

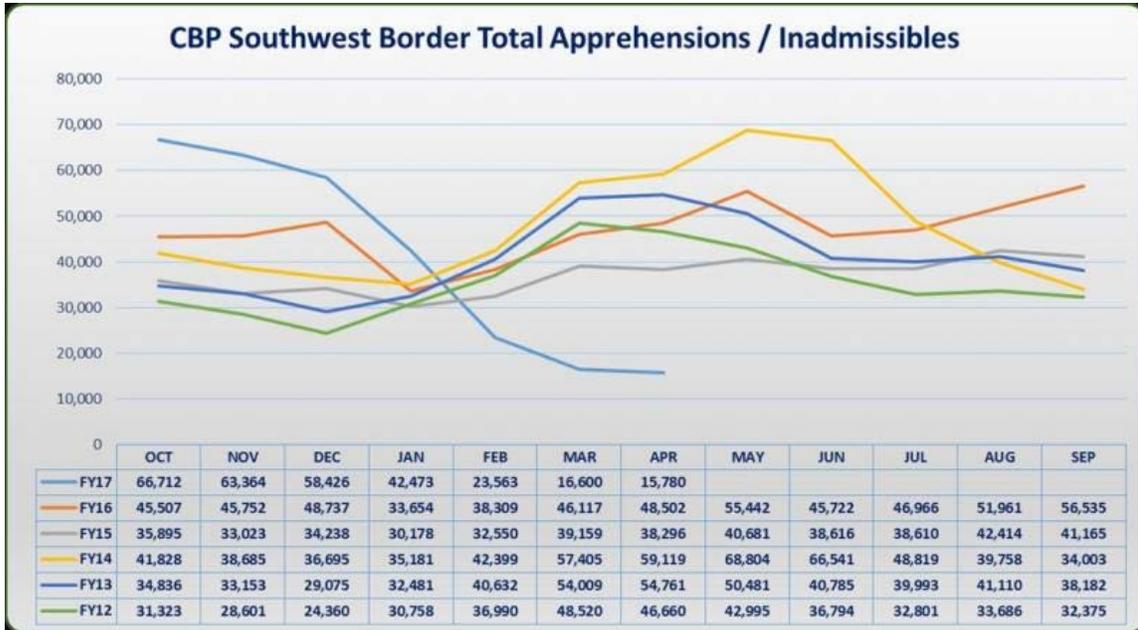
Talking Points for VPOTUS Briefing

FY17 Budget

- The bill provides approximately \$12.3 billion in appropriated funding for CBP, which is \$1.3 billion above the FY 2016 revised enacted level.
- The net increase over FY 2016 is primarily the result of a \$772 million increase in border security enhancements, including investments in border security technology, replacement barriers and tactical infrastructure, as well as improvements to CBP's hiring capabilities, related to the FY 2017 Budget Amendment Request.
- Border security enhancements include:
 - Nearly \$300 million for the replacement of 40 miles of outdated or deteriorating fencing with operationally proven designs. Such designs include (b) (7)(E) tall (b) (7)(E) (b) (7)(E) steel bollard wall with anti-climb and anti-dig features. CBP will leverage this funding to enhance operational effectiveness in high priority areas along the Southwest Border. (The levee wall and steel bollard wall designs shown at the press briefing are components of CBP's existing toolkit.)
 - Approximately \$150 million funds investment in tactical infrastructure along the Southwest border, to include an enhanced network of U.S. Border Patrol roads and gates to secure critical access points along existing barriers.
 - \$170 million to accelerate deployment of border security technologies to support U.S. Border Patrol agents and CBP officers in detecting, tracking, identifying, and classifying items of interests along the nation's borders and at ports of entry.
- These border security enhancements underscore CBP's commitment to efficient, effective and smart border enforcement by combining the capabilities of a wall, personnel and technology.
- Congress approved DHS and CBP to re-program \$20M to commence wall planning and to award the construction of four to eight prototypes. Planning includes use of US Army Corps of Engineers and architecture and engineering support for real estate, environmental and wall design efforts.
- CBP is currently evaluating the locations for the replacement mileage. CBP will deploy existing designs of border barrier based on the operational requirements and terrain at each location.
- The gates will be located along existing barriers, CBP will deploy existing designs of border barrier based on the operational requirements and terrain at each location.

- CBP will deploy additional surveillance systems at high-risk locations along Southwest border to improve situational awareness, rapid response, and agent safety.

Southwest Border Migration



U.S. Border Patrol Apprehensions FY2017 YTD(October 1 - April 30)

USBP	Demographic	OCT	NOV	DEC	JAN	FEB	MAR	APR	Total
Southwest Border	UAC	6,707	7,349	7,188	4,411	1,912	1,043	998	29,608
	Family Units	13,115	15,588	16,139	9,300	3,123	1,126	1,119	59,510
Southwest Border Total Apprehensions		46,183	47,213	43,251	31,581	18,756	12,196	11,129	210,309

Office of Field Operations Inadmissibles FY2017 YTD(October 1 - April 30)

Field Operations	Demographic	OCT	NOV	DEC	JAN	FEB	MAR	APR	Total
Southwest Border	UAC	1,831	1,437	963	592	264	121	140	5,348
	Family Units	6,500	5,135	3,869	2,757	1,054	768	763	20,846
Southwest Border Total Inadmissibles		20,529	16,151	15,175	10,892	4,807	4,404	4,651	76,609

- CBP saw a 5 percent decrease in individuals apprehended along the Southwest border, as well as those found inadmissible at ports of entry on the Southwest border in April compared to the previous month. This also represents a 68 percent decrease over the same period last year.
- Based on historic trends, CBP expects a seasonal uptick in apprehensions and inadmissibles in the coming summer months.
- In April, a total of 11,129 individuals were apprehended between ports of entry on our Southwest border, compared with 12,193 in March and 18,754 in January. In Fiscal Year (FY) 2016, USBP apprehended 408,870 individuals along our Southwest border, compared to 331,333 in FY15, and 479,371 in FY14.
- In April, a total of 4,651 people presenting themselves at ports of entry on the Southwest border were deemed inadmissible compared to 4,404 in March and 4,807 in February. In FY 16, 150,825 were deemed inadmissible compared to 114,486 in FY15 and 90,601 in FY14.
- Since the Administration's implementation of Executive Orders to enforce immigration laws, the drop in apprehensions shows a marked change in trends.
- As directed in DHS Secretary Kelly's memoranda implementing the President's executive orders, CBP will remain committed to carrying out fair, impartial and humane enforcement of the nation's immigration laws. CBP will remain vigilant to respond to any changes in trends, as numbers of illegal crossings typically increase between March and May.

Border Wall

RFP/Procurement

- In response to Executive Order 13767: Border Security and Immigration Enforcement Improvements, CBP is releasing two RFPs to acquire multiple conceptual wall design(s) with the intent to construct multiple prototype(s). Two RFPs will allow CBP to evaluate each design category independently allowing for the best concrete wall designs and the best alternative wall designs for award, construction and evaluation.
- One RFP solicits concepts for (b) (7)(E) wall designs and the other solicits alternative designs other than (b) (7)(E). Proposals that result from both RFPs must meet the minimum U.S. Border Patrol (USBP) requirements as stipulated in the Statements of Work.
- The number of proposals submitted is in the low 100s.
- Federal Acquisition Regulation (FAR) Subpart 15.505(f) prohibits us from releasing information regarding bidders and any materials submitted.
- Information about the number and identity of vendors/proposals is competition sensitive as we believe it could compromise the integrity of the procurement process or limit the

Government's ability to ensure we have the best possible proposals from participating vendors. Consequently, we do not make a list of vendors publicly available. Furthermore, the proposals themselves contain information that is proprietary to each vendor and we are legally obligated to protect that proprietary intellectual property. As a result, we cannot release the formal proposals.

- CBP anticipates awarding two firm fixed-price multiple award Indefinite Delivery Indefinite Quantity (IDIQ) contracts. An IDIQ is a contracting vehicle that affords the government flexibility in the provision of an indefinite quantity of supplies or services during a fixed period of time.
- The IDIQs will allow for future task-order awards as needed in the areas of wall construction or other tactical infrastructure required by the U.S. Border Patrol along the southwest border. However, the primary intent of the IDIQ contracts is to allow for evaluation of prototype designs from industry which could be used to meet Executive Order 13767.

Prototypes

- Prototyping is an industry-tested approach to define the best solution when considering a new product or methodology. Through the construction of prototypes, CBP will partner with industry to identify the best means and methods to construct border wall before making a more substantial investment in construction.
- CBP expects to award multiple contracts for prototype construction in summer 2017 with a 30-day period of performance from issuance of Notice to Proceed. The prototypes will inform the final design standard which will likely continue to evolve to meet USBP's requirements. Any and all prototypes will be designed to deter illegal entry into the United States.
- CBP anticipates constructing 4-8 prototypes in the San Diego Sector Area of Responsibility because of site accessibility to construct and the ability to evaluate wall as part of a larger, existing border infrastructure system. The site selection was based, in large measure, on considerations such as accessibility and the ability to evaluate wall as part of a larger, existing border security system.
- Prototypes will be asked to meet minimum specifications for border security. As a result, CBP anticipates that some border wall prototypes may remain in place after construction. However, final determinations will not be made until after prototype construction and evaluation has occurred.
- CBP is currently working to refine its prototype estimate. Regarding follow-on costs, CBP is currently working to refine its estimate for up to approximately ^{(b) (7)(E)} miles of wall being considered for initial rate construction. However, any more specific cost estimate information will be considered procurement sensitive.

Design

- CBP will leverage the lessons learned from prototype construction to develop a standard border wall design for future construction as part of a border wall system. This standard will be developed collaboratively and will account for Administration priorities, USBP operational requirements, cost effectiveness, constructability and durability.
- Several criteria are considered to include anti-climb features, anti-breach, anti-dig, durability, constructability, aesthetics, and innovative design are all important considerations in choosing design.
- Each wall prototype will be 30 feet long and between approximately 18 and 30 feet high. CBP anticipates initial rate construction to begin subsequent to prototype construction and include up to approximately ^{(b) (7)(E)} additional miles of wall, subject to the availability of funding.

Environmental

- CBP has worked with the U.S. Fish and Wildlife Service (FWS) on previous border infrastructure projects. These consultations resulted in the development of environmental best management practices which are implemented during project design and construction to reduce potential impacts on wildlife. For example, in order to address the needs and concerns of FWS, Bureau of Land Management, New Mexico Department of Game and Fish, and local ranchers, CBP designed and installed a “Game Friendly Fence,” or “game panel,” in the Normandy-style vehicle fence that was installed in the Lordsburg Station Area of Responsibility to keep cattle from moving north-south but allowing deer and other large ungulates safe unimpeded passage in key movement corridors.
- CBP is currently assessing its options with respect to environmental compliance for prototype construction. At this time, no decisions have been made as to whether CBP will follow the traditional NEPA process or request that the Secretary exercise his authority to waive certain legal requirements.
- DHS is committed to responsible environmental stewardship. Thus, as was the case with past projects covered by a waiver, DHS evaluated the potential impacts of the border infrastructure that is planned for the project area. Among other things, DHS performed and reviewed environmental surveys, coordinated with state and federal stakeholders, and analyzed potential impacts.
- DHS has concluded that the currently planned prototype project will not result in significant environmental impacts. As a result, for this particular project, DHS is not planning for mitigation. DHS’ commitment to responsible environmental stewardship will be carried forward with the construction of additional border infrastructure.

Land Use

- CBP does not anticipate any additional land acquisition will be required to construct wall prototypes. However, until the solicitation process is complete and the prototypes have been selected, CBP cannot rule out the need to acquire additional property or land.

- At this early stage, DHS does not know whether it will need to acquire land through condemnation. It is always DHS' preference to acquire private property through voluntary sale. However, in situations where voluntary acquisition is not possible, DHS may have to consider acquisition through condemnation.

Senator MacCaskill's Minority Report on Border Wall Cost Estimates

- At this time, any estimates of the total border wall cost are premature as there are many variables that are currently unknown.
- All historical dollar amounts noted in CBP's briefing to the Hill are associated with costs for legacy fence, acquisitions, U.S. Army Corps of Engineer expenses, etc. from the 2008 time period at specific locations. Costs cannot, and should not be used to extrapolate future cost estimates for other locations.
- The \$2.6 billion highlighted in the FY 2018 Budget Blueprint is to assist CBP with a range of investments to support the implementation of the Executive Order on Border Security and Immigration Enforcement Improvements. This figure supports the high priority border security technology and tactical infrastructure, including funding to plan, design and construct the border wall. Specific details will accompany the release of the complete budget in mid-May.
- CBP is taking a measured approach based on the U.S. Border Patrol's operational requirements and partnering with industry to determine potential border barrier solutions. However, until prototypes are completed and evaluated and design determinations are made, CBP cannot provide a more detailed estimate of the total cost of border barrier system."

Tohono O'odham Nation's Concerns

- CBP is committed to implementing the President's Executive Order on border security and immigration enforcement improvements, which directs CBP to construct a border wall, deploy technology and hire additional border agents in order to secure the southwest border. We also remain committed to consulting with the Tohono O'odham Nation regarding CBP's efforts to secure the border. As we have experienced in border communities such as San Diego, California, Nogales, Arizona, and El Paso, Texas, border security improvements, including physical barriers on the border, have proven to significantly reduce illegal cross border activity in those areas, as measured by arrests and drug seizures.

Rio Grande Valley

Condemnation

- A condemnation action is one in which the federal government literally sues the land; in fact the name (aka "style") of these cases are "United States vs. 1.23 acres situate in XYZ county of Texas." The nature of the matter is such that landowners are referred to as "interested

parties," because they are not being sued individually, their interest is in being justly compensated as an outcome of the lawsuit against the property.

- Condemnation at its essence is a three step process:
 - File a "Declaration of Taking" (DT): Once the DT is filed in federal court, and the monies representing the Government's estimate of just compensation are deposited - the Government owns title to the land.
 - Court Issues a "Possession Order": Issuance of a possession order gives the Government permission to use the property, i.e. fence could be constructed at that point - which is usually shortly after the DT is filed.
 - Court Renders a "Final Judgment": This is the final step, and it does not occur until all ownership issues are resolved and just compensation is determined. As stated, all of the final judgments issued to date have been the result of successful settlements with the landowners, not jury trials.

Background on Condemnation during Pedestrian Fence 225 Project

- In order to construct primary pedestrian fence along the southwest border through the Pedestrian Fence 225 (PF225) project, CBP had to execute approximately 400 land acquisitions. Of the 400 acquisitions, 330 condemnations were required.
- Texas' Rio Grande Valley Sector area of responsibility has had and will continue to have unique real estate acquisition challenges. In order to construct PF225 in RGV, CBP executed 280 land acquisitions, 273 of which required condemnation.
- Most cases in RGV were "adversarial" in that the government and the landowners could not reach agreement on just compensation during negotiations (105 cases) and others were "unopposed" in that the government and landowners reached agreement with respect to just compensation (168 cases), but condemnation was required to clear title issues associated with the property.
- To date, no condemnation actions have resulted in trials; all have been settled before the trial stage of the process was necessary.
- CBP already "owns" the properties over which "open" cases are being litigated. The ongoing litigation is to resolve ownership, just compensation, and what owners receive what portion of that just compensation.

Complexity of Real Estate in RGV

- There are distinct reasons why the RGV Sector of Texas carried the majority of the necessary acquisitions and subsequently most of the condemnations:
 - **No "Roosevelt Reservation"**: In the western states (CA, AZ & NM), the government was able to construct within a 60 foot proximity of the border due to a 1907 Executive Order known as the Roosevelt Reservation.
 - **Fence Swath North of the River**: For legal and practical reasons, the fence construction had occurred well north of the river in most instances to bring it out of the 100-year flood plain. This introduced the added complexity of the

- fence dividing peoples' property, as CBP decided early on not to acquire the thousands of acres of property left to the riverside of the fence. This was land that owners still derive economic use from, usually through farming. In turn, the government had to provide legal access to their "riverside remainder" property through a series of gates, and the government had to compensate owners for diminished value to their property. These factors associated with the thousands of acres of "riverside remainder" properties, "legal access" led to the "adversarial" nature of the real estate negotiations in many cases.
- **Public Landownership Records:** Unlike in the majority of the country, land records are notoriously deficient in the counties that make up RGV. Their record keeping system is antiquated, and when records are located by the U.S. Army Corps and contracted title companies have, they inevitably turn out not to be current and accurate. Therefore, the government has no choice but to use the condemnation process to resolve ownership, so the actual owners can receive their proper portion of the total amount of just compensation for the property.
 - **Compressed Timeframe:** Land acquisition for PF225 had a compressed timeframe during which land had to be acquired in order to meet the 12/31/2008 fence construction goal. Under normal circumstances, the government would have taken 2+ years up front to complete land surveys and the detailed investigatory work required to identify and locate unrecorded owners such as heirs of deceased owners whose estates were not properly probated. However, under the circumstances we were compelled to move forward and condemn the land and satisfactorily resolve "actual" ownership after the fact. In doing so, CBP negotiated with "apparent" landowners based on publically available records.

Recent Declaration of Taking Filed in RGV

- In January 2017, a letter was sent by the DOJ on behalf of CBP to a woman in Texas. The letter was misinterpreted as an expression of intent that the Government requires their land to construct the new "Border Wall."
- A recent news article in the Texas Observer reported that Ms. Yvette Salinas, a Texan whose ailing mother, Ms. Aurora Flores-Trigo, purportedly owns a small parcel of land with her siblings near the Rio Grande, was informed by the "Declaration of Taking" letter sent by DOJ that her 1.2 acres was worth \$2,900.
- In fact, the letter and accompanying documents (including a copy of a "Declaration of Taking") that Ms. Salinas received pertains to an older land condemnation case that is one of over 90 such cases remaining open and unresolved from the initial PF225 land acquisition effort that commenced in 2008. In other words, this issue concerns land acquisition for old fence, not new fence.
- This matter involves a condemnation action filed in the Southern District of Texas in 2008 for PF225. In this particular instance, fence was never constructed at this location. CBP

believes this contributed to Ms. Salinas' misunderstanding that it was a letter regarding new wall, because there is no standing fence here.

- This portion of planned PF225 fence is one of three fence segments known as segments O-1, O-2 and O-3 in RGV where there is no levee infrastructure. Therefore, the planned fence fell within the 100-year floodplain. By virtue of a 1970 Treaty with Mexico, any construction in the floodplain was precluded without Mexico's consent due to diversion of flood waters into Mexico when the Rio Grande River rises.
- Land acquisition efforts were subsequently paused and condemnation cases were "stayed" while CBP coordinated with U.S. International Boundary and Water Commission (IBWC) to establish a new fence alignment that would reduce flood water diversion to near zero. Although CBP later received IBWC concurrence, fence was never constructed in O1-O3 because there was no funding available.
- As has been ongoing for the past several years, DOJ is attempting to resolve the condemnation cases still pending from 2008. To do so, the Government must do its due diligence to identify involved landowners. Identification of landowners in this region of the Texas has proven extremely difficult, as court-held property records have proven notoriously incomplete and incorrect.
- The property acquired by the Government that is at issue here are a perpetual road easement, a temporary access easement, a second temporary access easement, and a third temporary access easement. USACE originally believed this property was owned by the City of Roma and was one large tract. However, upon further research of property records it was found that the property was actually 25 separate parcels, owned by 52 individuals.
- The letter DOJ sent to Ms. Flores-Trigo was intended to (a) make initial contact with the landowner to let them know that they may have an interest in the case, and provide them with DOJ's contact information, (b) let them know that \$2,900 is adequate just compensation for the taking, (c) ask the landowner if they agreed with the government's proposed valuation, and (d) offer them an opportunity to disclaim if they wanted out of the case. These letters were dated January 12, 2017.
- Out of the 52 landowners that received the letter dated January 12, 2017, two landowners have signed Notice of Disclaimers. On January 27, 2017, DOJ sent the disclaimers to Ms. Flores-Trigo. Based upon the media reports, it appears that Ms. Flores-Trigo provided all the documents to her daughter, Ms. Salinas.
- In response to the obvious confusion this was creating between condemnation actions filed in 2008 and any possible future condemnation actions as part of the wall project, per our request, DOJ modified the template for these letters to clarify that the notice is not part of any new wall project and is related to condemnation actions filed in 2008.

- CBP conducts monthly conference calls involving DOJ, OCC, USACE, BPAM, and RGV Sector to continually update stakeholders on the status of the cases and next landowners to be identified. CBP will ensure all appropriate stakeholders are included on the monthly calls.