on Homeland Security

Senator Jim Inhofe
Chairman, Committee on Environment and Public Works

Senator Barbara Boxer
Ranking Member, Committee on Environment and Public Works

Rep. Bill Shuster
Chairman, Committee on Transportation and Infrastructure

Rep. Peter A. DeFazio
Ranking Member, Committee on Transportation and Infrastructure

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 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 Division F of the *Consolidated Appropriations Act, 2014* (P.L. 113-76) 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. Section 559 supports CBP's Resource Optimization Strategy, which in addition to other business transformation initiatives, commits to exploring alternative sources of funding as a means of bridging current and anticipated mission resource gaps.

The RSA Authority, Subsection (e), expands on the authority previously provided in Section 560 of Division D of the *Consolidated and Further Continuing 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 (POEs) 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 the open application period for RSAs from March 31 to April 30, 2014, on CBP.gov with information about the statute, program background, submission requirements, evaluation criteria, and some general cost information. Twenty-five applications were received (13 air, 11 sea, and 1 land).

A panel consisting of senior Office of Field Operations (OFO) leaders as well as advisors from other CBP offices reviewed the applications using a single set of objective 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.

Based on the scoring of each application and due to statutory limitations for air POEs, CBP selected 16 applications for participation in the Reimbursable Services Program for 2014. Initial agreements were signed by December 31, 2014.

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

In accordance with Section 559(d)(3), CBP and GSA developed the Section 559 Pilot Program Evaluation Plan. The Evaluation Plan includes the objectives, criteria, evaluation, methodologies, and data collection plans that CBP and GSA (where applicable) will use to evaluate pilot program performance. CBP, in collaboration with GSA, will then document the results in the annual Section 559 Pilot Program Activities report mandated by Section 559(g).

On October 1, 2014, CBP and GSA announced the launch of the Donation Acceptance Program (DAP) and published the *Section 559 Donation Acceptance Authority Proposal Evaluation Procedures and Criteria Framework*, which outlines the procedures that CBP and GSA will use to receive, evaluate, select, plan, develop, and accept donations proposed under Section 559(f).

On October 20, 2014, CBP announced the open period for submitting donation proposals. The submission period remained open for 60 days, closing on December 23, 2014. After the close of the submission period, CBP will collaborate with GSA to implement the Proposal Evaluation Procedures and Criteria Framework steps by conducting donation assessments to evaluate and score each proposal against operational and non-operational criteria. These assessment results will be compiled for a CBP and GSA leadership review. Once final approvals have been made, selection notification letters will be issued prior to beginning the Proposal Planning and Development phase.



Section 559 Pilot Program Activities

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I. Legislative Language

This document was compiled pursuant to the language set forth in Section 559 of the *Consolidated Appropriations Act, 2014* (P.L. 113-76).

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

(g) 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 2014, CBP inspected more than 374 million travelers at our air, land, and sea POEs, with total passenger volume 3.4 percent higher and total import value 3.7 percent higher than in FY 2013. 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 on-going resource constraints.

Subsection (e) of Section 559, referred to as the RSA, expands on the authority previously provided in Section 560 of Division D of the *Consolidated and Further Continuing Appropriations Act, 2013*, which permitted CBP to enter into five reimbursable service agreements (each for a term of up to five 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 agreement 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.

Subsection 559(f), referred to as the DAP, permits CBP and GSA to accept donations of real property, personal property (including monetary donations), and non-personal services from private sector and government entities. Accepted donations may be used for activities associated with the construction, alteration, operations, and maintenance of an existing CBP owned POE or a new or existing GSA-owned POE. These activities may include, but are not limited to, land acquisition, design, and the deployment of equipment and technologies. In addition, accepted donations may also be used for activities associated with leased space at a CBP air or sea POE, e.g. inspections processing equipment and technologies.

To facilitate the planning, development, and on-going implementation of these new and expanded authorities, CBP established the Reimbursable Services Program and the DAP.

III. Pilot Program Activities Report

The following sections outline key pilot program activities undertaken pursuant to Section 559 in FY 2014.

A. Reimbursable Services Program

1. Notifications

On March 31, 2014, CBP issued a public notice to inform the public and private stakeholders with general information about Section 559's RSA 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. In addition, 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 formal briefing to the House and Senate Committees on Appropriations on July 16, 2014.

2. Requests Received

CBP opened its application period, from March 31 to April 30, 2014, for any parties interested in entering into RSAs. At the close of the application process, CBP received requests for services from 25 interested parties (13 for air, 11 for sea, and 1 for land). Those applicants were:

Land

1. South Texas Assets Consortium

Sea

1. Diamond State Port Corporation (Wilmington, Delaware POE)
2. Gloucester Terminals LLC (Philadelphia, Pennsylvania POE)
3. Greenwich Terminals LLC (Philadelphia, Pennsylvania POE)
4. Independent Container Line, Ltd. (Philadelphia, Pennsylvania and Wilmington, North Carolina POEs)
5. Interoceanica Agency, Inc. (Philadelphia, Pennsylvania POE)
6. Banacol Marketing Corp
7. Network Shipping Ltd. (Philadelphia, Pennsylvania POE)

8. Broward County (Everglades, Florida POE)
9. Turbana Corporation (Philadelphia, Pennsylvania POE)
10. Port of Houston Authority
11. Penn Terminals, Inc. (Philadelphia, Pennsylvania POE)

Air

1. Atlantic City International Airport
2. Austin Straubel International Airport
3. Denver International Airport
4. Greater Orlando Aviation Authority
5. Lambert-St. Louis International Airport
6. Las Vegas (McCarran International Airport)
7. Los Angeles World Airports
8. Melbourne International Airport
9. Metropolitan Airport Authority of Peoria
10. San Francisco International Airport
11. Sarasota Bradenton International Airport
12. Phoenix Sky Harbor International Airport
13. State of Hawaii, Department of Transportation

3. Selection Process

After the application period closed, the Section 559 evaluation committee met to review, evaluate, and score the applicants. This committee consisted of senior OFO leaders as well as advisors from across CBP, including OFO, the Offices of Administration, Chief Counsel, International Trade, and Congressional Affairs.

The 25 applications were reviewed individually using a single set of objective and weighted criteria as part of an analytical evaluation process. 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.

a. Selections

Land applicants:

1. South Texas Assets Consortium

Sea applicants and their respective POE:

1. Penn Terminals, Inc. (Philadelphia, Pennsylvania POE)
2. Independent Container Line, Ltd. (Philadelphia, Pennsylvania and Wilmington, North Carolina POEs)
3. Network Shipping Ltd. (Philadelphia, Pennsylvania POE)

4. Greenwich Terminals LLC (Philadelphia, Pennsylvania POE)
5. Gloucester Terminals LLC (Philadelphia, Pennsylvania POE)
6. Turbana Corporation (Philadelphia, Pennsylvania POE)
7. Interoceanica Agency, Inc. (Philadelphia, Pennsylvania POE)
8. Diamond State Port Corporation (Wilmington, Delaware POE)
9. Port of Houston Authority
10. Broward County (Everglades, Florida POE)

Of the 13 air applications, the statute permits for only 5 to be selected. Based on the highest evaluation scores, the following were selected for 2014.

Air applicants

1. Los Angeles World Airports
2. San Francisco International Airport
3. Greater Orlando Aviation Authority
4. McCarran International Airport (Las Vegas)
5. Denver International Airport

CBP announced the 16 tentative selectees for new RSAs to the public on July 23, 2014.

4. Implementation

To ensure the new agreements are implemented in a transparent and coordinated manner, OFO headquarters is working closely with field offices to ensure 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 ensure program procedures were put into place to accurately record RSA efforts,. Meetings were conducted between OFO headquarters, participating field offices/port offices, and selected stakeholders. A generally standardized RSA template was executed by each selectee and memoranda of understanding were negotiated between selectees and local CBP staff. Formal draft RSAs were routed through the CBP Commissioner for approval and then transmitted to Congress as part of the statutorily-required 15-day Congressional notification in early November 2014. All agreements were signed by December 31, 2014.

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 most effectively applied. In September 2014, 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 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 exemplifies 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, determines whether it 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.

a. 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 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.).

b. 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 overtime work ticket data against headquarters billing systems.

As a new agency program, a training regime was developed by the Integrated Project Team for the CBP field offices and POE managers overseeing and operating the program. The team began travel to each location to deliver the program training through the month of January 2015.

B. Donation Acceptance Authority

Subsection (f), referred to as the DAA, grants CBP and GSA the ability to accept donations of real property, personal property (including monetary donations), and non-personal services from private sector and Government entities. Partnerships entered into during the pilot program may extend beyond the initial 5-year timeframe. CBP and GSA will accept proposals that result in federal ownership.

Subparagraph (f)(4) of Section 559 requires that CBP, in consultation with GSA, establish procedures for evaluating donation proposals and make any such evaluation criteria available to the public. CBP and GSA have coordinated closely since enactment to meet these requirements.

1. Donation Proposal Evaluation Procedure Framework

The culmination of CBP and GSA's coordinated efforts is the framework for receiving, evaluating, selecting, planning, developing, and formally accepting donations proposed under Section 559. The framework provides potential donors with information regarding CBP and GSA's operational and non-operational criteria, proposal evaluation and selection procedures, infrastructure-related constraints (e.g., funding and staffing), and other pertinent information. These procedures were organized into three distinct phases, each of which produces a clear and distinguishable output that is used as an input in the next phase. The three phases and their associated outputs are as follows:

- Phase I: Proposal Evaluation and Selection
- Phase II: Proposal Planning and Development
- Phase III: Donation Acceptance Agreement

Potential donors may, in turn, use this information to not only gauge their potential willingness and ability to partner with CBP and GSA on POE infrastructure improvements, but also to enhance the overall viability of their proposal submission.

2. Donation Acceptance Program Launch Announcement

On October 1, 2014, CBP posted an announcement on CBP.gov formally launching the DAP in addition to making its donation proposal evaluation criteria available to the public. The DAP launch announcement included:

- An overview of recent U.S. travel and trade trends and CBP's infrastructure and resource-related challenges.
- An overview of the DAA.
- Guidelines and parameters that potential donors should consider when preparing and submitting donation proposals.
- The upcoming proposal submission open period dates and email address for submitting donation proposals.
- Details regarding DAP information requests and upcoming informational sessions (immediate stakeholder Question and Answer period).
- Hyperlinks directing stakeholders to the Section 559 Frequently Asked Questions (FAQs) page on CBP.gov and Section 559 Framework.

3. Stakeholder Question and Answer Period

CBP created a web portal for interested parties to submit DAP questions accessible from the announcement on CBP.gov. CBP provided consolidated responses in early November during a live Question and Answer session and via updated Section 559 FAQs located on CBP.gov.

4. Post Launch Activities

a. Proposal Submission Open Period Announcement

On October 20, 2014, CBP announced the open period for submitting donation proposals to 559donationsacceptance@cbp.dhs.gov. The submission period remained open for 60 days, closing at 5 P.M. EDT on December 23, 2014. The Proposal Submission Open Period Announcement reiterated:

- Guidelines and parameters that potential donors should consider when preparing and submitting donation proposals.
- Informational teleconference on DAP details.
- Hyperlinks directing stakeholders to the Section 559 FAQs page on CBP.gov and Section 559 Framework.

b. Coordinated Stakeholder Webinar

On November 5, 2014, CBP and GSA conducted a live Question and Answer session via teleconference to provide an overview of the DAP and respond to program-related questions. Any interested parties were able to register and attend.

C. Current Status

1. Reimbursable Services Program

CBP received 16 Section 559 RSAs signed by December 31, 2014. Open period for RSP applicants began on March 2, 2015 and closed on March 31, 2015.

2. Donations Authority Program

CBP closed the open period on December 23, 2014, and proposal evaluations began in January 2015.

IV. Conclusion

CBP faces an increasingly complex and expanding mission. It continues to see record increases in passenger and cargo volumes, which are outpacing its ability to sufficiently staff its POEs. Requests for increased services have the potential to provide significant economic, traveler, and trade processing benefits, but ultimately place even greater demands on CBP services. Public and Private Partnerships are tools to 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.

CBP and GSA look forward to providing ongoing updates and briefings on program activities to any interested Members or Committees of Congress.

V. Appendix: List of Acronyms

Acronym	Definition
CBP	U.S. Customs and Border Protection
DAA	Donation Acceptance Authority
DAP	Donations Acceptance Program
FAQ	Frequently Asked Questions
GSA	U.S. General Services Administration
OFO	Office of Field Operations
POE	Port of Entry
RSA	Reimbursable Services Agreement