# STIMULUS TRACKING HEARING NO. 4: ENSURING MONEY MEANS SECURITY WHEN BUILDING GSA BORDER STATIONS TO PROTECT THE U.S.A.

**(111–79)**

## HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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# U.S. House of Representatives
## Committee on Transportation and Infrastructure
### Washington, DC 20515

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December 1, 2009

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Economic Development, Public Buildings and Emergency Management

**FROM:** Subcommittee on Economic Development, Public Buildings and Emergency Management Staff

**SUBJECT:** Hearing on "Stimulus Tracking Hearing #4: Ensuring Money Means Security When Building GSA Border Stations to Protect the U.S.A."

**PURPOSE OF THE HEARING**

The Subcommittee will meet on Wednesday, December 2, 2009, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to receive testimony from Members of Congress, the General Services Administration (GSA), and the Director of the Land Port of Entry Modernization Program for the Customs and Border Protection (CBP) of the Department of Homeland Security (DHS) on "Stimulus Tracking Hearing #4: Ensuring Money Means Security When Building GSA Border Stations to Protect the U.S.A.." The panel will provide testimony on the Land Port of Entry/Border Stations construction program and provide suggestions for the future of the program.

**BACKGROUND**

The Subcommittee on Economic Development, Public Buildings and Emergency Management has jurisdiction over all of GSA's real property activity through the Property Act of 1949, the Public Buildings Act of 1959, and the Cooperative Use Act of 1976. These three Acts are now codified in Title 40 of the United States Code. The Public Buildings Service (PBS) is responsible for the construction, repair, maintenance, alteration, and operation of U.S. courthouses, public buildings, land ports of entry, and border stations of the Federal Government. Additionally, PBS leases privately-owned space for Federal use. PBS, with a work force of approximately 6,000 employees, owns, operates, maintains, and repairs existing Federal buildings, and plans for the construction of new Federal buildings, including border stations and land ports of entry.

A land port of entry is a facility that provides controlled entry in and out of the United States for people and materials. It houses the U.S. CBP, and other Federal Inspection Agencies responsible for the enforcement of Federal laws.[1] A land port of entry houses the inspection facilities for legal border crossings, while a border station houses the Border Patrol, which is responsible for monitoring everything between the two official land ports of entry.[2] The GSA Border Station Center is the central office responsible for planning and constructing border stations to ensure that they are consistent.[3] There are more than 1,900 miles of border between the United States and Mexico and 5,000 miles of border between the United States and Mexico.[4] The northern border program is managed from GSA's Denver, Colorado office and covers stations in Maine, Vermont, New York, Minnesota, Michigan, Montana, Idaho, Washington, and Alaska. The southern border station program is managed from the Fort Worth, Texas office and covers California, Arizona, New Mexico, and Texas.

CBP is the unified agency within the DHS charged with protection and economic activity. The program's goals include protection of the northern and southern borders from terrorism, smuggling, and illegal immigration, while at the same time ensuring legitimate travel and trade activities. According to CBP, there are over 17,000 border patrol agents who protect the border between the ports of entry, and about 22,000 officers who work at the land ports of entry.

On an average day, GSA reports that $2 billion in trade takes place in the 163 border stations across the southern and northern borders of United States.[5] There are currently 120 border stations under the jurisdiction and control of GSA. The remaining 43 stations are under the control and jurisdiction of the DHS,[6] with 39 of the 43 border stations on the northern U.S. border.[7] Roughly 23 million Americans cross the U.S. border to Mexico and Canada annually.[8]

Through the American Recovery and Reinvestment Act (ARRA) (P.L. 111-5), GSA was provided $300 million for land ports of entry. GSA currently plans to build in the following locations:

| **Border Stations and Land Ports of Entry** | **($ in thousands)** | **ETPC[9]** |
|---|---|---|
| Calais, ME U.S. Land Port of Entry | $6,300 | $65,055 |
| Madawaska, ME U.S. Land Port of Entry | $750 | $69,797 |
| Van Buren, ME U.S. Land Port of Entry | $39,727 | $39,727 |
| Columbus, NM U.S. Land Port of Entry | $2,447 | $60,600 |
| Nogales, AZ U.S. Land Port of Entry | $199,480 | $213,174 |
| Otay Mesa, CA U.S. Land of Port of Entry | $16,996 | $110,792 |
| Blaine, WA Peace Arch U.S. Land Port of Entry | $26,888 | $98,936 |
| Border Stations and Land Port of Entry development | $7,415 | |

[1] GSA, *Questions and Answers*, http://www.gsa.gov/graphics/pbs/006_Q_A.doc (Current as of 11/12/2009).
[2] *Id.*
[3] GSA, *Fact Sheet*, http://www.gsa.gov/graphics/pbs/015_FAST_FACTS.doc (Current as of 7/14/09).
[4] GSA, *Fact Sheet*, http://www.gsa.gov/graphics/pbs/015_FAST_FACTS.doc (Current as of 11/24/2009).
[5] *Id.*
[6] *Id.*
[7] Drew Griffin, *Dorgan Decries 'Unbelievable Waste' of High-Priced Border Crossings*, CNN (2009).
[8] GSA, *Fact Sheet*, http://www.gsa.gov/graphics/pbs/015_FAST_FACTS.doc (Current as of 11/24/2009).
[9] ETPC stands for Estimated Total Project Costs.

Recently, an internal review by the DHS led to re-examination of the priority lists of the DHS.[10] Senator Byron Dorgan has also indicated that he plans to request a Government Accountability Office (GAO) report on the viability and costs of the new land border stations being planned by the DHS.[11]

The purpose of today's hearing is to examine the process of how GSA selects locations for border stations and land ports of entry and how GSA can make cost effective decision in constructing border stations and land ports of entry.

## PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

The Subcommittee has not held hearings specifically on border stations and land ports of entry. However, the Committee annually authorizes the GSA construction program, and the Committee authorized $151.1 million in GSA's 2010 budget request for three border stations in Calexico, CA, Madawaska, ME, and El Paso County, TX. Further, GSA received $300 million in ARRA funds, and CBP received $420 million in ARRA funds.

## MEMBER LIST

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**The Honorable Solomon Ortiz**
Member of Congress
Texas, District 27

**The Honorable Rick Larsen**
Member of Congress
Washington, District 2

**The Honorable Harry Teague**
Member of Congress
New Mexico, District 2

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[10] Eileen Sullivan, *Review Defends Spending On Small Border Stations*, Associated Press (2009).
[11] U.S. Senator Byron Dorgan, *Dorgan Calls DHS decisions on Northern Border Ports of Entry Spending "A Costly Mistake"* (2009).

## WITNESSES

### PANEL I

**Mr. William Guerin**
Recovery Program Management Office
U.S. General Services Administration

**Mr. Trent Frazier**
Director
Land Port of Entry Modernization Program Management Office
Customs and Border Protection
Department of Homeland Security

# STIMULUS TRACKING HEARING NO. 4: ENSURING MONEY MEANS SECURITY WHEN BUILDING GSA BORDER STATIONS TO PROTECT THE U.S.A.

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**Wednesday, December 2, 2009**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
*Washington, DC.*

The Subcommittee met, pursuant to call, at 2:35 p.m., in Room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chairwoman of the Subcommittee] presiding.

Ms. NORTON. Good afternoon. We apologize for the delay. There was a press conference that had to be held, and it was delayed because of votes.

I want to welcome all to today's hearing and especially to today's panel.

This fourth stimulus tracking hearing is part of this Subcommittee's determination to hold itself as accountable as we hold the agencies under our jurisdiction that have received so-called ″stimulus funds″ to simultaneously boost the economy and to build and repair facilities in our country.

By the end of 2010, all the stimulus funds must be obligated, the jobs created must be documented, and the efficient use of taxpayer dollars to repair and upgrade Federal buildings to save energy must be assured. Today's hearing will address these issues as they intersect with maintaining security and maximizing trade along U.S. borders.

The American Recovery and Reinvestment Act of 2009, signed into law February 17, provided $300 million for the General Services Administration to build and retrofit border stations and land ports of entry, the largest funding amount at any one time. A land port of entry houses the inspection facilities for legal border crossing, while a border station houses the Border Patrol, which is responsible for monitoring all border activity between the two official land ports of entry. There are 163 border stations across 7,000 miles of borders between the U.S. borders with Mexico and Canada.

The Recovery Act also provided the Department of Homeland Security, Customs and Border Protection, with an even larger amount, $420 million, for the rehabilitation and construction of its

43 owned land ports of entry, 39 of which are along the northern border.

The new GSA facilities funded by the Recovery Act will include state-of-the-art vehicle and pedestrian inspection facilities that carry LEED energy-efficient features as well, and will participate in the GSA art and architecture program and design excellence program. The $450 million appropriated to the Homeland Security Department for rehabilitation and construction needs further explanation inasmuch as these funds are limited to facilities along the U.S.-Canada border, which sees considerably less action than facilities along the southern border. The Subcommittee looks forward to reviewing a General Accounting Office report, recently requested by Senator Byron Dorgan of North Dakota, on the viability of new construction of land ports of entry along the northern border.

Bear in mind that this Subcommittee's tracking hearings are unique because, unlike other funds in the Recovery Act which are distributed to States through formulas, GSA, the Economic Development Administration and the Smithsonian are solely responsible for administering funds and for meeting the terms, themselves, of the Recovery Act. The transparency we require from GSA on progress must also be available to taxpayers, who should be able to track that progress and the jobs in their own jurisdictions.

Today, Members of Congress have indicated an interest in these programs in their own congressional districts, indicating the importance of this construction for stimulating the economy. However, on an average day, GSA reports that $2 billion in trade takes place at the 163 border stations across the southern and northern borders of the U.S. This level of economic activity adds substantially to the security mission that makes this construction vital today.

We welcome all of those who have come forward to testify today, and I would like to ask the Ranking Member if he has any opening remarks.

Mr. DIAZ-BALART. Thank you very much, Madam Chairwoman. Thank you for the opportunity and for holding this fourth in a series of oversight hearings by this Subcommittee on the Recovery Act funding.

Now, today, we are focusing specifically on funding for land ports of entry and on border stations. Obviously, border stations are critical to our country for both security and for trade. The free flow of goods and people lawfully crossing our borders is crucial to promoting trade and commerce, but obviously, at the same time, these border crossings are critical to the security of our Nation. So we know that enforcing this balance between trade and security is a very difficult one. With $2 billion in trade moving through the 163 border crossings each and every single day, it is crucial to our economy.

Because of this difficult balance, we must ensure that we have the proper infrastructure in place to support this mission and the individuals who are there.

The stimulus, or the Recovery Act, provides GSA with $300 million for land ports of entry and border stations, and GSA has identified eight projects in its spending plan for those funds. In addition, the stimulus, or the Recovery Act, also provided Customs and

Border Protection with $420 million for land ports of entry within its jurisdiction, as the Chairwoman just mentioned. So all of the hearing today is focused on border stations.

I think it's important to highlight the ongoing concerns generally about the so-called ″stimulus bill.″

Now, first, we need to commend the Chairman of the Full Committee, Mr. Oberstar, and the Chairwoman of this Subcommittee for, first, their insistence and their struggle—and they received unanimous support from this Committee when that bill was first being discussed and debated—in trying to get more money for infrastructure that we all felt would have been a good use of money; and secondly, to make sure, once that bill was passed, whether you liked it or not, that there would be as much accountability and congressional oversight at least that we can do on this Committee as possible.

So I thank both Chairman Oberstar and the Chairwoman of this Subcommittee. They deserve, frankly, the gratitude of all of us.

Now, on October 30, the administration released updated figures on the Recovery.gov Web site related to the number of jobs created and saved. That figure of over 640,000 jobs was subsequently called into serious question following investigations by a number of news organizations, the GAO and Members of Congress.

Now, some of the issues identified—and we have all heard them before—include, for example, jobs that were created or saved in congressional districts that don't exist. The number of jobs created, in some cases, seemed inconsistent with the amount of funding provided.

Some funding claimed to have saved jobs; actually, those funds went to other benefits like to pay raises, not to create or save jobs. Some jobs were supposedly saved that were never in jeopardy, and I could go on and on and on.

There have been extensive reports on, frankly, the scandalous use of some of those funds and on some of the reporting of some of those funds. You know, if those things happened in other countries, we wouldn't call that waste; we would call it corruption. We call it a lot of things because it has been scandalous, as the American people know.

Now, despite the clear inaccuracy of these figures, they remain on the administration's Web site. So to know that they are inaccurate, to know they are not true, to know that they are false doesn't seem to deter. They are still on the administration's Web site.

The national unemployment rate is now over 10 percent. The unemployment rate in Florida is now over 11 percent. Some States have unemployment rates from 12 to even over 15 percent. So, clearly, we know that it has not worked, particularly with the benchmark set by the administration that specifically said verbally and in writing that unemployment, if that bill passed, would not exceed 8 percent and that 3.5 million jobs would be created. In fact, we know that, after that bill passed, we lost about an additional 3.5 million jobs.

I mention that because the American people deserve much better. At the very least, they deserve to have an accurate report card of how nearly $1 trillion of their money is actually being spent and

how it is working or not working, in particular when the Web site that all of these inaccuracies are on has cost $18 million of stimulus money—again, if this happens in other countries, we have words for it—$18 million for a Web site of stimulus money meant to stimulate the economy and to create jobs and a Web site that we know now is grossly, at best, inaccurate.

We, as the Representatives, should insist on accurate information. I have stated this before. I have stated that since before the passage of the Recovery Act that the priorities must be on stimulating the economy and creating jobs. Instead of seeing the unemployment rate decrease, we have seen an increase; and now there are real questions as to how many jobs have actually been created by the Recovery Act versus those that are claimed to have been created, which now we know are not true, are not accurate and are outright false.

As we examine the specific issue of border stations today, there are real questions as to whether the taxpayer, in fact, is getting a good return on investment. While tens of millions of dollars are going to small ports of entry with just three to five vehicles a day, none of the funds are going to some of the busiest ports like Laredo, Texas, which sees nearly 6,000 travelers and trucks daily.

Now, I understand that there may be some legislative impediments, which again, if that is the case, is just one more reason why the bill, frankly, has demonstrated to be a fiasco.

So I hope that we can get answers today on how many jobs have been created and on how these projects were selected. I look forward to hearing from the witnesses today. I want to thank you all for being here once again.

As I said at the beginning, at the outset, I particularly want to thank the Chairwoman of this Subcommittee and the Chairman of the Full Committee for really, really doing everything that they can to make sure that we have as much accountability as possible.

Thank you, Madam Chairwoman.

Ms. NORTON. Well, I thank you very much, Mr. Diaz-Balart, for your remarks; and I certainly accept your compliments of the two Chairs. I should say a word about your criticism of the administration, which I, of course, understand. I do want to make the record clear on one or two matters before I go on to Mr. Arcuri.

I would agree with you that the 8 percent benchmark, as set by the administration, was too high. I can't understand precisely why. It may have had a lot to do with the criticism that it was receiving about the cost of the stimulus in the first place and about the demands that they show that somehow they could lick this Great Recession, as it is now called, with one dose of stimulus, despite the fact that many of us regarded that $800-or-so billion as far too little, especially because we read history.

We read history and learn that, for example, the unemployment rate, after President Roosevelt had spent a great deal more money than we had in relative real money terms, had declined from about 25 percent to 15 percent. Then, by 1937, they were calling it his recession rather than Hoover's recession.

If I may recall history for all of us—and none of us were here at the time—it took World War II and massive spending to bring the United States out of the Great Depression. Those who believe

that you're going to come out of the Great Recession with something less than substantial government spending need to reread the history of the New Deal. Those books are selling better than ever now.

I do want to correct for the record something that is raised every time we have a hearing, and that is that, when a contract is awarded, it has almost nothing to do with when jobs come on line and when money begins to flow. No matter what this Committee has done—and it could not have done more with shovel-ready projects and the rest—there are laws and rules that every jurisdiction must abide by. So we look for jobs created as the jobs flow through the pipeline, and it is at the end of a job that we can tell how many jobs have been there. Even the money flows in weekly or in two weekly sessions.

If we look at the Department of Homeland Security headquarters, for example, we say to you with no fear of contradiction that, over about 7 years, there will be 38,000 jobs. Well, if somebody begins to count them up now, one will find that we are tooling up for a massive project, and those jobs will not show in numbers until years from now. Those numbers have been checked everywhere but up and down and sideways, and I think they are reliable if we understand how to count jobs and, above all, when to count jobs. I do want to say that the job accuracy figures for GSA have been conservative and well-documented thus far.

I ask Mr. Arcuri for his opening remarks if he has any.

Mr. ARCURI. I just want to thank the Chair for holding this hearing, and I have no opening remarks. Thank you.

Ms. NORTON. Thank you, Mr. Arcuri. So we will go to our panel.

I am pleased—I want to identify everybody by the correct title—to welcome William Guerin, who is the Recovery Program Management Office director at the GSA. With him is Trent Frazier, who is the director of the Land Port of Entry Modernization Program Management Office of the Customs and Border Protection, Department of Homeland Security.

**TESTIMONY OF WILLIAM GUERIN, EXECUTIVE, RECOVERY PROGRAM MANAGEMENT OFFICE OF THE PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES ADMINISTRATION; AND TRENT FRAZIER, DIRECTOR, PORT OF ENTRY MODERNIZATION PROGRAM MANAGEMENT OFFICE, FACILITIES MANAGEMENT AND ENGINEERING, OFFICE OF FINANCE, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY**

Ms. NORTON. Mr. Guerin, would you proceed first?

Mr. GUERIN. Good afternoon, Chairwoman Norton, Ranking Member Diaz-Balart and other Members of the Subcommittee.

My name is William Guerin, and I am the Recovery Executive in the Recovery Program Management Office at GSA's Public Buildings Service. Thank you for inviting us to appear before you today. I will discuss our Land Port of Entry program, the LPOEs, and the challenges of balancing national security with the free flow of trade and travel.

Having just opened U.S. facilities at the new international crossing in Calais, Maine, there are now 164 land ports of entry along

our borders. This includes 42 LPOEs along the southern border and 122 others along the northern border. GSA owns or leases 120 of these LPOEs, and it provides services to DHS, U.S. Customs and Border Protection, for those projects. The National Park Service owns one port, and the CBP owns the rest of the ports of entry.

As the program manager of GSA's southern border initiative to renovate ports of entry in California and in Arizona in the late 1980s, I can attest that GSA and CBP have a long history of working together to improve the ports, to increase traffic flow across the U.S. border, while ensuring the safety of the inspectors who daily man these entries into the United States. We continue to work closely with CBP to streamline costs and schedules as we develop, deliver and maintain LPOE facilities.

Together, we have identified four actions that will have a huge impact on speeding up the delivery of LPOEs and to ensure that they will continue to meet CBP's mission requirements. The first one is that CBP will prioritize new construction and modernization projects. The second is that GSA will increase the use of design/build contracts. The third is that GSA and CBP will increase the number of standardized common LPOE components. The fourth is that GSA——

Ms. NORTON. I am sorry. There is something blowing in here, and I am finding it difficult to hear you. It is not your fault.

Will you speak more into the microphone, please.

Mr. GUERIN. I will do that.

The fourth is that GSA will use indefinite delivery/indefinite quantity IDIQ contracts for LPOE design services.

To further streamline project delivery, we are using a consistent approach in LPOE predesign, design and acquisition. We consolidated the procurement and funding of commonly used services, including feasibility studies, project design and special services. We sought two national contracts, one for architecture and engineering firms to conduct border station feasibility studies and the other to provide LPOE design services. Together, these approaches to national contracts help reduce delivery times by up to 5 months.

GSA and CBP work together on many national and regional levels. Most importantly, we collaborate very closely to identify the highest-priority projects based on CBP's needs, and move forward on those LPOEs. In support of that effort, your Committee already authorized three of CBP's top priorities for 2010: the Tornillo-Guadalupe LPOE in Texas, the Calexico West LPOE in California, and the Madawaska LPOE in Maine.

The Recovery Act gave us an unprecedented and exciting opportunity to contribute to our Nation's economic recovery. The Recovery Act designated $300 million specifically for LPOEs under GSA's jurisdiction. In selecting projects, we used two overarching criteria set forth in the legislation, the ability of the project to put people back to work quickly and the ability to transform Federal buildings into high-performance green buildings; and we worked with CBP to set the priorities for these projects. Our decisions were made based on the shovel readiness of the projects and on the availability of funds that we received through the Recovery Act.

As identified in our project plan, seven LPOEs were selected for Recovery Act funding. We are moving forward on these projects.

Notably, we recently broke ground, on October 22, 2009, on the modernization of the Mariposa land port of entry in Nogales, Arizona. This project is primarily funded by the Recovery Act, and it includes the demolition and reconstruction of all facilities within America's third-busiest border crossing. The Mariposa LPOE will be built to achieve a LEED silver certification. It will use electricity-generating photovoltaic solar panels, solar-powered domestic hot water and advanced lighting. Our goal is to provide up to 20 percent of the facility's energy from solar power produced on-site, and construction is expected to be completed in 2014.

The Recovery Act is also helping us to further our efforts to green our border crossings while we work through the highest priority projects of the CBP. As part of our regular capital investment program, we use the U.S. Green Building Council Leadership in Energy and Environmental Design, LEED, building rating system at our projects at Calais, Maine, and San Luis, Arizona—at both of those LPOE facilities. Both of these projects are planned to achieve a gold certification with a minimum level of LEED silver at several other project locations, including Massena, New York, and Jackman, Maine.

We are leveraging our Recovery Act investments, and are using our building inventory, including LPOEs as a proving ground for our green building technologies, materials and operating regimes. We are evaluating and adopting new ideas and products, then analyzing and publicizing our results. We are working to become the go-to source for data on the environmental and economic payback of new green building systems and procedures. Based on smart decisions, our investment will lead to the transformation of the green economy.

In addition to the funding we receive directly from the Recovery Act, we are also supporting CBP's Recovery Act initiatives. CBP Recovery Act funds will be used to replace eight aging LPOEs in four States along the northern border. Seven projects were awarded on August 14, 2009, using GSA IDIQ contracts. The design for these projects is currently under way and scheduled for completion by the end of January 2010. The recently added Maida LPOE is currently scheduled for award in early December, and as of November 27, GSA received almost $88 million in reimbursable work authorizations from CBP. Of this total, GSA has obligated nearly $57 million.

We continue to follow our aggressive schedule for awarding Recovery Act-funded projects. As of November 27, GSA has obligated over $1.4 billion of recovery funds for Federal building construction and renovation projects, and it has expended over $85 million. Of this amount, we obligated $76 million and expended over $34 million for our LPOE projects.

In conclusion, our land ports of entry are critical to the Nation's security and to its economic health. It is imperative that GSA continue to provide and maintain border crossings and border inspection facilities that can most effectively and efficiently handle the increased demands of the future growth of traffic and trade while still protecting America's border security. We look forward to working with you and with the Members of the Committee as we con-

tinue to deliver this important work; and I welcome any questions you might have.

Ms. NORTON. Thank you very much, Mr. Guerin.

We want to hear now from Director Trent Frazier of the Land Port of Entry Modernization Program.

Mr. Frazier, please proceed.

Mr. FRAZIER. Chairwoman Norton, Ranking Member Diaz-Balart and Members of the Subcommittee, thank you for the opportunity to appear before you today.

Today, I will discuss how CBP, in partnership with the U.S. General Services Administration, is employing the $720 million provided by the American Recovery and Reinvestment Act of 2009 for the modernization of our land ports of entry. Through the Recovery Act, CBP will be able to ensure the safety and security of our Nation while stimulating the national economy.

CBP is responsible for securing our Nation's borders at and between the ports of entry while facilitating the lawful movement of goods and travelers across our Nation's borders. The scope of our mission is immense. Between the ports of entry, we employ more than 20,000 agents to secure more than 5,000 miles of border between the United States and Canada and Mexico. In addition, within the ports of entry, we employ more than 21,000 highly trained law enforcement professionals to operate 326 land, air and sea ports of entry around the United States. During fiscal year 2009 alone, CBP processed more than 361 million pedestrians and passengers across the borders. We processed 109 million conveyances and 25.8 million trade entries as well. In addition, we examined more than 5.2 million containers, and performed over 26.8 million agricultural inspections.

As a result of these activities, CBP was able to apprehend more than 556,000 illegal aliens attempting to enter the United States, and CBP seized more than 4.5 million pounds of illegal drugs.

In order to accomplish our mission at the ports of entry, CBP relies on a multilayered enforcement strategy that rests upon three integral components: a highly professional workforce, state-of-the-art technology and a robust network of facilities and infrastructure.

Since our inception in 2003, CBP has worked diligently to expand its cadre of law enforcement professionals and to equip them with a suite of advanced screening and inspection technologies, but we have continued to struggle with land port facilities that reflect missions and strategies no longer relevant in a post-9/11 world. The funding provided through the American Recovery and Reinvestment Act of 2009 is a critical step to modernizing the land port infrastructure, which is a pivotal component to our mission and to the security of our Nation's borders.

In total, CBP operates 164 land port inspection facilities. Of these 164 facilities, CBP actually owns 43, 39 of which are located along the northern border and four along the southern border. Of the remaining 121, 120 are owned or leased by the U.S. General Services Administration, and the remaining one is owned by the National Park Service.

When Congress appropriated the $720 million dedicated for port modernization, it divided the funding between CBP and GSA, allocating $420 million for the modernization of CBP-owned facilities

and $300 million for the modernization of GSA-owned ports. As a result, CBP, in partnership with GSA, will be able to modernize as many as 31 port facilities along the northern and southern borders, and accomplish substantial repairs and enhancements at numerous others.

For the CBP ports in particular, this effort will address challenges resulting from years of use and deterioration, as most of our facilities were originally constructed four decades ago, with some dating back as many as 70 years to the Depression era.

With increasing traffic and terrorist threats at our border crossings, these improvements are a vital step to ensuring that CBP can confront the ever-present threat to our national security while continuing to facilitate the flow of legitimate trade and travel across our Nation's borders.

Thank you for the opportunity to testify before you today, and I would be happy to answer any of your questions at this time.

Ms. NORTON. Well, thank you, Mr. Frazier.

Now, please help the Subcommittee understand—you and Mr. Guerin, perhaps—why there are Custom and Border Protection-owned stations and GSA stations and why this work is divided as it is. Who owns what and why?

Mr. FRAZIER. I will take a stab, and Mr. Guerin will, I am sure, supplement as necessary.

In part, it really has to do with a matter of timing. Many of the facilities that we own actually predate the legislation that created the U.S. General Services Administration and that predate the legislation that actually created the Federal Buildings Fund itself. So, in many cases, there was no exchange of title during that process, and we actually retained, under the legacy agencies that were INS and the U.S. Customs Service, the title to those facilities.

Those facilities actually, over time, have been reconstructed. Seven of those facilities have been reconstructed, and one of them was actually reverted to ownership by the U.S. General Services Administration.

Ms. NORTON. Is that the most efficient way to go about building important facilities in the United States, Mr. Guerin, to parcel it out among agencies which happen to have had the responsibility at one time or another?

I just want your advice and counsel here.

Mr. GUERIN. The General Services Administration certainly helps CBP as much as possible to maintain and operate their ports of entry. We are working with them now to ensure that the projects that they are working with——

Ms. NORTON. Is there any functional reason for the division of labor here except that is the way it has always been?

Mr. Frazier, you are not in the business of construction, generally, are you?

Mr. FRAZIER. We actually are. We have a substantial construction inventory on our border patrol side.

Ms. NORTON. Yes. You are in the business of construction border control; but generally, your mission is what?

Mr. FRAZIER. It is border enforcement.

Ms. NORTON. Yes. Well, you know, we have a lot of concerns up here about border control, so I am a little concerned about that. In

reference to your mission, as a matter of fact, I really want you to keep your eyes on that border. That is one of the most controversial subjects in the Congress of the United States.

Mr. FRAZIER. Actually, ownership of the ports of entry is an interesting conundrum in that 22-1/2 of the facilities, themselves, are owned by the private sector, and that is, actually, an additional challenge that we have to confront.

Ms. NORTON. Is that because you could not buy the land and were forced to lease facilities?

Mr. FRAZIER. Similar to the ownership that we have of our facilities, those facilities actually predate much of the rule that would have normally changed them into Federal facilities. So, in that case, we are working actively in leasing arrangements.

Ms. NORTON. Does that present, from a security point of view, any particular concerns for you?

Mr. FRAZIER. From a security point of view, it has not. We have been able to work very closely with GSA and our other Federal partners to resolve any of the issues associated with ownership thus far, as we are moving through the process; and in particular, a number of our private-sector counterparts have been very forthright in supporting the new——

Ms. NORTON. Oh, I don't blame them. You keep paying for the buildings over and over again. As long as you are leasing the buildings, I would love you to death, and anything you wanted me to do I would keep on doing.

Mr. Guerin, I must say to you, when we have to find out these things in hearings, there is concern here—such concern, for example, that the administration itself bought a building that we had bought several times over in leases, a building that has been leased by the State Department forever.

It seems to me, if one were trying to help this administration get out of the quagmire into which it fell by inheritance, one of the things would be to ask: Should we continue to pay for buildings multiple times? Because we continue to lease buildings that will never ever be released to the lessor again as long as the United States of America exists.

What would be your recommendation as to when we find multiple facilities where this—look at how old these facilities are. I can understand exactly what Mr. Frazier is saying. There was no reason at that particular moment to do anything but grandfather them in. But over time, it would be interesting to know how many times we have paid for these buildings and to wonder how many more times we are willing to pay for these buildings and if there isn't some better way to proceed than to look in the face of waste and just continue right along.

So what do you think should be done?

Mr. GUERIN. Well, I think, Congresswoman, you know certainly that GSA supports ownership by the Federal Government of all of the properties that we have.

Ms. NORTON. Well, I will tell you what, Mr. Frazier. I want a list of all of your privately owned sites—border stations or not—when they were first leased as well as their locations. We need that within 30 days.

Ms. NORTON. I must tell you that in addition to my work on this Committee, I am a Member of the Homeland Security Committee, so I am compelled to ask you whether there are any security issues associated with leasing sites post-9/11.

Mr. FRAZIER. To date, we have not encountered a security issue related to the actual leasing activity.

Ms. NORTON. Have you considered what—I will tell you what.

Before the Salahis conned their way into the White House, as a Member of the Homeland Security Committee, I had not considered, until I saw what happened, that they had pioneered a new way for al Qaeda and for just plain evildoers to reach the President, elected officials and just plain celebrities. Don't worry about the barriers; just pretend to be a celebrity, and people will be so impressed that that is all it will take.

I am asking—and I use the words ″post-9/11″—whether or not it is the best practice for us to lease buildings rather than to seek to own buildings that we know we will always need.

I am not asking you to pay for them, Mr. Frazier. I am trying to find out what is the best practice. You are in the homeland security business. I would like your answer.

Mr. FRAZIER. I think, from our perspective, we have found both fee simple ownership and leasing to be useful at different avenues.

Ms. NORTON. What is the relative use of both? Which is preferable?

Mr. FRAZIER. It really depends on the strategy that we are trying to employ and the size and scope of the type of inventory that we are trying to modernize. In fact, in a number of instances where we do lease a private port of entry——

Ms. NORTON. I will tell you what I am going to do if I own one of these buildings in this bad economy: I am going to give you an offer you can't refuse, Mr. Frazier. The offer you can't refuse is to jack up your lease and dare you to do anything about it.

Mr. FRAZIER. Well, thus far, we have not found that that has been——

Ms. NORTON. Well, do you know what, Mr. Frazier? I am going to ask you to go back to Border Patrol, which is a part of Homeland Security, and tell them that a Member of the Homeland Security and the Chair of this Committee asked them to consider what they would do if, in fact, someone took advantage of their knowing they have no place to go but where they are.

I believe it is your obligation to consider that, even if there is not anything you can do about it at the moment. But I am distressed to hear that, post-9/11, you have not even considered it. I believe they would be within their legal rights. I believe land of the kind we are talking about has gotten increasingly dear and expensive.

So I ask you, within 30 days, to tell me how Border Patrol is considering that scenario.

Mr. FRAZIER. Of course.

Ms. NORTON. Thank you.

Ms. NORTON. I am going to ask the Ranking Member, before I go forward, if he has any questions.

Mr. DIAZ-BALART. Thank you, Madam Chairwoman.

Mr. Guerin, among the projects included in your plan are a number of smaller border stations. The three sites in Maine had from 300,000 to over 900,000 personal vehicle entries in 2008.

However, other sites not included in the plan had far more. I mentioned in my opening statement Laredo, Texas, which had over 6 million personal vehicle entries in 2008.

Now, can you talk about how GSA develops its list of border station projects and why smaller GSA facilities seem to be given priority over larger facilities with more traffic? Is that part of the legislation? If you could, address that.

Mr. GUERIN. It actually is part of the legislation in that the funds were limited to $300 million, Congressman. We work with CBP on the priorities for our projects.

The most important project to CBP on their list was the Mariposa port of entry project, which took up fully $200 million of the $300 million available to land ports of entry. So we worked with CBP. We worked with the priorities of the projects that we had—you know, shovel-ready or close to shovel-ready—to ensure that we worked through the list to put projects in place that would create jobs as quickly as possible.

Just the nature of the first project being $200 million of the $300 million limited our options to other smaller projects, other projects that needed funds to complete construction and designs for other projects that we knew were coming down the road very shortly and would be funded in future fiscal years.

Mr. DIAZ-BALART. All right. So most of the CBP-owned facilities are along the northern border; and as a result, nearly all of the Recovery Act funding is going to those facilities.

In light of this, though, did GSA evaluate whether it should focus more on the southern border to ensure a more balanced approach to station modernization, or are you saying you did not have much of a choice because the money was spent or what?

Mr. GUERIN. Well, I think $200 million was spent on the southern border in the first project, so the quantity of projects was more on the northern border, but certainly, in dollars spent, more money was spent on the southern border in the Recovery Act.

Mr. DIAZ-BALART. Okay. In your testimony, you projected that over 60,000 job-years will be created from the $5.5 billion that GSA——

Mr. GUERIN. Correct.

Mr. DIAZ-BALART. —received under the Recovery Act for Federal buildings.

You also indicated that initial reports show that, as of October 30, GSA Recovery Act funding has created or retained 780 direct jobs and that approximately 56 of those are related to port of entry projects.

Now, as you know, and I mentioned it in my opening statement, last month a number of serious questions came up regarding the accuracy of the job numbers on the Recovery.gov Web site.

How do you know that these figures are accurate? What mechanisms has GSA put into place to ensure accurate reporting in these numbers and also in future numbers to avoid what seems to be a pretty large trend?

Mr. GUERIN. That is a good question.

We looked at multiple studies by economists to figure out how to project the numbers. In fact, OMB settled on a CEA analysis that showed that, with construction jobs, typically you use a factor of $92,000 per job. If you divide that into the $5.5 billion given to GSA, that is where the 60,000 job projection comes from. Those are job-years.

That actually worked out very nicely with the information that we received from the recipient reporting, and GSA was actively one of the most active players in the recipient reporting process. We reached out to the recipients and very actively engaged them to ensure that they were reporting accurately. We provided templates for them to report, so we didn't have the situation of reporting a nonexistent congressional district, for instance.

The numbers that we got back from the recipients matched up very well with the $92,000 figure. The total number of jobs and the total amount of money that was outlaid from the recipient reporting was very close to the $92,000 figure, so we are actually quite satisfied so far that that is a good number to use.

Mr. DIAZ-BALART. Good.

So, again, as far as you can tell, you haven't gotten hit by the same issues that others have. I understand where your estimate numbers come from, but the actual numbers are coming from whom to you? I mean, are you getting it from——

Mr. GUERIN. The people who received funding from the Recovery Act.

Mr. DIAZ-BALART. They are the ones who are actually counting the jobs and are making sure that they are real?

Mr. GUERIN. Yes. Yes. The whole recipient reporting process is an expectation that the recipients of Federal funds will report those job numbers and funds received.

Mr. DIAZ-BALART. And will do so accurately?

Mr. GUERIN. And will do so accurately, correct.

Mr. DIAZ-BALART. So, at this stage, you really don't have a way to verify that, other than the fact that they are, you know, kind of adding up with your estimates?

Mr. GUERIN. As I said, Congressman, we reached out very proactively to the recipients to ensure that they reported accurately. And we gave them a lot of the sort of basic information to make their life easier as they reported back to us; and that paid off, I think.

We got all but a few people reporting back, and we know who those people are. We are actually contacting them. We have contacted them, and we will continue to contact them to ensure that they report in the next go-around at the end of the December, so we will have those few stragglers reporting in as well.

Mr. DIAZ-BALART. Are there no site visits, for example, to verify—or something like that to verify that the reports that they are giving you are actually accurate?

Mr. GUERIN. Not so much in the recipient reporting process. But certainly GSA is on site on all of our projects, and we actively monitor who is on our projects to ensure that the projects are running smoothly and that the schedules and accuracy of information in terms of money spent is being well documented.

Mr. DIAZ-BALART. Right. I understand that.

Again, you know, we obviously have what is a national embarrassment. From what we can tell, it looks like some of those who are doing the reporting are just not being accurate. So other than the fact that the numbers—I mean, look, there is a chance, is there not, that they are looking at your estimates, and then they are giving you the numbers based on those estimates? I mean, there is a chance that they are doing that.

I am not saying that they would be, but there is no on-site counting of jobs other than by those who are receiving the money. That is what you are getting it from.

Mr. GUERIN. That is a true statement. It is a recipient report.

Mr. DIAZ-BALART. Right, which in many cases has proven to not be accurate as far as we can tell so far from just press reports.

Mr. Frazier, in the 30-day review of spending by the CBP for land ports of entry under the Recovery Act, CBP states that the first two legal requirements for the projects funded by the Recovery Act include, number one, preserving and creating jobs, which I am glad to hear; and number two, assisting those most impacted by the recession. Yet it appears, however, of the top 24 CBP projects, 9 of them are in States with the lowest unemployment rate at 4.2 percent.

So how did CBP take into consideration the state of the local economies and unemployment rates in determining priority projects under the Recovery Act, particularly based on those two assumptions that I just mentioned that you all have?

Mr. FRAZIER. The actual two governing criteria that were built into ours, that we actually used as part of our normal prioritization projects, were shovel readiness and the ownership distinctions that were drawn within the legislation itself.

I will say that our current process is not designed to consider local economies when we are looking at prioritizing these facilities, in part because they are part of a national infrastructure, and we have to view them as part of a national border infrastructure. We don't view them as competing between two State or local interests.

When we prioritize that process, we actually go through and assess all of the facilities that we operate against four categories of criteria. Those four categories themselves encompass about 60 distinct data points that we use as the basis of our initial needs assessment for those facilities.

We then use the resulting information from that assessment process to give us an initial ranking of critical needs; and then we sensitize that by reaching out to our local stakeholders and operations folks, who can provide us information that would not normally be collected through a national data assessment. We use that then to establish our final ranking of need. Then we do what is called a project feasibility and risk assessment, and that actually allows us to determine the executability of a project in a given fiscal year.

In particular with these projects, we had to assess that in light of the requirements to have these funds obligated as quickly as we could into the national economy and to ensure that we could have these funds obligated not less than 24 months or by the end of fiscal year 2010.

Mr. DIAZ-BALART. That makes perfect sense to me, but that doesn't jive with, again, preserving and creating jobs as a priority and assisting those most impacted by the recession.

Now, what you are saying makes sense on a regular day in a regular year, but if these funds were to create jobs—again, in the review, it says—and again I may be wrong—that this is preserving and creating jobs and is assisting those most impacted by the recession. Those don't seem to be part of what you just mentioned right now.

Mr. FRAZIER. Well, I think that I would draw a distinction between sending funds to the community where the actual port is located and actually benefiting those impacted by the recession.

Of course, most of the major construction entities that we have to contract with, be they large or small business, will, in fact, not be located in the small communities where a number of our facilities are located. So, by infusing money into the construction industry in particular, we view that as a way of ensuring that that industry is actually bringing on people to support these projects and move them forward.

In most cases, we have also—where we did not directly contract with small businesses, we have actually asked the construction entities themselves to reach out into the small business community as part of their subcontracting for the various associated disciplines that they will employ as part of their final construction projects.

So, while I cannot guarantee, for example, that all of the communities themselves which will have a port of entry project within their communities will see job increases within the confines of that community, we believe that by employing the acquisition strategy that we have utilized for these facilities that we are, in fact, ensuring that we are reaching into the small business community and that we are reaching into the various disciplines that will ultimately be where jobs are created.

Mr. DIAZ-BALART. I understand. I understand that you also have the big-picture issue of what your role is in keeping our Nation secure, et cetera.

But, again, when we are dealing with this specific issue where, within the top 24 projects, 9 of them are in States with the lowest unemployment rate, that clearly is not assisting those most impacted by the recession. I understand where you are going, but those two things don't match.

Mr. FRAZIER. Well, I guess, if you look at the unemployment rate per capita per State as being the one de facto factor that you would use in assessing that kind of criteria, then I wouldn't really have much of a response. I am not really trained in macroeconomics.

I can say that by employing the acquisition strategy that we have, we were looking to infuse money into a national economy through the sectors that, of course, we can reach by doing construction.

Mr. DIAZ-BALART. Understood. Understood.

Now, do you have any idea how many jobs have been created or are expected to be created by these projects?

Mr. FRAZIER. I am sorry, sir. I couldn't——

Mr. DIAZ-BALART. I am sorry. How many jobs have been created or are expected?

Mr. FRAZIER. To date, we have created more than 150 jobs. I think we are expecting as many as 4,000. Of course, most of our projects right now are in their early stages. They are in design, which does not, in fact, involve a number of the labor disciplines that you would normally employ as part of construction. However, our acquisition strategy is built on employing design/build across all of our projects. So, where those projects have been awarded, we are expecting those contractors will begin their subcontracting plans in the next months and that part of the process will see an increase in job creation.

Mr. DIAZ-BALART. Mr. Frazier, let me ask you the same question that I asked Mr. Guerin.

You have also seen the reports and the questions about the accuracy of the job numbers on Recovery.gov. What mechanisms does CBP put into place or has it put into place to ensure that the data that you are going to be receiving or have received is accurate?

Mr. FRAZIER. Sure.

Similar to the U.S. General Services Administration, of course, the structure of the reporting for job creation is built to where the vendors themselves, the recipients of stimulus funds, are the initial reporters of job creation; and there is a brief period of time wherein the government is afforded an opportunity to review their submissions for accuracy.

In CBP, we actually are employing independent project managers and construction managers to participate in all of our projects, and they will actually be the project leads for all of these various projects. They then are also part of our reporting reviewers to review the vendor reports.

Of course, the reports we have had to date—again, I mentioned earlier—have not seen substantial growth in job creation. So most of the jobs that have been created associated with these projects are really on the design side, and most of our project managers actually work daily with those design teams, so we are quite familiar with them.

Mr. DIAZ-BALART. And lastly, the CBP spend plan includes about $15 million for the land port of entry in Whitetail, Montana, which according to the CBP 30-day review, averages 5 vehicles per day. Is it—does that make sense to use taxpayer dollars on what—for an area that obviously doesn't have a lot of activity? And what types and number of jobs do you think will be created, for example, by that project.

Mr. FRAZIER. I don't know the exact figures associated with that project. I am sure that is something we could come back with the estimates associated with that individual project. I can say that of course, in viewing these facilities from the perspective of our dual mission of securing the border and facilitating legitimate travel and trade, we view any authorized crossing as being an area where we need to ensure that the facilities and the infrastructure associated with that crossing are capable of supporting our mission and our operations.

So from the standpoint that we view Whitetail, Montana as being the location of an authorized crossing, we believe that that facility along with any other port of entry needs to be maintained at a level to ensure that it can support our operations, and we don't

view that as being a facility that is the port of entry for Whitetail, Montana. We view that as being an authorized port of entry for the United States of America. As a result we must ensure that that facility is capable of securing the border to the same measure of security that any port of entry that is in operation today can.

Mr. DIAZ-BALART. You also mention in your testimony that sensitivity analysis was part of the process of ranking projects.

Mr. FRAZIER. Yes.

Mr. DIAZ-BALART. Can you talk more about this analysis and what factors you look at, are included as part of that sensitivity analysis?

Mr. FRAZIER. Sure, the sensitivity analysis itself much like—is more akin to a standard statistical activity wherein you want to ensure that the factors that you are using in your aggregate data collection are not themselves sensitive to factors that you cannot collect as part of a national aggregate data set. And I will give you an example of that.

A number of our other facilities are actually located in regions wherein the border crossing is associated with a large manufacturing center across the border. However, that happens to be regionalized and does not get counted as part of a national commodities collection set from data that we might collect for the Bureau of Transportation Statistics or other associated sets. But we can use information from that region to inform the actual workload capacity at that facility over time, and we actually reach out usually to the local stakeholders and to the operations at that region themselves to inform us as to whether or not the data that we have collected at the national level would be skewed in any way by changes in demographics associated with that locality itself.

Mr. DIAZ-BALART. Madam Chairwoman, two more if I may.

Ms. NORTON. Yes.

Mr. DIAZ-BALART. Thank you as always for being very generous.

You highlighted in your testimony that shovel ready projects were given priority. Can you tell me how many of your projects are currently underway? When you mention that most of it is now, I guess, in design or whatever, how many of your projects are currently underway and what are the time lines for some of those projects?

Mr. FRAZIER. Currently we have already awarded 17 design/build projects out of the original 23 that we identified in our first spend plan. Currently we are planning to award an additional 18th project. I think Mr. Guerin mentioned it during his original opening statement. That will be awarded sometime in the next few weeks as a matter of fact. And then we will have six additional projects that were set aside specifically as small business projects. Those were scheduled to be awarded right now in the late February, March timeframe. Of the 17 projects that have already been awarded, all of them are now approaching 60 percent design, and in order to expedite the process for moving those projects through design and ultimately into construction, we actually provided those vendors themselves as part of their initial submission 35 percent bridging documents. So we essentially did a portion of the design for them to ensure so that they could move expeditiously into the construction phases.

We are expecting construction for those projects to start in the spring of this fiscal year and probably in the April, May timeframe, depending upon when the fall occurs, of course because our construction season is restricted by the actual weather patterns on the northern border. Except for one project that we currently have awarded, that will be in Antelope Wells, New Mexico. That project is actually expected to start potentially as early as March because they aren't subject to the same weather patterns in New Mexico.

Mr. DIAZ-BALART. Again it seems that a lot of them were actually not quite shovel ready, they were design ready as opposed to shovel ready. The American people I think—and I am not blaming you for this, but I am saying the American people kind of think of shovel ready as the design has been done, all you need is the money to start construction. So obviously that that has not been the case in a lot of them.

Mr. FRAZIER. Well, from our standpoint because of the way that we have been able to actually do the design work for these projects in advance, all of these projects are now at design/build acquisition. So there will be no additional acquisition activity associated with these projects. They are moving from design straight into construction on an expeditious timeline.

Mr. DIAZ-BALART. Great. And lastly, Madam Chairwoman, to both of you gentlemen, obviously we have seen all of these reports of inaccurate reporting, inaccurate statements given by those who were supposed to give the information. I would hope that you all are looking at that and trying to make sure that the information that you are getting regardless of who it is coming from is accurate. I would love, if you could get back to us, with just what it is that you are doing to make sure that those numbers are accurate, regardless of who they are coming from, and so that we can avoid some of those embarrassments and some of those fiascos that have taken place nationally with this money. I think the taxpayers deserve at least to know that the numbers they are given, whether they are good or bad, are accurate numbers. So I would really like it if you guys could get back to us as to what you are doing to make sure that those numbers are accurate. And not just rely on—I am not telling you that they are not great people, but obviously there have been some issues in the past and so let's try to address that now so that we do not have to read about in your case these issues coming up either.

So thanks so much. Thank you, Madam Chairwoman.

Mr. FRAZIER. Sure.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart.

Let me compliment the administration for doing what no administration has ever even tried to do before, and that is to calculate jobs per funding by the United States Government. And let me indicate as well why I believe GSA has had a far better accuracy record. I indicated in my opening statement that, unlike virtually every other agency, GSA is on site and has control of its funds. That is why we are holding ourselves accountable as we hold GSA, the Smithsonian, and the EDA accountable. If, however, you look at what the administration has done, it is a very daring thing to do. It has—it is at least two steps removed. It hands out the money. The money goes to the States and from the States it goes

to the localities. And somebody down there, way at ground zero level, has got to do the counting while they are doing the building.

It is far easier for you, Mr. Guerin, and even you, Mr. Frazier, to be accurate, because you are directly responsible. That is not how we do construction in this country. We ask the States to do the construction. The States in turn ask down to the lowest jurisdiction to do the construction. That is called local control. So foreign administration to have the guts to say we are still going to hold you accountable is to essentially put itself in a position of mistakes because it is so far removed from the people who would have the basic information. And you know what I say? Keep on trying, because you have set an important precedent, and a precedent because it is the first of its kind, almost inevitably, which would almost inevitably produce the kind of mistakes that we have seen. And I compliment you both because you are directly responsible, because every GSA site has somebody on the ground from the Federal Government. Nobody from the Federal Government is on the ground for Eleanor Holmes Norton's District's infrastructure funds. Who is on the ground are people from the District of Columbia. Or if it is the State of Maryland, Maryland isn't on the ground. Prince George's may be on the ground and somebody beneath Prince George's may be on the ground and that is how that counting is going on. That is a very ambitious undertaking, cannot possibly be done except as a practiced way of doing business. And thank you for showing that the Federal Government today, unlike at any point in past, is willing to take on that task.

Let me ask you, Mr. Guerin, why don't we rent courthouse space?

Mr. GUERIN. We do in fact rent some courthouse space.

Ms. NORTON. How much courthouse space in the United States of your inventory, what percentage is rented?

Mr. GUERIN. I do not know that, but I will certainly get that number for you. But we prefer to own, as you well know.

Ms. NORTON. Is it not the case that overwhelmingly you own.

Mr. GUERIN. Yes, yes.

Ms. NORTON. And you can hardly cite me an instance where through this Committee has gone any prospectus for a courthouse that was other than owned?

Mr. GUERIN. That is correct. The vast majority——

Ms. NORTON. I asked you for the reason. That is all I am trying to get on the record. Why do we own courthouses rather than lease? We lease almost everything today. Why don't you lease courthouses?

Mr. GUERIN. And the simple answer is because we are working on them in perpetuity and it is important to own them. As you said, we don't want to pay——

Ms. NORTON. One, we are going to own them in perpetuity so why would we pay somebody over and over again? What about security?

Mr. GUERIN. We can control security as a known facility.

Ms. NORTON. I commend you, Mr. Frazier, you who are supposed to be in the security business, that for the duration the United States Government has always owned courthouses before 9/11 for security reasons and because it was the best real estate practice. And I believe we have got to look at this notion. I don't suggest we

go buy all the border stations that you could do that. But I would hope there would never ever be another leased border station if we could possibly help it.

Mr. FRAZIER. At this time we do not pursue leased new facilities.

Ms. NORTON. Thank you very much.

Let me ask you, Mr. Guerin, about something that you know is dear to the heart of this Committee, but we haven't found any evidence of it going on. Perhaps you can enlighten us, and that is the use of photovoltaic panels. With recovery funds are you trying to use voltaic panels, for example, in Mr. Diaz-Balart's part of the country which would seem to be cut out for that kind of thing?

Mr. GUERIN. We are definitely using photovoltaic panels. We created a large array in the Denver Federal Center and we are adding to that array through the Recovery Act. We have a series of other projects as well that are using photovoltaics. We have numerous roof projects as part of the Recovery Act. And in many of those cases we are intending to add photovoltaics to the roofs as well as put arrays on the ground, on garages nearby, that kind of thing, to try to improve our energy performance.

Ms. NORTON. What about San Ysidro?

Mr. GUERIN. San Ysidro, I do not know. We are using photovoltaics in Mariposo.

Ms. NORTON. Apparently, you are not using that at the land port of entry.

Mr. GUERIN. Right, it is an opportunity. There are large canopies on the ports of entry that lend themselves to having PV panels on them, and I think we are going to use those very frequently.

Ms. NORTON. Now I am interested in these innovative technologies, particularly in light of the fact that these investments are supposed to save energy in the long run. And I want to know how you know before you decide on a particular energy conservation approach that the government will—are you guaranteed to make energy savings, Mr. Frazier and Mr. Guerin, as a result of the energy conservation mandate of stimulus funding? Do you guarantee that to the Federal Government, which is paying more up front almost always in order to make these savings?

Mr. GUERIN. Well, it is not just the Recovery Act, Congresswoman, it is numerous laws and regulations that have been put in place recently to ensure that GSA in operating its buildings improves energy performance. And we really think we can guarantee that. We are doing commissioning studies on the vast majority of the projects that we have underway. A lot of the reason that some of the projects haven't jumped into construction is because we want to ensure through a commissioning study that our projects are using the funds to the maximum extent possible to improve energy performance and we are actively engaged in those. Those studies are wrapping up now and will translate into construction work and jobs in the coming new year.

Ms. NORTON. Mr. Frazier.

Mr. FRAZIER. And similar to the U.S. General Services Administration, of course we are also subject to all of the various laws, regulations, and executive orders that are now in place to promote and ensure the Federal Government is moving to a more energy efficient framework for all of its facilities. And similar to the U.S. Gen-

eral Services Administration and in fact I have to thank Mr. Guerin in part because we have been able to partner with them a great deal in the last several years to explore the use of a variety of alternative energy systems and to explore the use of a variety of conservation measures that are being built into the newest land ports of entry as part of our designs and ultimately into the now facilities themselves.

We go through a number of activities to actually rate and assess the performance of those facilities. Currently we actually are conducting energy audits at a number of our locations, not just the land ports of entry, in fact at a number of our facilities, to determine what measure of additional conservation we will need to institute to reach the various benchmarks that have been in place through the various laws and regulations that are now in place.

As part of our designing activity as well, we go through a number of kinds of study and analysis that Mr. Guerin referenced earlier to ensure that the designs themselves will be LEED certified, will provide the right measure of energy conservation and the right measure of performance as part our new facilities.

In fact, if you look at the facilities that we currently operate, the 43 land ports in particular that we currently own and operate, most of them are so grossly out of date that we could not retrofit them to the extent necessary to actually bring them to the level of performance that would be required under current law.

Ms. NORTON. That is a very important point. If you were going to do anything with such old buildings today, it almost—you are almost compelled not to be penny wise and pound foolish in retrofitting them. And I think you get to retrofit at a particularly opportune time because now we know, we know from the private sector who has been storming ahead on this, that you can calculate now in advance pretty reliably what you will reap in saved energy costs, and of course this Committee has been very high on that from the first energy bill we enacted and we applaud your work there.

It is you, Mr. Frazier, who testified that your final procurement strategy enabled you to save the government about 25 percent over your original cost estimates. How were you able to do that?

Mr. FRAZIER. We actually employed a couple of mechanisms that we think were particularly beneficial. One, we actually developed our normal design standard into what we call design templates or design prototypes. You heard Mr. Guerin reference it as part of his opening statement. We have gone through over the last several years in working with the U.S. General Services Administration a number of efforts to actually standardize the various operational components that compose a land port of entry.

I will give you some easy examples of that. If you look at a standard land port of entry, of course you will always on entering the port see a pre-primary lane and a primary lane booth where the actual officer is conducting their enforcement operations. Over the years in years past those were actually designed independently every time we had a new facility. Each time the design team relearned the process of what a land port of entry pre-primary lane has to do. In most cases those lanes were not designed to allow us to quickly adapt a lane for new technologies over time. So each time a new technology came on line we actually had to spend addi-

tional resource to go out and modify the lane to allow it to house the new piece of technology.

Our current standardization effort has allowed us to develop lane components that are actually what we call plug and play lanes. They actually have temporary conduit vaults that you can open when you need to install new technology into the lane to run cabling directly into the lane, close the vault, install the piece of technology, and all of that without having to shut the lane down for more than 2 days worth of effort. It is a considerable amount of time savings for us, it is a considerable amount of funding savings for us. We are doing that across the port of entry, and in fact we have finished seven standard component sets now that encompass the pre-primary, primary lanes and much of the secondary inspection areas. And we are now extending our look into the actual interior of the buildings themselves to begin to standardize all of those component sets as well. By the end of it you will have buildings that will reflect elements of distinction that give them the context of the environment that they sit within, that work within, but ultimately functioned in a standardized fashion across the northern and southern borders.

Ms. NORTON. First of all, in your work on your work on land ports of entry, are you using the same kind of standardization process or not, Mr. Guerin?

Mr. GUERIN. In fact, CBP and GSA work together on these components to ensure that we are using exactly the same types of technologies and adaptations to improve our ability to deliver.

Ms. NORTON. I am very pleased to hear about that. You can conform or tailor the building as appropriate, but these are after all the same kinds of facilities, the same United States Government. May I ask you, Mr. Guerin, whether you think such a standardization process should be used for courthouses in our country?

Mr. GUERIN. I think in large part the design guide that the courts provide, which GSA obviously also worked on with the courts, provides a lot of the same idea. They are not as standardized as the land ports of entry, but a lot of the components——

Ms. NORTON. You are telling me that there is a standard courthouse?

Mr. GUERIN. I am not telling you that, Congresswoman, but parts of the courthouse are being are becoming more standardized.

Ms. NORTON. Mr. Guerin, we have been moribund on courthouses for some time and this Committee does not intend to move with courthouses, I don't care how much money is authorized, until sharing courthouses is routinely built in, until you in fact have ownership of the courthouse business the way you have ownership of the land port of entry business, and until, if I may say so, the kind of standardization process you and Mr. Frazier have used so well here is used in courthouses. But we are unable to proceed in—is it L.A.—because they have a sense of what they need that the Federal Government is unwilling to spend money to construct. If we had begun with standardization, given the fact that it is L.A., we would have had to do things that we would not have to do in Washington, D.C., but we would have been able to begin saying this is how we do courthouses and every increment must be justified.

So I must ask you where are we with the—I can only call it, to be polite, moribund courthouse program?

Mr. GUERIN. The recent authorizations that this Committee provided helped establish new criteria I think that are going to help the court and GSA ensure that our projects are appropriately designed to the requirements that you believe are important to the courthouse program.

Ms. NORTON. We certainly will need to see the elements I have just described before approving any more courthouses. You should bear that in mind because there may be more courthouses coming. It is a favorite of some Members of Congress. I hate to hold them up because GSA is in fact who is holding them up.

But I just want you to know how dissatisfied we have been with that program, and especially with the failure to take back the program from the courts who are even less than Mr. Frazier in the building business, but have had more to do with building courthouses than is the mandate of Article 3 courts, who have no mandate whatsoever to do that and have wasted tons of money of taxpayer dollars.

I would like to know particularly if you have been able, Mr. Frazier, for example, to come in, boy, do I congratulate you for this, 5 percent under project costs. What you have done with the rest of the money?

Mr. FRAZIER. Actually as part of the development of our initial spend plan that of course reflected 23 projects, we actually scoped 33 projects and have actually have already prioritized those.

Ms. NORTON. So you were able to actually retrofit or rehabilitate more projects?

Mr. FRAZIER. We are expecting to do right now with the savings we have generated with the first 17 projects awards will be an additional 29—an additional 5 for a total of 29 locations. And we are of course expecting commensurate savings from the next six projects that we award. Assuming that those savings are also generated, we could do as many as four more, leaving us with 33 total design/build projects.

Ms. NORTON. That is very unusual to hear from a Federal bureaucrat. So let me hear GSA's report on what percentage below, if any, the original projected costs have your projects come in at?

Mr. GUERIN. We are not quite as lucky as CBP, but we are——

Ms. NORTON. Wait a minute. Is this a matter of luck? Roll the dice right now then. Let's see if I can get you to be some more luck.

Mr. GUERIN. We are experiencing savings of 8 to 10 percent on average for the projects awarded so far.

Ms. NORTON. That is a rather substantial difference.

Mr. GUERIN. I'm sorry?

Ms. NORTON. That is a rather substantial difference.

Mr. GUERIN. It is a rather substantial difference.

Ms. NORTON. Why the difference?

Mr. GUERIN. I can only speculate.

Ms. NORTON. Mr. Frazier, do you have any insight?

Mr. FRAZIER. I wouldn't speak to the deferential itself, but I can say that in part a number of the POEs we work on are smaller and therefore less complicated as a total construction project. So we were able to do a lot of the design prototyping for those facilities

at the outset whereas most of the GSA facilities that we put at the top of our priority list are fairly substantial facilities that have very complicated construction designs and construction phasing associated with them. In that case it is typically difficult to generate the kinds of savings that we see.

Ms. NORTON. You know, Wal-Mart has been such a successful company, precisely because it doesn't keep reinventing the wheel and the kind of design prototyping that you were describing is routine, although communities obviously force them to tailor their stores as well.

Mr. Guerin, to what extent that is measurable does the GSA engage in design prototyping?

Mr. GUERIN. The GSA doesn't do a lot of prototyping on a total building scale. We do prototyping, as we talked about earlier, in components of buildings. But each building is unique, each building is located in a particular place, each building has its own challenges in terms of site.

Ms. NORTON. That is not true for border patrol stations.

Mr. GUERIN. We do not work on border patrol stations typically. The land ports of entry program, they are actually very unique aspects of land ports of entry, elevation changes, railroad——

Ms. NORTON. More so than border patrol stations.

Mr. GUERIN. I am sorry?

Ms. NORTON. More so than border patrol stations?

Mr. GUERIN. I believe so, Congresswoman, because they are located in a particular location that is presidentially directed, actually internationally directed to a specific spot on the map, whereas a border patrol station typically can be located in sort of a large swath of area depending on CBP requirements. But each land port of entry is a unique facility. We have use adaptation, we have tried that in several locations. The component process that we are talking about with the——

Ms. NORTON. I would ask you, Mr. Guerin, to look at the design prototyping that the Custom and Border Patrol uses and within 30 days submit to this Committee whether or not you think any of it is applicable to GSA. If we don't find ways to pattern build, we are not going to be building at all. The fact is that you don't build that much anymore. So I am not suggesting that you are all over the country building, increasingly you lease and that is one of the great issues. But where in fact you do build, and the most prominent example is courthouses, one would hope that we would not consider every courthouses a world unto itself. That is what has given the judges license to have ceilings that you would only have found in the 19th century, multiple kitchens and facilities that are unheard of and unknown in the Federal Government, something almost approaching corruption. But they don't consider it that way, because if the GSA says you can do it they figure the rules must say so. So we would ask you to look at what the Border Patrol, since it does one kind of building normally, and within 30 days indicate to us whether or not for courts—I am not asking to you look at every kind of building you do but for courthouses—in the future, somewhere down the pike—I am not asking you to do anything in the immediate future—some kind of design prototyping could be perfected.

Mr. GUERIN. Okay.

Ms. NORTON. Excuse me?

Mr. GUERIN. I said okay.

Ms. NORTON. Okay. I don't have a lot of questions. This division of funds between the two agencies was done at what level; were you both asked for your input? Because you are not building, Mr. Frazier, for the most part. It seems to me you are not building at all. You are building, yet the bulk of the money, or more of the money, goes to Customs and Border Protection. How is that division decided upon, and on the northern border at that?

Mr. GUERIN. We had anticipated—well, the legislation obviously dictated the split of the money. I don't think that was a decision of the two executive——

Ms. NORTON. The appropriators did it, in other words?

Mr. GUERIN. I believe that is——

Ms. NORTON. With the money. The administration came up with a bulk figure of 720 million, or billion or whatever. I just want to make sure how—it would seem, Mr. Frazier, that there were a lot of deteriorated buildings along the northern border. Is that it? There was a particular need? Of course, as the GSA—a GAO report coming—and that is not one we requested. So there were folks up there on the northern border who wondered about the amount apparently.

Mr. FRAZIER. I would say that for our facilities prior to the enactment of the stimulus legislation itself we have not been able to do major reconstruction of a facility that we own since we were created and probably in 3 decades before that. So most of those facilities are in a substantial state of disrepair right now.

I will also say and forgive me, Madam Chairwoman, we actually on an annual basis do about 500 to $700 million in major construction.

Ms. NORTON. What kind of construction? You don't build all those border stations, do you?

Mr. FRAZIER. We actually build—and I am probably going to get in trouble for saying this, because I will say that I only do ports of entry, but we build the fence projects as well, we build border patrol stations, we build air and marine operation facilities, and we actually do build to suit leasing at a number of other locations as well.

Ms. NORTON. So you must have learned how to do pattern design building. I would like GSA to take a look at how you do it then.

Mr. FRAZIER. Yes, ma'am.

Ms. NORTON. Apprenticeship, this has been a big concern of this Committee and we do have apprenticeship, your apprenticeship programs is going to begin here in the District of Columbia. Would you report on the status of apprenticeship programs? I asked that not only because it is a job creation exercise as well, but because the skilled construction trade cohort is aging out. These people are retiring or about to retire and this is-- they have good pensions, certainly if they are union journeymen and so there is every incentive to get out now. So the apprenticeship program is aimed at, as well, replenishing this important sector in the United States.

So I need to know whether in each of your projects there are apprenticeship programs.

Mr. GUERIN. I will speak to the GSA projects. There is a requirement in each of the contracts for large construction projects to have an apprenticeship program. So it is active and happening in each of our large construction projects.

As you know, there is also a pre-apprenticeship program that Congress authorized $3 million for. We have spent approximately $2 million. Our first graduating class here in Washington is happening next weak. Congressman, I understand you are going to speak at that event and I appreciate that very much. We are in the throes of the second solicitation to spend the rest of those funds. We have proposals in and we are evaluating those now. So we are getting ready to proceed with the rest of the spending on that program.

So in summary, we have an apprenticeship program as well as pre-apprenticeship programs happening right now.

Ms. NORTON. Mr. Frazier.

Mr. FRAZIER. Candidly, we don't have an apprenticeship program as part of our construction projects themselves. Now I will say that as part of our acquisition strategy what we have tried to do is expand beyond the normal pool of design teams and construction firms that would normally be involved in a land port of entry project, to in fact encourage the growth inside the construction sector of an expertise associated with this type of construction. Land port of entry construction has typically been proven to be a particularly challenging kind of project because of the number of interests involved and the various complexities of the facilities themselves. So as part of our acquisition strategy we are looking to, either through subcontracting or direct to small business contracting, encourage growth of both design firms and the construction disciplines themselves that are more experienced in this kind of construction activity.

Ms. NORTON. Mr. Frazier, I am going to ask you to have a look at Mr. Guerin's apprenticeship program even as I have asked him to take a look your pattern design program. It is not acceptable to have Federal funds being used on a construction project today without doing some kind of apprenticeship development on that project. You are not developing the workforce. And the important thing about the administration's work is not geared only to lifting the economy up, it is very forward looking, and given the amount of work you do, and you have described defense work, work well beyond your own work, it is inconsistent with how this administration has proceeded not to be preparing people for the work that you will be doing. And I have to tell you that there will be criticism of Federal projects that are not preparing for the workforce of the future.

Much of that workforce will be people of color and women. These are people who faced intentional discrimination for decades. The industry has been open now for a number of decades as well, but there was no government funding as there was in the 1960s and 1970s, wiped out at about 1980, and what we have now is a very embarrassing construction industry. It is a largely white male industry. It is an industry that is that way not because of the old discrimination patterns of the past, but because government funding has not been there to assist the industry, much less government

monitoring. We are making up for that now. I don't think this administration would want to put itself in the same bag as prior administrations, which is feeding money into an almost 100 percent white male workforce and doing nothing to prepare younger people, people from the very rural areas that you are acquainted with, the areas that may not be at the center or the epicenter of the project itself. You don't want to be scarred by that process, not with this many Federal funds.

And I must tell you, as a lawyer, there is, in my judgment, a cause of action against the government under Title VI of the Civil Rights Act and the 14th amendment of the United States. You cannot use government money to reinforce discriminatory patterns, even if you are not the originator of those patterns.

Be forewarned. An administration with the values of this administration should not only be forewarned, it should be proactive.

So, Mr. Frazier, could I ask you to look at Mr. Guerin's program and get back to us within 30 days as to whether or not you think you might create a similar apprenticeship program?

Mr. FRAZIER. We would be happy to.

Ms. NORTON. Appreciate it.

Final question, small business plans. The President has been speaking out about the failure of the banks to follow through with the job creation arm of our sector, the small business sector, they are dying on the vine. And all of us are therefore looking to see whether with government generated funds there are small business plans that are in fact employing small businesses and to what extent that is happening.

I would like each of you to describe your own small business plans, if any.

Mr. GUERIN. The General Services Administration has a long history of encouraging use of small business. We have very high goals for ourselves and we achieve them, try to achieve them every year. I think we have hit most of them except for a few disabled veterans goals last year, I believe.

Ms. NORTON. Now I am talking about at the moment for the stimulus projects.

Mr. GUERIN. I understand.

Ms. NORTON. The Recovery Act funding. What were the goals, how are they being met? What can you tell me specifically about your small business plans?

Mr. GUERIN. Specifically, Congresswoman, we have the same goals for small business for the Recovery Act projects as we have for the rest.

Ms. NORTON. And what is that?

Mr. GUERIN. We have specific numbers, if you will bear with me for just a second.

Ms. NORTON. While he is looking, Mr. Frazier, would you?

Mr. FRAZIER. Yes, Ma'am. Of the original 23 projects that we identified for design/build, six were set aside as direct small business design/build construction projects. The remaining 17 we actually built into each of those projects with our partners, the Army Corps of Engineers and the U.S. General Services Administration. The small business goals that they themselves instituted as part of the IDIQ awards. So for the core multiple award task order con-

tracts, they had a 70 percent goal for set-aide as part of the entire contract of which we would probably see 30 to 40 percent set-aside as part of small business in each phase. So each phase, design, and construction would have the same goals attached to it. And GSA has a very similarity set of goals built into it their IDIQs as well.

For all of our backup projects, because we are no longer on the 100—the original legislation had a 180-day award timeline set into it. For our backup projects they are no longer part of that original timeline. So we are actually looking at doing more small business direct for any of those projects as we are moving forward.

Ms. NORTON. And you say at each phase?

Mr. FRAZIER. For design phase and for the construction phase.

Ms. NORTON. That is a very important and very good to hear. We would like within 30 days to get a copy of your small business plan and of the results thus far.

Mr. FRAZIER. Yes, ma'am.

Ms. NORTON. Mr. Guerin.

Mr. GUERIN. Congresswoman, we are moving into our smaller projects where small business set-asides are appropriate. Right now a lot of the commissioning studies are happening and they will result in single system projects and projects that are very appropriate for small business set-aside contracts.

We have a number of goals that I described. Roughly 37 percent of our total is set aside for small business. We expect to achieve those goals and we have a series of numbers broken down below that for various specific set-asides. So we are expecting to, as I said, achieve the same kind of performance that we have in the past with the Recovery Act projects, and the projects now coming into fruition for construction are going to start really helping us towards achieve those goals.

Ms. NORTON. Mr. Frazier got my attention by speaking about the set-asides for each phase. It is one of the great complaints. Could we have your, same for you, Mr. Frazier, a copy of your small business plan, the results thus far within 30 days?

Mr. GUERIN. Yes.

Ms. NORTON. Thank you very much. Very helpful testimony. We congratulate you both on your figures, notwithstanding the criticism, and the criticism may have been well placed elsewhere, but certainly both of you have reported statistics that appear to us to be credible. We believe you are in a better position to give credible statistics because you are directly involved, but we also appreciate what looks like the on-schedule timing. By the way, before I go, Mr. Guerin has to 2011 for completion—for full obligation. You, Mr. Frazier, I think have only to 2010.

Mr. FRAZIER. That is correct.

Ms. NORTON. Are you on schedule? He has a little more time than you do.

Mr. FRAZIER. In spite of the fact that I don't do as much construction as Mr. Guerin does, we are pretty good at moving these forward. So we are on schedule to have all of our construction projects awarded well in advance.

Ms. NORTON. Well in advance of the end of 2010.

Mr. FRAZIER. Fiscal year to 2010, yes, ma'am.

Mr. GUERIN. And Congresswoman, we have to obligate $5 billion by the end of 2010 and we have $500 million that can move into 2011, and we are also on track to deliver the $5 billion by the end of 2010.

Ms. NORTON. Very good, Mr. Guerin.

The Ranking Member——

Mr. DIAZ-BALART. No. Thank you, Madam Chairman.

Ms. NORTON. Thank you, sir, and thank you both for this very useful testimony.

[Whereupon, at 4:09 p.m., the Subcommittee was adjourned.]

**OPENING STATEMENT OF**
**THE HONOROABLE RUSS CARNAHAN (MO-03)**
**HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE**
**SUBCOMMITTEE OF ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT**

**Hearing on**
**Stimulus Tracking Hearing #4: Ensuring Money Means Security When Building GSA Border Stations to Protect the U.S.A.**
**Wednesday, December 2, 2009**

I want to thank Chairwoman Norton and Ranking Member Diaz-Balart for holding this important hearing on GSA's role in making cost effective decisions regarding improvements to land use for border stations and land ports of entry.

The Recovery Act has provided the resources needed to improve parts of our country. Among the money delegated was $720 million in funds to the U.S. Customs and Border Protection and the General Services Administration (GSA) for improved security at entry points throughout our country's border states.

These ports of entry play a huge role in keeping our country safe. The borders monitored total approximately 6,900 miles covering both the northern and southern parts of our country. Those protecting these borders work to prevent the trafficking of illegal materials and people and the threat of terrorism, as well as promote hassle free trade and travel. Additionally, in doing so, thousands of people are employed.

It is clear that border stations and land ports of entry are vital to the safety and economic stability of our country, and that those who help protect our borders are indispensible. However, it is also imperative that decisions made regarding these stations be well thought out so that the economic repercussions as well as the safety of our citizens are kept firmly in mind.

In closing I want to thank our witnesses for joining us today and for offering their testimony. Thank you again, Chairwoman, for holding this important hearing.

**STATEMENT OF**
**THE HONORABLE ELEANOR HOLMES NORTON**
**CHAIR SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,**
**PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT**
**TRANSPORTATION AND INFRASTRUCTURE COMMITTEE**

DECEMBER 2, 2009

**"Stimulus Tracking Hearing #4: Ensuring Money Means Security when Building GSA Border Stations to Protect the U.S.A."**

Good afternoon and welcome to all to today's hearing, especially today's panel. This fourth stimulus tracking hearing is part of this subcommittee's determination to hold itself as accountable as we are holding the agencies under our jurisdiction that have received "stimulus funds" to simultaneously boost the economy and to build and repair facilities in our country. By the end of 2010, when all the stimulus funds must be obligated, the jobs created must be documented and the efficient use of taxpayer dollars to repair and upgrade federal facilities to save energy must be assured. Today's hearing will address these issues as they intersect with maintaining security and maximizing trade along U.S. borders.

The American Recovery and Reinvestment Act of 2009 (Recovery Act), signed into law on February 17, 2009, provided $300 million for the General Services Administration (GSA) to build and retrofit border stations and land ports of entry, the largest funding amount at any one time. A land port of entry houses the inspection facilities for legal border crossings, while a border station houses the Border Patrol, which is responsible for monitoring all border activity between the two official land ports of entry. There are a total of 163 border stations across the 7,000 miles of borders between the U.S.'s borders with Mexico and Canada. The Recovery Act also provided Department of Homeland Security Customs and Border Protection with $420 million for rehabilitation and construction at its 43 owned land ports of entry, 39 of which are along the northern border.

The new GSA facilities funded by the Recovery Act will include state-of-the-art vehicle and pedestrian inspection facilities that carry LEED energy efficient features as well and will participate in the GSA Art in Architecture program and Design Excellence program. The $450 million appropriated to the Department of Homeland Security for rehabilitation and construction needs further explanation inasmuch as these funds are limited to facilities along the U.S.-Canada border, which sees considerably less action than facilities along the southern border. The subcommittee looks forward to reviewing a Government Accountability Office report recently requested by Senator Byron Dorgan

(D-ND) on the viability of new construction of land ports of entry along the northern border.

Bear in mind that this subcommittee's tracking hearings are unique because unlike other funds in the Recovery Act, which are distributed to states through formulas, GSA, the Economic Development Administration, and the Smithsonian are solely responsible for administering funds and meeting the terms of the Recovery Act. The transparency we require for GSA on progress must also be available to taxpayers, who should be able to track progress and jobs in their own jurisdiction. Today, Members of Congress will testify about this program, an important indication of how important the GSA construction and repair program is to congressional districts. On an average day, GSA reports that $2 billion in trade takes place in the 163 border stations across the southern and northern borders of U.S. This level of economic activity adds substantially to the security mission that makes this construction vital today.

We welcome the Members who have stepped forward to testify and look forward as well to the testimony by today's panels.

James L. Oberstar

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
SUBCOMMITTEE HEARING

December 2, 2009

**"Stimulus Tracking Hearing #4: Ensuring Money Means Security when Building GSA Border Stations to Protect the U.S.A."**

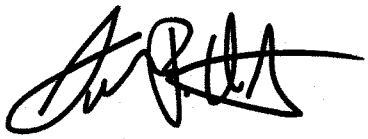
Good afternoon. The Committee on Transportation and Infrastructure has worked to ensure that infrastructure investment programs play a key role in our nation's economic recovery. This Committee has consistently laid out the case for renovating and maintaining public facilities as an absolute necessity in creating and retaining jobs. Today's hearing is a step in that direction by indentifying the role the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) ("Recovery Act") has in the GSA Land Port of Entry and Border Station construction program. GSA received $300 million in the Recovery Act for land ports of entry and border station.

The GSA land port of entry and border station construction projects carry the added bonus of being built with energy efficient and green technology, which will save money on energy long term. The federal government is the largest consumers of energy in the United States so by making these facilities more energy efficient, jobs are created and the nation's energy bill is reduced.

This is the first hearing on the land port of entry and border station construction program and I look forward to hearing more from GSA about the location selection process for facilities as well as how they plan to maximize the investment by the U.S. government in maintaining border security and take full advantage of trade opportunities. GSA estimates that $2 billion dollars of trade take place daily at border stations and land ports of entry.

This subcommittee, through aggressive oversight, will push GSA to spend Recovery Act funds most responsible way possible to bolster this important function. I am particularly pleased that this is the fourth tracking hearing that this subcommittee has held on the Recovery Act. Congress has an obligation to provide oversight of the outlay of federal funds and this Committee has met that charge consistently.

I look forward to hearing the testimony of today's witnesses and ascertaining whether the construction funds have the intended effect -- of creating good, family-wage jobs as quickly as possible, while also improving our border security and trade opportunities.



Honorable Solomon P. Ortiz
Statement for the Record
House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings and Emergency Management
Hearing: Ensuring Money Means Security when Building GSA Border Stations
December 3, 2009

Thank you, Mr. Chairman, for holding this hearing on border infrastructure and security. I have worked with the General Services Administration (GSA) in the past. I appreciate the job they perform and all the competing interests they have to consider as the builder, manager, and caretaker of government property.

As we all read in the paper these days, we have a lot of challenges along our borders. In fact, sometimes it may seem that the challenges are overwhelming, but that is not accurate. The men and women, who enforce our laws and work daily to keep our borders open, and commerce moving, stand in the gap to balance border security and free trade. They have a tough job, and I am proud of them and the job they are doing.

Not all people who seek illegal access to our country want to do us harm. We must remember that----even while we are trying to impede those who do seek to attack our country or to bring illegal contraband across the border. As we build better facilities and implement better technologies to enforce our borders, these entities or groups are willing to out-spend us on technology and weapons to get their products into the U.S. This is where our border personnel and better facilities and technology come into play. They are the key in this "war."

Our personnel deserve facilities that allow them the time to focus and do their jobs. In these days of declining budgets, the only way we can do that effectively is to make sure that all the agencies that have a part of this mission are communicating—balancing needs and resources—to find the most efficient solution for success. This applies to the design and construction of border facilities. Facilities that give the operational flexibility needed for personnel to evolve and adapt to changing traffic patterns and threats will result in better focus, better security, and better flow of commerce.

I look forward to hearing how the GSA is implementing interagency communications and ideas into their design and construction of border facilities and how they used this process in prioritizing projects for stimulus funding.

Honorable Solomon P. Ortiz
Questions for the Record
House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings
and Emergency Management
Hearing: Ensuring Money Means Security when Building GSA Border Stations
December 3, 2009

Questions for General Services Administration witnesses:

1. In this time of declining budgets, it is imperative that border agencies have the opportunity to outline needs and ways to gain long-term operational efficiencies and flexibilities in the design of border facilities. Do you have a design process for border facilities that facilitates interagency communication of this nature and how the suggestions are introduced into the design process?

2. What role did interagency communication play in the decision of what border facility priorities to fund with stimulus funds?

**TESTIMONY OF**

**TRENT FRAZIER**

**DIRECTOR**
**PORT OF ENTRY MODERNIZATION PROGRAM MANAGEMENT OFFICE**
**FACILITIES MANAGEMENT AND ENGINEERING**
**OFFICE OF FINANCE**
**U.S. CUSTOMS AND BORDER PROTECTION**
**U.S. DEPARTMENT OF HOMELAND SECURITY**

**BEFORE**

**HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE**
**SUBCCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT**

**DECEMBER 2, 2009**

Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee, it is a privilege to appear before you today to discuss U.S. Customs and Border Protection's (CBP) efforts to modernize our ports of entry.

First, I would like to thank Congress for their support in the American Recovery and Reinvestment Act (ARRA) of 2009. As you know, Congress directed $720 million to U.S. Customs and Border Protection (CBP) and the General Services Administration (GSA) to improve security at our country's land ports of entry (LPOE). CBP received $420 million specifically for CBP-owned land ports of entry and GSA received $300 million specifically for GSA-owned ports of entry. Of the 43 CBP-owned ports of entry, 39 are located along the northern border. Most U.S. ports along the southern border, by contrast, are owned or leased by the GSA. In support of the goals of ARRA, Secretary Napolitano has made it clear that Americans should have confidence in the objectivity and openness with which Recovery Act funds are being spent at the Department of Homeland Security. Accordingly, CBP employed a thorough and merit-based process to allocate the funding provided for projects vital to our economic and national security.

**Background**

Several Government Accountability Office reports since 9/11 have documented the serious threats posed by deficient security infrastructure along the northern border. The average age of CBP-owned land ports of entry along the northern border is over four decades old.

Historically, CBP has received funding for the ports that it owns along the northern border, which has been limited to supporting intermittent maintenance and alterations. As a result, many of CBP's facilities have deficiencies that may pose health and safety concerns—such as

contaminated water supplies and asbestos hazards.. Many of these ports lack security requirements and the vast majority of these facilities were not built to support the enhanced security features that are now required at our ports of entry, including Non-Intrusive Inspection technology (Radiation Portal Monitors, Vehicle and Cargo Inspection System, X-rays) and License Plate Readers. The Recovery Act funding provided by Congress provides for critical security upgrades to enable law enforcement officers to do their jobs and protect national security along the northern border.

**Project Prioritization**

In 2005, Congress asked CBP to develop and implement a master construction planning process that included a strategy to prioritize land port of entry modernization projects and an implementation schedule for this prioritized modernization. Moreover, the U.S. Senate Appropriations Committee Report 108-086 requested CBP develop a nationwide strategy to prioritize and address infrastructure needs at land ports of entry, and Conference Report 108-280 requested CBP submit a master construction plan.

In response, CBP partnered with GSA to examine the total land port of entry modernization needs for all 163 U.S. land ports of entry. CBP's process for establishing a capital investment plan consists of five steps: gathering data using the Strategic Resource Assessment process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan.

**Strategic Resource Assessments (SRAs)**: CBP conducts SRAs cyclically to compare facility modernization needs against 60 distinct criteria in four categories: Mission and Operations; Security and Life Safety; Space and Site Deficiency; and Personnel and Workload Growth. CBP employs the data collected through the SRA to present a uniform picture of needs across land port inspection facilities along the northern and southern borders.

**Ranking by Need:** After conducting the SRAs, CBP ranks facilities based on criticality of need for modernization by calculating a combined score for each facility using the data points collected in the SRA and the criteria of the predefined four categories, adjusted to reflect the relative weight of each category to the facility's overall score. Table 1 shows the main data categories and their assigned weights.

**Table 1 – Weighted scaling criteria for LPOE project prioritization**

| Criteria and Weights | |
|---|---|
| | |
| Mission and Operations | 35% |
| Security and Life Safety | 25% |
| Space and Site Deficiencies | 25% |
| Personnel and Workload Growth | 15% |

This overall score represents CBP's initial needs assessment of relative urgency at a given facility compared with the national inventory of inspection facilities. This initial ranking, however, does not represent the final prioritization or investment strategy. CBP applies two additional analyses to develop a prioritized investment plan for land port modernization projects.

**Sensitivity Analysis:** CBP applies a sensitivity analysis of the initial ranking to determine if the results should consider factors unaccounted for through the standard SRA process, such as any unique regional or local conditions. Recent examples of this type of data sensitivity include identification of new manufacturing developments immediately adjacent to an existing port facility that increase the demand for commercial processing capacity, facility damage resulting from floods that occurred after the SRA, and the development of new land port facility proposals in the same transportation region as an existing facility. This information helps CBP identify additional drivers, constraints, and legislative mandates that may change the critical needs ranking. CBP incorporates sensitivity analysis factors in the development of an initial prioritization list.

**Assessing Feasibility and Risk:** CBP then evaluates the proposed project's feasibility and risks associated with implementation, such as environmental conditions, cultural and historic preservation requirements, or land acquisition issues. In addition, CBP considers the likely availability of funding to determine whether sufficient resources exist to execute a project.

**Establishing a Capital Investment Plan:** Finally, CBP arrives at a final prioritization of proposed modernization projects and develops a capital investment plan. This capital investment plan divides the project list into feasible annual work plans that reflect the analytical conclusions and incorporate project phasing and funding requirements. CBP updates the capital investment plan annually, taking into account any changes in the Department of Homeland Security's (DHS) mission and strategy, changing conditions at the ports, and factors discovered in the course of projects already underway.

**Additional ARRA Requirements:** The enactment of ARRA imposed two specific requirements that directly impacted CBP's investment strategy: a delineation of funds by ownership category and a requirement that funds are obligated by September 2010.

*Port Ownership*

As previously noted, the United States has 163 land ports of entry, 96.5 of which are owned by the General Services Administration (GSA), 22.5 of which are leased by GSA, and 43 of which are owned by CBP. While ARRA allocated $720 million for LPOE modernization, the legislation explicitly stated that DHS receive $420 million specifically for ports owned by CBP. Of the 43 CBP-owned ports of entry, 39 are located along the northern border. Many of the CBP-owned facilities are small, rural, low-traffic ports that fall far short of modern security standards. ARRA appropriated the remaining $300 million to GSA for GSA-owned land port facilities.

As a result of this distinction, CBP was required to incorporate port ownership into the analysis used to develop program-specific plans for ARRA-funded land port modernization projects. Taking the original investment strategy that considered all 163 locations as a starting point, CBP was required to limit the pool of potential projects to receive the CBP ARRA funding to the 43 CBP-owned locations. For the remaining $300 million, the pool was limited to those ports directly owned by GSA, excluding GSA-leased land port facilities.

*Risk Analyses and Shovel-Readiness*

In addition to the ownership distinction, ARRA required CBP to incorporate additional risk analyses in the selection of projects to determine which would quickly infuse money into the economy as required by the law. CBP analyzed the risk factors that could impact the feasibility of implementing major construction projects at the ports, including land acquisition requirements, the presence of potential environmental conditions requiring mitigation, and engineering or design issues known at the time. By applying this risk analysis, CBP identified the most shovel-ready projects in order to comply with ARRA's time constraints.

**Cost Estimates and Acquisition Strategy**

In Spring and Summer 2009, CBP developed independent cost estimates for the ARRA modernization projects in coordination with the U.S. Army Corps of Engineers and the U.S. General Services Administration based on past construction projects, industry standard costs, federally mandated local wage rates, location, and anticipated inflation prior to awarding any contracts. Site specific costs were factored into initial estimates for some locations to account for land acquisition, environmental remediation, and higher than average site work costs (due to remoteness, terrain, site layout, wetland/flood plain mitigation, etc.). In addition to the design/build contract for the port facilities themselves, total project costs cover voice/data technology, land acquisition, moving services, risk-adjusted project contingencies, environmental remediation, and program/project management support.

The actual costs for the design/build construction portion of the project were driven down during the negotiation of contract awards in Summer and Fall 2009. Contracts for these modernization projects were awarded on a competitive, fixed-price basis, meaning CBP asks vendors to bid against a prescribed set of work packages that comprise the entire project and the vendor is

allowed to re-allocate the values between labor and materials within each work package but cannot exceed the overall bottom line. By comparing vendor proposals for each of these work packages against each other and the independent government cost estimate, and monitoring and reviewing each of these work packages as the project has progressed, CBP has been able to maximize the value of the government's investment—reducing costs by an average of 25% per port from the original cost estimates.

For each of the design/build projects, CBP is employing a multi-pronged acquisition strategy designed to balance our need to quickly infuse ARRA resources into the economy with the Department's commitment to providing small businesses with the opportunity to compete for these projects. For the first 17 projects awarded, CBP drew upon existing, previously-competed, multiple award design-build contracts established by GSA and the U.S. Army Corps of Engineers. Through these acquisition vehicles, we were able to quickly award task orders with significant small business subcontracting requirements. Our ability to utilize preexisting contracts created by other agencies provided an opportunity to save time, manpower, and procurement costs.

CBP plans to award the next six design/build contracts through direct small business set aside competitions. In an effort to reach as many small businesses as possible, CBP conducted market research to identify small businesses in each region, held a small business forum in Montana, conducted small business webinars for interested businesses, and coordinated with Small Business officers in the states where the targeted land ports of entry are located. We are currently developing the acquisition strategy for additional projects, and are continuing to search for opportunities to engage with the small business community.

**Conclusion**

Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee: thank you again for this opportunity to testify about CBP's efforts to modernize our ports of entry. ARRA provided CBP with a much-needed infusion of capital to modernize our land ports of entry so that we can better secure our borders and facilitate legitimate trade and travel into the U.S. I look forward to answering your questions.

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| **Question#:** | 1 |
| **Topic:** | distinction |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Submitted by Department of Homeland Security**

**Question:** What is the distinction between a border station and a land port of entry?

**Response:** Generally, "land port of entry" and "border station" are synonymous. CBP uses the term "land port of entry" (LPOE) more commonly than "border station" to avoid confusion with a border patrol station which are the facilities used by CBP's Border Patrol.

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| **Question#:** | 2 |
| **Topic:** | security |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Please identify any the [sic] security deficiencies that were seen along the northern border, especially immediately after 9/11.

**Response:** CBP identified a multitude of deficiencies across the entire land port of entry (LPOE) inventory which place a strain on the port infrastructure and challenge our ability to effectively and efficiently carry out our border security mission, including:

- Rapid post-9/11 evolution of CBP mission and operational requirements;
- Current facilities designed to meet legacy missions;
- On average, facilities over four decades old, with some facilities constructed more than 70 years ago;
- Facilities unable to adapt to evolving operations or inspection technologies;
- Deficiencies so severe that only complete replacement would allow them to fully support CBP's operational requirements.

Within the CBP-owned inventory specifically, primary deficiencies include the following:

1. **Port Security**
   - Inadequate or non-existent perimeter fencing and border gates;
   - Inadequate sightlines to oncoming traffic and inspection areas;
   - Lack of or insufficient signage, traffic barriers, and traffic controls;
   - Out-dated security, surveillance systems, and access control;
   - Commingling of referral and public parking with staff parking.
2. **Site Utilities and Infrastructure**
   - Traffic layout hazards, insufficient and poor paving, improper turning radii for trucks and cars;
   - Insufficient utilities including electrical, plumbing, fire suppression, and network connectivity;
   - Unreliable or inadequate backup power systems;
   - Poor site drainage and flooding.
3. **Emergent Repair Issues**
   - Mold and air quality issues;
   - Structural fatigue and roof leaks;
   - Trip hazards;
   - Poor or non-existent building insulation.

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| **Question#:** | 2 |
| **Topic:** | security |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

4. **Mission Impediments**
   - No or insufficient holding cells, secured areas, or violator processing areas;
   - Pre-DHS operational layouts;
   - No inspection booths for primary operations;
   - Lack of secondary inspection canopies or enclosures, exposing officers to harsh climates and makeshift operations on the side of the road;
   - Insufficient site and building space to perform operations or support inspection technologies;
   - Inadequate separation between port staff and the public;
   - Lack of commercial inspection facilities.

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| **Question#:** | 3 |
| **Topic:** | projects |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** How were modernization projects for the northern border prioritized? What criteria were used?

**Response:** CBP does not prioritize its modernization needs by border; rather, CBP prioritizes its LPOE inventory through a multi-layered capital investment planning process which consists of five steps: gathering data using the Strategic Resource Assessment process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan.

CBP conducts Strategic Resource Assessments (SRAs) cyclically to compare facility modernization needs against 60 distinct criteria in four categories: Mission and Operations, Security and Life Safety, Space and Site Deficiency, and Personnel and Workload Growth. CBP employs the data collected through the SRA to present a uniform picture of needs across land port inspection facilities along the northern and southern borders.

Next, CBP ranks facilities based on criticality of need for modernization by calculating a combined score for each facility using the data points collected in the SRA and the criteria of the predefined four categories, adjusted to reflect the relative weight of each category to the facility's overall score.

The overall score generated from this ranking represents CBP's initial needs assessment of relative urgency at a given facility compared with the national inventory of inspection facilities. This initial ranking, however, does not represent the final prioritization or investment strategy. CBP applies two additional analyses to develop a prioritized investment plan for land port modernization projects.

First, CBP applies a sensitivity analysis of the initial ranking to determine if the results warrant consideration of factors unaccounted for through the standard SRA process, such as any unique regional or local conditions. Recent examples of this type of data sensitivity include identification of new manufacturing developments immediately adjacent to an existing port facility that increase the demand for commercial processing capacity, facility damage resulting from floods that occurred after the SRA, and the development of new land port facility proposals in the same transportation region as an existing facility. This information helps CBP identify additional drivers, constraints, and

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| **Question#:** | 3 |
| **Topic:** | projects |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

legislative mandates that may change the critical needs ranking. CBP incorporates sensitivity analysis factors in the development of an initial prioritization list.

CBP then evaluates the proposed project's feasibility and risks associated with implementation, such as environmental conditions, cultural and historic preservation requirements, or land acquisition issues. In addition, CBP considers the likely availability of funding to determine whether sufficient resources exist to execute a project.

Finally, CBP arrives at a final prioritization of proposed modernization projects and develops a capital investment plan. This capital investment plan divides the project list into feasible annual work plans that reflect the analytical conclusions and incorporate project phasing and funding requirements. CBP updates the capital investment plan annually, taking into account any changes in the Department of Homeland Security's (DHS) mission and strategy, changing conditions at the ports, and factors discovered in the course of projects already underway.

The enactment of American Recovery and Reinvestment Act (ARRA) imposed two specific requirements that had a direct impact on CBP's investment strategy: a delineation of funds by ownership category and a requirement that funds be obligated by September 2010. Moreover, projects under ARRA were encouraged to begin within 120 days of the date ARRA was enacted.

The LPOE portfolio consists of 165 ports, 98.5 which are owned by the General Services Administration (GSA), 22.5 which are leased by GSA, 43 which are owned by CBP, and one which is owned by the National Park Service (NPS). While ARRA allocated $720 million for LPOE modernization, the legislation further specified that DHS receive $420 million specifically for ports owned by CBP, i.e., 39 ports of entry along the northern border and four along the southwest border. The CBP-owned facilities are small, rural, low-traffic ports that are ill-equipped to meet the current security needs. The legislation appropriated the remaining $300 million to GSA for GSA-owned land port of entry facilities. As a result of this distinction, CBP was required to incorporate port ownership into the analysis used to develop program-specific plans for ARRA-funded land port modernization projects. Of the original investment strategy that considered all 165 locations, CBP was reduced the pool of available projects to just 43 potential locations for the $420 million appropriated to CBP, and GSA limited their pool to those ports that are Federally owned under GSA control for the remaining $300 million appropriated to GSA.

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| **Question#:** | 3 |
| **Topic:** | projects |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

In addition to the ownership distinction, ARRA required CBP to incorporate additional risk analyses in the selection of projects, which would quickly infuse money into the economy. CBP analyzed the risk factors that could impact the feasibility of implementing major construction projects at the ports, including land acquisition requirements, the presence of potential environmental conditions requiring mitigation, and engineering or design issues known at the time. By applying this risk analysis, CBP identified the projects that were the fastest to award and most feasible under ARRA qualifications.

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| **Question#:** | 4 |
| **Topic:** | 5 steps |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** You mention 5 steps that CBP took to examine nation wide land port of entry needs. Please briefly discuss these five steps. What role did GSA plan in developing these five steps?

**Response:** As discussed previously, CBP prioritizes its LPOE inventory through a multi-layered capital investment plan which consists of five steps: gathering data using the Strategic Resource Assessment process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan.

CBP conducts Strategic Resource Assessments (SRAs) cyclically to compare facility modernization needs against 60 distinct criteria in four categories: Mission and Operations, Security and Life Safety, Space and Site Deficiency, and Personnel and Workload Growth. CBP employs the data collected through the SRA to present a uniform picture of needs across land port inspection facilities along the northern and southern borders.

Next, CBP ranks facilities based on criticality of need for modernization by calculating a combined score for each facility using the data points collected in the SRA and the criteria of the predefined four categories, adjusted to reflect the relative weight of each category to the facility's overall score.

The overall score generated from this ranking represents CBP's initial needs assessment of relative urgency at a given facility compared with the national inventory of inspection facilities. This initial ranking, however, does not represent the final prioritization or investment strategy. CBP applies two additional analyses to develop a prioritized investment plan for land port modernization projects.

First, CBP applies a sensitivity analysis of the initial ranking to determine if the results should consider factors unaccounted for through the standard SRA process, such as any unique regional or local conditions. Recent examples of this type of data sensitivity include identification of new manufacturing developments immediately adjacent to an existing port facility that increase the demand for commercial processing capacity, facility damage resulting from floods that occurred after the SRA, and the development of new land port facility proposals in the same transportation region as an existing facility. This information helps CBP identify additional drivers, constraints, and

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| **Question#:** | 4 |
| **Topic:** | 5 steps |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

legislative mandates that may change the critical needs ranking. CBP incorporates sensitivity analysis factors in the development of an initial prioritization list.

CBP then evaluates the proposed project's feasibility and risks associated with implementation, such as environmental conditions, cultural and historic preservation requirements, or land acquisition issues. In addition, CBP considers the likely availability of funding to determine whether sufficient resources exist to execute a project.

Next, CBP arrives at a final prioritization of proposed modernization projects and develops a capital investment plan. This capital investment plan divides the project list into feasible annual work plans that reflect the analytical conclusions and incorporate project phasing and funding requirements. CBP updates the capital investment plan annually, taking into account any changes in the Department of Homeland Security's (DHS) mission and strategy, changing conditions at the ports, and factors discovered in the course of projects already underway.

This multi-layered approach was developed by CBP. GSA is a partner in the execution of this five step approach.

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| **Question#:** | 5 |
| **Topic:** | model |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Please discuss the Strategic Resource Assessment model. Are the 4 criteria prioritized?

**Response:** As discussed previously, the Strategic Resource Assessment model is part of the CBP multi-layered process for developing its capital investment plan. CBP conducts Strategic Resource Assessments (SRAs) cyclically to compare facility modernization needs against 60 distinct criteria in four categories: Mission and Operations, Security and Life Safety, Space and Site Deficiency, and Personnel and Workload Growth. CBP employs the data collected through the SRA to present a uniform picture of needs across land port inspection facilities along the northern and southern borders.

The four categories of facility modernization needs used within the SRA process are then weighted to produce a final deficiency score. Table 1 shows the main data categories and their assigned weights.

**Table 1** – Weighted scaling criteria for LPOE project prioritization

| Criterion | Weight |
|---|---|
| Mission and Operations | 35% |
| Security and Life-Safety | 25% |
| Space and Site Deficiencies | 25% |
| Personnel and Workload Growth | 15% |

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| **Question#:** | 6 |
| **Topic:** | construction |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** How big a problem are land acquisition issues? What is the CBP policy regarding construction on leased property?

How steady has [sic] the annual appropriations been to enable CBP to adhere to its plan?

**Response:** The land acquisition issues associated with the ARRA LPOE modernization effort are no greater than the standard real estate challenges for similar construction projects. CBP must address a number of challenges associated with land ownership when conducting a modernization project. Three of the issues that CBP commonly faces include:

- A proposed site falls on several land parcels and multiple land negotiations must take place;
- Targeted land is privately owned and therefore must be leased or land acquisition must be negotiated;
- A landowner is unwilling to sell the land and CBP must seek to condemn it.

Generally, land acquisition is preferred to construction on a leased property, but we explore all reasonable options in order to meet mission needs. When making leasing determinations, CBP follows all OMB guidelines, including OMB Circular A-11. LPOE modernization has received an average appropriation of $146.4 million per year over the last eight years, not counting ARRA funding, but this annual appropriation amount fluctuates greatly from year to year.

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| **Question#:** | 7 |
| **Topic:** | ARRA |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** How much did you get in ARRA funding? Your ARRA funding contained certain restrictions. What are the restrictions?

**Response:** ARRA appropriated $720 million to upgrade land port of entry facilities along the northern and southern borders of the United States. Of the total amount, the Department of Homeland Security (DHS) received $420 million specifically for the modernization of 43 land ports owned by CBP. GSA received the remaining $300 million for GSA- owned facilities.

As discussed in Question 3, the enactment of ARRA imposed two specific requirements that had a direct impact on CBP's port investment strategy: a delineation of funds by ownership category; and, a requirement that funds be obligated by September 2010. Moreover, projects under ARRA were encouraged to begin within 120 days of the date ARRA was enacted.

**Question:** Is CBP on schedule to obligate the funds by September 2010?

**Response:** Yes, CBP is on schedule to obligate the $420 million of ARRA funds by September 2010.

**Question:** How will CBP use the $420 for its land ports of entry? What kinds of projects are contemplated? Since the ARRA funds are limited to CBP owned ports of entry, if my math is correct, that means approximately $10 million could be spent on each of your 43 owned facilities.

**Response:** CBP will use the $420 million on the modernization of CBP-owned LPOEs to include:

- As many as 33 Design/Build projects. Design/build construction contracts include:
    - Road relocation and construction
    - Identification of best potable water sources
    - Fill for floor elevations, including structural, backfill and waterways fill
    - Parking facilities
    - Installation of bollards
    - Fencing and gates
    - Tower construction

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| **Question#:** | 7 |
| **Topic:** | ARRA |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

    - Secondary Inspection Garage
- Repair & Alteration (R&A) Projects at those LPOEs not receiving design/build projects. R&A Projects include:
    - Installation of emergency generators
    - Installation of the Border Security Deployment Program (BSDP)
    - Conduct emergent repairs to address health and life safety issues
- Program Management Reporting System (PMRS). PMRS is a commercial-off-the-shelf (COTS) system providing integrated project management and facility lifecycle management capability.
- Program Support of port modernization projects

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| **Question#:** | 8 |
| **Topic:** | usage rates |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Are usage rates or amount of trade used as criteria for in the decision making for a major renovation of a land port of entry? Is there a minimum usage rate to initiate design?

**Response:** As discussed in Question 3, CBP prioritizes its LPOE inventory through a multi-layered capital investment plan which consists of five steps: gathering data using the Strategic Resource Assessment (SRA) process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan. Workload Growth is a factor considered within the SRA and ranking process, but it is not the only factor used to determine a port's needs for renovation.

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| **Question#:** | 9 |
| **Topic:** | criteria |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** What are the criteria used to determine the extent of renovations at a facility?

**Response:** As discussed in Question 3, CBP prioritizes its LPOE inventory through a multi-layered capital investment plan which consists of five steps: gathering data using the Strategic Resource Assessment (SRA) process; ranking the facilities by identified needs; conducting a sensitivity analysis on the initial ranking of needs; assessing project feasibility and risk; and establishing an executable capital investment plan.

Subsequently, CBP and GSA determine the extent of needed modernization by conducting project-level feasibility and environmental studies to consider alternative strategies to resolve the identified needs at a given location. Through this study and assessment process, CBP and GSA develop the project scope that forms the basis for design and/or design build acquisitions.

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| **Question#:** | 10 |
| **Topic:** | list |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** What are the shovel ready projects? Please provide a complete list to the subcommittee.

**Response:** CBP has identified as many as 33 sites and has initiated design/build replacement projects at 23 of them. These 23 sites include:

- Antelope Wells, NM
- Frontier, WA
- Scobey, MT
- Boundary, WA
- Los Ebanos, TX
- Walhalla, ND
- Neche, ND
- Morses Line, VT
- Hamlin, ME
- Noonan, ND
- Antler, ND
- Wild Horse, MT
- Del Bonita, MT
- Cannon Corners, NY
- Churubusco, NY
- Hansboro, ND
- Pinnacle Road, VT
- Pittsburg, NH
- Carbury, ND
- Westhope, ND
- Morgan, MT
- Whitetail, MT
- Sherwood, ND

CBP is currently reviewing the additional sites on which CBP may possibly conduct design/build projects using funding that may become available due to cost savings from the initial 23 design/build projects.

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| **Question#:** | 11 |
| **Topic:** | method |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Did you consider any other method of procurement other than design/build, which as you know is expensive?

**Response:** CBP considered various procurement methods for the construction projects during the development of the ARRA LPOE Acquisition Strategy and determined that from both a speed and a budgetary perspective, design/build procurements would be the most expeditious as well as cost effective procurement method for the ARRA funded capital projects. Due to the time constraints associated with ARRA, CBP determined that design/build projects would best support the port modernization efforts. Design/build project benefits include: increased likelihood of construction remaining within budget; single point of responsibility for streamlined communications and reduced administrative burden; and greater likelihood of remaining on schedule because construction can begin before the final design is completed.

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| **Question#:** | 12 |
| **Topic:** | benefit |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** CBP, rather than inventing the "construction wheel," drew upon existing GSA and Corps contracts. What was the main benefit of being able to use these contracts?

**Answer:** To award the first 17 projects, CBP partnered with both GSA and the U.S. Army Corps of Engineers (USACE) to award design/build contracts against the GSA Indefinite Delivery/Indefinite Quantity (IDIQ) design/build contract and the USACE Multiple Award Task Order contract vehicles. Additionally, CBP identified an additional six design/build contracts as small business set aside competitions utilizing its own internal procurement capabilities. The combination of these acquisition strategies has allowed CBP to balance the drive to quickly infuse ARRA funding into the national economy with the need to ensure that ARRA funding is reaching directly into the small business community.

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| **Question#:** | 13 |
| **Topic:** | private sites |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Please provide a list of all privately-owned sites with their locations.

**Response:** The below listed sites are not federally-owned but GSA leases space at each location for CBP use. GSA leases a portion of their sites. These sites are listed below:

- Buffalo, NY - Peace Bridge
- Burke, NY - Jamison's Line
- Crane Lake, MN
- Detroit, MI - Ambassador Bridge
- Detroit, MI - Windsor Tunnel
- Eagle Pass II, TX
- Estcourt, ME - St. Francis
- Hidalgo, TX
- Laredo Bridge IV, TX - World Trade Bridge
- Lubec, ME
- Niagara Falls, NY - Lewiston Bridge
- Niagara Falls, NY - Rainbow Bridge
- Niagara Falls, NY - Whirlpool Rapids
- Ogdensburg, NY
- Port Huron, MI - Blue Water Bridge
- Presidio, TX
- Progreso, TX - B&P Bridge
- Rio Grande City, TX - Starr-Camargo Bridge
- Roma, TX - Starr County International Bridge
- St. Aurelie, ME
- St. Juste, ME
- St. Zacharie, ME
- Stanton Street El Paso, TX - Good Neighbor Bridge

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| **Question#:** | 14 |
| **Topic:** | GSA |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Please look at the General Services Administration's apprenticeship program and report to the Subcommittee what aspects, if any, are applicable to Customs and Border Patrol.

**Response:** CBP is working with the GSA apprenticeship program to identify possible aspects of the program that would be applicable to CBP and the port modernization initiative. CBP will continue to assess its internal organization in an effort to identify opportunities to implement similar apprenticeship programs.

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| **Question#:** | 15 |
| **Topic:** | small business |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

**Question:** Please submit to the Subcommittee a copy of your small business plan and the results of that plan up so far.

**Response:** CBP employed a three-pronged acquisition strategy to balance the goals of infusing money into the economy, meeting operational requirements, and ensuring competition.

For the initial 17 design/build projects, CBP pursued a strategy that emphasizes subcontracts with small businesses and has incorporated this objective into its Interagency Agreements (IAAs) with USACE and GSA. For the task orders awarded under GSA and USACE contract vehicles, CBP has required that a subcontracting plan be submitted by the USACE and GSA prime contractors. This plan requires to identification of the percentage of work targeted for small business for each CBP LPOE project.

To enhance the efforts to engage small businesses, CBP worked with GSA and USACE to develop an evaluation factor for the subcontracting plan and the contractor's approach to using small business. The evaluation of all subcontracting plans prior to award ensures that specific emphasis is placed on subcontracting to small businesses. In addition, CBP has and will continue to evaluate the prime contractors past performance in meeting its subcontracting goals, which will help CBP identify and select contractors that have successfully proven their ability to meet small business objectives.

After contract award, as part of its project management and contract administration activities, CBP will work with USACE and GSA to conduct milestone reviews, which will focus specifically on the contractors' efforts and ability in meeting the subcontracting goals identified within their approved subcontracting plan. In addition to having these milestone reviews with CBP, USACE and GSA will use the data obtained from the Electronic Subcontracting Reporting System (ESRS) to measure the prime contractor's actual post-award performance against the subcontracting goals and will take appropriate action on those contractors not meeting the subcontracting goals.

Additionally, CBP has set aside six design/build contracts to procure directly through small business competitions. .
The small business contracting strategy for each project site is as follows:

- Boundary, WA: 8(a) Small Business Set-Aside

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| **Question#:** | 15 |
| **Topic:** | small business |
| **Hearing:** | Border Stations and stimulus funds |
| **Primary:** | The Honorable Eleanor Holmes Norton |
| **Committee:** | TRANSPORTATION (HOUSE) |

- Cannon Corners, NY: HUBZone Small Business Set-Aside
- Del Bonita, MT: Small Business Set-Aside
- Hamlin, NY: 8(a) Small Business Set-Aside
- Los Ebanos, TX: Service Disabled Veteran-Owned Small Business Set-Aside
- Morses Line, VT: Small Business Set-Aside

STATEMENT OF

WILLIAM GUERIN
EXECUTIVE

RECOVERY PROGRAM MANAGEMENT OFFICE
OF THE PUBLIC BUILDINGS SERVICE

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

DECEMBER 2, 2009

Good morning, Chairwoman Norton, Ranking Member Diaz-Balart, and members of this Subcommittee. My name is William Guerin and I am the Recovery Executive in the Recovery Program Management Office of the General Services Administration's Public Buildings Service (PBS). Thank you for inviting me to appear before you to discuss our responsibilities for our nation's Land Ports of Entry (LPOE) and the challenge of balancing national security with the free flow of trade and travel. Today I will be discussing GSA's LPOE program, our close collaboration with the Department of Homeland Security's U.S. Customs and Border Protection (CBP), and our community involvement. I will also provide an update on GSA's LPOE projects funded by the American Recovery and Reinvestment Act of 2009 (Recovery Act).

Trade across America's borders has dramatically increased during the past 15 years; the capacity of our LPOEs to accommodate this new traffic has not kept pace. We are committed to expanding capacity of our LPOEs and building new facilities where they are needed most in a timely manner. We are actively working with our key partners and stakeholders to design, build, expand, and maintain the best LPOEs for the safety of the United States.

GSA LPOE Program

There are currently 163 LPOEs along America's borders, including 42 LPOEs along the 1,900 mile southern border and 121 along the 5,000 mile northern border. GSA owns or leases these LPOEs and is the service provider to CBP for 119, or about 75% of these ports. The Department of Homeland Security controls 43 LPOEs, while the National Park Service operates an LPOE in Minnesota.

The United States actively consults with both the Canadian and Mexican governments when performing improvements on existing LPOE's that create changes in functionality and when constructing new facilities. In determining the demand for new facilities, GSA performs analysis in collaboration with the private sector including traffic analysis (Border Wizard) and feasibility studies. In 1968, President Lyndon Johnson issued Executive Order (EO) 11423 authorizing the Secretary of State to issue Presidential permits for the construction and operation of facilities crossing our international borders. In 2004, President George W. Bush issued EO 13337 which amended EO 11423 to include land border crossings of either motor or rail vehicles among the facilities requiring a Presidential permit. In 2005, the Department of State issued interpretative guidance of this requirement in the Federal Register (70 Fed. Reg. 45748), clarifying that the Presidential permitting process applied to all new border crossings, as well as to substantial modifications to existing crossings. GSA worked closely with the Federal Highway Administration, CBP, and the Department of State to develop implementing guidelines that streamlined the

Presidential permitting process for LPOEs. All new LPOEs and any substantial changes to LPOEs that impact Canada or Mexico require a Presidential permit. However, the majority of GSA's routine renovations, infrastructure improvements, and interior changes to existing border inspection facilities do not require a permit.

Project Delivery

There are multiple ways GSA acquires a site for a new LPOE. In some instances, particularly on the southwest border, sites are donated by local municipalities. GSA also may purchase land or acquire a site through eminent domain where land donation is not viable.

GSA has been working closely with CBP to decrease the delivery time for LPOEs.

Since September 11, 2001, we have worked to streamline the cost and time required to develop, deliver, and maintain LPOE facilities, while ensuring that facilities continue to meet CBP's mission requirements. GSA and CBP jointly identified the following four actions to speed the delivery of LPOEs:

- **CBP will prioritize construction and modernization projects**: CBP has developed an objective methodology for ranking and prioritizing new projects based on its assessment of the physical urgency and its mission priorities.

- **GSA will increase the use of design/build contracts**: GSA can shorten the delivery schedule by selecting a single contractor for both project design and construction.

- **GSA and CBP will increase standardization of common LPOE components**: GSA and CBP identified seven LPOE components (*e.g.*, booths, canopies) as candidates for standardization for all new LPOE projects. Standardization as well as adapting an existing LPOE design to a different site would speed design and delivery of projects.

- **GSA has developed IDIQ contracts for LPOE design services**: GSA has developed indefinite delivery/ indefinite quantity (IDIQ) contracts for design teams devoted to LPOE projects. This expedites the design process and accelerates overall project delivery.

In looking at ways to decrease delivery times, GSA and CPB jointly reviewed GSA's project delivery methods and streamlined, wherever possible. In an effort to establish a consistent approach in LPOE pre-design, design and acquisition, GSA consolidated the funding and procurement of commonly used services, including feasibility studies, project design and special services.

To establish consistency and provide a quality product, GSA held two competitions for a national architecture and engineering services contract. One competition selected architecture and engineering firms to conduct border station feasibility studies, and a second selected design firms to provide LPOE design services. The selected firms were vetted through these national competitions before receiving training from our regional and national offices to ensure a clear understanding of the GSA/CBP mission, objectives, and priorities. These approaches to national contracts help establish consistency across feasibility studies and facility designs, while reducing the time to conduct the procurement process by up to five months.

The recently completed new international crossing between the communities of Calais, Maine and St. Stephen, New Brunswick is a prime example of cooperation among different levels of government within the United States and Canada. As the lead agency, the Maine Department of Transportation established from the outset a comprehensive and effective planning process that incorporated the interests of all stakeholders.

GSA also is greening our borders as we introduce U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) Gold certified projects at our Calais, Maine and San Luis II, Arizona LPOE facilities. We are achieving a minimum level of LEED Silver in several other project locations, including Massena, New York and Jackman, Maine. New projects will address the President's most recent goals in Executive Order 13514 to reduce our greenhouse gas emissions, increase our energy efficiency, conserve water, reduce waste and support sustainably designed buildings.

GSA/CBP INTERACTION

GSA works together with CBP on many national and regional levels. CBP and GSA share a common goal of delivering state-of-the-art facilities to support efficient cross-border trade and travel. GSA collaborates with CBP to identify and move forward on LPOEs that CBP believes are the highest priority. In support of this effort, this Committee already has authorized three of CBP's top priorities for FY2010: Tornillo-Guadalupe LPOE in Texas, Calexico West LPOE in California, and the Madawaska LPOE in Maine.

Community Outreach

GSA engages local communities (who themselves often initiate border crossing projects) as early as possible when planning new LPOE construction and modernization projects. We recognize the importance of including the local community throughout the process and we continue to strive for open and meaningful communication. While the long-term benefits of LPOE projects (not just near the border but across the country) are easy to recognize, we also understand the potentially adverse short-term effects on local economies while

traffic is diverted or wait times increase during construction. To minimize such effects, we are committed to open dialogue between and among the stakeholders. GSA, through the NEPA process, is afforded the opportunity to incorporate public comment on any particular project. Public comment can ultimately be integrated into design if applicable.

Recovery Act

The Recovery Act gave us an unprecedented and exciting opportunity to contribute to our nation's economic recovery. The investments we are making in our LPOEs and other Federal buildings throughout the country are helping to stimulate job growth and retention in the construction and real estate sectors, while reducing energy consumption, improving environmental performance, promoting national security, and encouraging international commerce.

We continue to follow our aggressive schedule of awarding Recovery Act funded projects and delivering a higher performing, green building inventory. As of November 27, 2009, GSA has obligated over $1.4 billion for Federal building construction and renovation projects funded by the Recovery Act and has expended over $85 million. Of this amount, more than $76 million was obligated and over $34 million expended for our LPOEs.

The Recovery Act designated $300 million of the $5.5 billion specifically for LPOEs under the primary jurisdiction of GSA. In selecting projects, we used two overarching criteria: ability of the project to put people back to work quickly, and transforming Federal buildings into high-performance green buildings. In addition to these, we considered the priorities of CBP including reducing wait times. Our selection criteria included:

- High-Performance Features, concentrating on energy conservation and renewable energy generation
- Speed of Construction Start (creating jobs), with an emphasis on those projects that could begin within 120 days
- Execution Risk, making provisions so that the projects will not fail due to unforeseen conditions
- Facility Condition, applying the Facility Condition Index, a standard real estate industry index that reflects the cost of repair and alteration backlog of a particular building relative to the building's replacement value
- Improving Asset Utilization
- Return on Investment
- Avoiding Lease Costs

- Historic Significance

As identified to this Committee on March 31, 2009, the following LPOEs were selected for Recovery Act funding:

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| ME | Calais U.S. Land Port of Entry | $ 6,300,000 |
| ME | Madawaska U.S. Land Port of Entry | 750,000 |
| ME | Van Buren U.S. Land Port of Entry | 39,727,000 |
| NM | Columbus U.S. Land Port of Entry | 2,447,000 |
| AZ | Nogales West U.S. Land Port of Entry | 199,480,000 |
| CA | Otay Mesa U.S. Land Port of Entry | 21,296,000 |
| WA | Blaine Peace Arch U.S. Land Port of Entry | 30,000,000 |

We are moving forward on all of these projects. Notably, we just broke ground on the modernization of the Mariposa LPOE in Nogales, Arizona. This project is primarily funded by the Recovery Act, and includes the demolition and reconstruction of all facilities within America's third-busiest border crossing. The new facility will include a pedestrian and bus passenger processing facility; 12 primary inspection booths; 24 secondary inspection stations for northbound vehicles; eight commercial inspection lanes; 50 commercial inspection docks; 6 screened and secure inspection docks; administration buildings; and approximately 400 new surface parking spaces.

The Mariposa LPOE will be built to achieve a LEED Silver certification. It will use electricity-generating photovoltaic solar panels, solar-powered domestic hot water, and advanced lighting. Our goal is to provide up to 20% of the facility's energy with solar power produced on-site. Construction is expected to be completed in 2014.

Reimbursable Work at LPOEs

GSA is also supporting CBP's LPOE Modernization Program by providing acquisition, project management, planning, design/build, and construction management services for those LPOEs under the jurisdiction and control of CBP. CBP's Recovery Act funds will be used to replace eight aging LPOEs in four states along the northern border: Morgan, Scobey and Wild Horse in Montana; Churubusco in New York; Antler, Noonan and Maida in North Dakota; and Frontier in Washington. Seven projects were awarded on August 14, 2009, using GSA's IDIQ contracts. Design for seven projects is currently underway and scheduled for completion by the end of January 2010. The eighth, Maida LPOE, is currently scheduled for award in early December. As of November 9, GSA has received approximately $88 million from CBP through reimbursable work authorizations. Of this total, GSA has obligated approximately $57 million.

Progress

Our infrastructure investments are stimulating the economy. We project that over 60,000 job-years will be created from the $5.546 billion in Recovery Act funding allocated to GSA. A job-year simply means one job for one year. This projection is based on the Council on Economic Advisers' May 2009 "Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009," and includes "direct" project delivery jobs, "indirect" supplier jobs, and "induced" jobs elsewhere in the economy. Initial reports indicate that as of October 30, 2009, GSA's Recovery Act funding recipients have created or retained 780 "direct" project delivery jobs as a direct result of Recovery Act funding. Approximately 56 of these jobs are related to LPOE projects. These are positive preliminary indications of GSA's contribution to the economic recovery.

We are also leveraging our Recovery Act investments to turn our large, varied and stable inventory of buildings, including LPOEs, into a proving ground for green building technologies, materials, and operating regimes. By adopting new ideas and products, then evaluating and publicizing our results, GSA is working to become the "go to" source for data on the environmental and economic payback of new systems and procedures. Our investments in innovative technologies and alternative energy solutions will reflect smart decisions about new technologies with good track records and will lead the transformation to a new green economy.

As we move forward with our infrastructure investments, we have set interim target dates for project awards in each quarter to ensure we obligate $5 billion of the $5.5 billion we received in Recovery Act funds by the end of fiscal year 2010. Pursuant to the Recovery Act, all remaining funds will be obligated by the end of fiscal year 2011. Our tracking and reporting systems help us satisfy reporting requirements and better manage our projects. We are monitoring our project variances as "early warning" signals of project slippage.

Conclusion

Securing the nation's borders is critical to preventing terrorists, illegal drugs and harmful products or produce from entering the country, but we must also facilitate the movement of international travel and trade in the form of the millions of travelers and billions of dollars in commercial goods that pass through our LPOEs every year. Due to the critical importance of these border inspection stations to our nation's security, it is imperative for GSA to continue to provide and maintain border crossings and border inspection facilities that can most effectively and efficiently handle the increased demands and future growth of traffic and trade while protecting America's border security.

We look forward to working with you and members of this Committee as we continue to deliver this important work.

**Stimulus Tracking Hearing #4: Ensuring Money Means Security When Building GSA Border Stations to Protect the U.S.A**

**Subcommittee on Economic Development, Public Buildings and Emergency Management**
**Committee on Transportation and Infrastructure**
**U.S. House of Representatives**

**December 2, 2009**

**Follow-up Items**

## 1. Under what circumstances does GSA lease a land port of entry?

GSA leases a land port of entry (LPOE) only when ownership is not a viable option. The most common situation that involves GSA leasing an LPOE is when a quasi-public entity, such as a port authority or bridge commission, owns the crossing that originally was established as a direct response to traffic demand. Most of these facilities, often involving a water crossing, were constructed prior to the establishment of GSA. GSA also may engage in an LPOE lease when a crossing exists solely for a single entity, such as a paper or logging company. Such facilities are very small, remotely located, and are few in number. They usually include an inspector's residence, service private roadways and operate 8 hours per day, 5 days per week — as opposed to the typical 24 hour day, 7 day week at a major crossing.

**2. Please explain the Presidential permitting process. How does it impact on GSA's work?**

The Presidential permit process is designed to facilitate the foreign relations of the United States and to provide a systematic method for obtaining permission from the Department of State for the construction and maintenance at the borders of the United States of facilities connecting the United States with a foreign country. The requirement to obtain such a permit from the Department of State dates back to 1968; previously permits for international bridges were issued by the White House or by Congress. Under a streamlined process instituted in 2007, GSA must obtain a Presidential permit for a project at an existing LPOE that:

- changes the border crossing point of the LPOE; *i.e.*, a new border crossing; or
- constitutes a substantial modification of an existing border crossing of the international border.

In addition, GSA must inform the State Department of changes to an LPOE when such changes reasonably could be expected to have a material effect on Canadian or Mexican government operations in their countries, such as adding lanes to increase capacity, to determine whether a new or amended Presidential permit will be required.

The Department of State has issued to GSA Presidential permits for the San Luis II (Arizona) port of entry that will open later this spring and for the Otay Mesa East (California) port of entry project that is in development. The two agencies continue discussing potential permit requirements for GSA's major modernization projects at San Ysidro, California, Nogales, Arizona, Columbus, NM, Douglas, Arizona, and Calexico, California.

**Background:**

- **Executive Order 11423**, issued August 16, 1968, as amended, authorized the State Department to issue Presidential permits for the construction, operation and maintenance of certain facilities, such as bridges and tunnels, that cross the border between the United States and Mexico or Canada.
- **Executive Order 13337**, issued April 30, 2004, amended EO 11423 to provide a streamlined process of permitting certain energy-related infrastructure, ***and expanded the requirements for Presidential permits to include land border crossings.*** The Department of State convened an interagency working group, which includes GSA, FHWA and CBP, to prepare further guidance on how to implement the new and amended Executive Orders in an efficient manner.
- **Interpretative Guidance on Executive Order 11423**, issued February 23, 2007.

## 3. What is the Border Wizard program and how is it used in designing a land port of entry?

The Border Wizard was developed by a private vendor contracted by GSA and CBP and is a tool that creates a "virtual" land port of entry (LPOE) to analyze current and proposed facilities and operations. GSA is the owner of the software. This software simulates the flow of commercial vehicles, passenger vehicles, busses, and pedestrian traffic entering and leaving the United States at an LPOE. The system consists of a facility layout tool, a simulation model, a statistical analysis system, and a 2-D visualization capability.

**Background:**

Border Wizard enables GSA to:

- Create traffic modeling that can be applied to new and existing LPOEs, while establishing a database that tracks historical traffic data.
- Create a to-scale facilities layout representative of any LPOE.
- Project future traffic changes and determine an LPOE's capability to meet projected demand.
- Perform a regional impact analysis of LPOEs in the same region.
- Analyze the effects of special events, such as road closures and LPOE closures, on traffic queues and wait times, and how long it would take to restore normal conditions following such events.

**4. Although design build contracts claim to save time, in general they can be more expensive. How does GSA work to ensure costs do not get out of hand with design build contracts?**

Design-build as a project delivery method by itself is not more expensive than other methods. However, to shorten a project's duration, accelerated schedules are often paired with design-build projects. Accelerated schedules often result in multiple construction shifts, a premium on fast tracking delivery of long lead items, leading to higher project costs. This additional cost can occur in any project delivery method, whether it is traditional design-bid-build or design-build.

GSA will continue to build upon its past experiences in the design-build arena and assemble project management teams experienced in design-build from a procurement and construction perspective to control costs effectively. GSA also is establishing a cost-estimating database of past design-build contracts to enhance its ability to manage costs associated with design-build contracts.

**5. Please explain how Indefinite Delivery/Indefinite Quantity (IDIQ) contracts expedite construction.**

IDIQ contracts expedite overall construction duration by shortening the procurement process on both design and construction projects. GSA typically needs approximately 6 months to award a contract when considering all facets of the contracting process. The time required to review contractor proposals and negotiate an award is reduced significantly as a result of previously establishing a qualified list of vendors who are familiar with the federal procurement process and, thus, aware of their expectations and performance.

***6. What was the average length of time to construct a border station or land port of entry versus the time it takes now?***

*Until recently, delivery of* significant capital projects , including Federal buildings, LPOE's, and courthouses, required on average seven years, including planning, design, and construction. The overall duration of construction varies between the northern and southern border due to seasonal weather conditions, and much depends upon the complexity of a particular project. However time savings upward of six months have become common with the implementation of expedited design and construction methodologies, such as port standardization and design-build procurement.

**7. Please explain why Tornillo, Texas, Calexico, California, and Madawaska, Maine were top priority projects.**

**GSA collaborates with** the U.S. Customs and Border Protection (CBP) **to develop the five-year** list of priority projects at land ports of entry.

Due to deficiencies at port locations in Tornillo, Calexico and Madawaska, the replacement of these facilities was determined to be of high importance and, accordingly, made a priority for fiscal year 2010.

**Madawaska:** The existing site is very small – situated on less than one acre – and is geographically constrained by the St. Johns River, Fraser Paper, and the Montreal, Maine & Atlantic Railroad. The existing site lacks vehicle maneuverability and is inadequate and outdated for current CBP operational needs and border security. The existing facility also lacks enhancements for officer safety.

**Tornillo:** The existing Fabens-Caseta Bridge was constructed in 1938 and is not sufficiently structurally sound to allow commercial vehicle crossings. The existing facility is compo*s*ed of modular buildings that have reached full capacity and are unable to support the operational needs of CBP, officer safety and border security.

**Calexico:** The existing *facilities are undersized relative to* existing traffic loads and obsolete in terms of *inspection* officer safety and border security. *The ability of DHS to accomplish its rapidly changing mission is seriously compromised by the inadequacies of the existing facilities..*

**8. Given the state of the economy, is GSA seeing better pricing on these and other projects? What is GSA doing with any savings?**

Yes, due to a significant downturn in the commercial construction market, there is more competition for GSA work and GSA is seeing better pricing on land port of entry (LPOE) and other Recovery Act-funded projects. When GSA initially the estimated total project costs associated with the projects identified for Recovery Act investment, we used data based on previous market conditions. Market conditions at the time the estimates were made had seen rapidly escalating building materials costs, particularly for items containing steel. The downturn in the real estate market has resulted in lower cost building materials.

We currently are realizing Recovery Act project costs below our original cost estimates. Preliminary analyses show that our Recovery Act-funded LPOE projects have been awarded at an average of 8% below the original estimated costs.

We are currently evaluating our LPOE projects looking for opportunities to invest identified cost savings into increasing energy efficiency and building performance. We are accomplishing this by adding additional high-performance green building technologies to existing projects' scopes of work.

Although GSA has not made many recent awards in non-Recovery Act-funded LPOE projects, we would expect to see similar savings when our Federal Buildings Fund projects go out to bid. If savings accrue to those projects, GSA would consider investing in additional green features with the savings.

**Is the design delivery schedule for the seven CBP projects still on target for delivery in January 2010?**

The design delivery is anticipated for no later than mid-February 2010 for the following seven CBP projects: Antler, ND; Churubusco, NY; Frontier, WA; Morgan, MT; Noonan, ND; Wild Horse, MT; and Maida, ND. These projects are currently 60 percent complete for design, with construction targeted to begin this spring. Anticipated construction completion is spring 2011.

**9. Please define "job–years" as used in your testimony to measure progress.**

In its May 2009 report, entitled "Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009," the Council on Economic Advisers defines a job-year as one job for one year. The Council's report can be found at:
http://www.whitehouse.gov/assets/documents/Estimate_of_Job_Creation.pdf.

**10. What is GSA doing to ensure job reporting numbers are accurate from recipients of Stimulus money?**

The GSA Public Buildings Service Recovery Program Management Office (Recovery PMO) established a comprehensive Recipient Reporting solution that promotes data completeness, data accuracy, and timely reporting leveraging automated data tools and an Outreach Call Center to work collaboratively with recipients throughout the end-to-end process. The team developed an automated mechanism to pre-populate MS Excel templates with static contract award data from the American Recovery and Reinvestment Act Treasury Account Symbol Report posted daily on the Federal Procurement Data System. The templates were distributed to Prime Recipients for review, completion, and direct upload to FederalReporting.gov. In accordance with OMB M-09-21, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*, Section 4.3, GSA developed a "Data Quality Review Plan" to promote data completeness and accuracy, and outline the approach for preventing and detecting significant reporting errors and material omissions. During the Reporting Phase in FederalReporting.gov, GSA downloaded the agency data extract daily to perform automated and manual data quality review procedures. The Recovery PMO generated daily exception reports to facilitate GSA Contracting Officer reviews and monitor review status and issue resolution.

As described in the "Data Quality Review Plan," data quality review procedures pertaining to the "Number of Jobs" data element involves a level of subjectivity in performing a reasonableness check. GSA implemented a combination of activities, including an automated check to identify outliers, a manual reasonableness check relative to the invoiced amount and, most importantly, leveraging the GSA Outreach Call Center to confirm calculations performed by prime recipients. It is important to note that the current system configuration of FederalReporting.gov does not provide a data element enabling federal agencies to perform data validation effectively for "Number of Jobs." GSA has recommended to the Recovery Accountability and Transparency Board to add a "Total Hours Worked" data element to FederalReporting.gov to equip federal agencies with the data necessary to perform efficient and effective data validation for job creation. We have also apprised OMB of our concern.

**11. Please look at the design prototype Customs and Border Protection (CBP) uses for their border stations and indicate whether GSA could use a design prototype for future courthouse projects?**

Several sources currently exist that provide standards for new courthouse construction.

- GSA's *Facilities Standards for the Public Buildings Service* (P-100) describes standards and criteria for general office space, systems (mechanical, electrical, and plumbing), accessibility, seismic, and structural and blast building elements for all federal buildings, including new courthouses.

- The *2007 U.S. Courts Design Guide* provides information about the functions, operational space needs and space standards for the judiciary, primarily for new courthouses. This Guide provides standards for sizes of spaces and organizational relationships, such as for courtrooms and chambers by court type, the types of spaces needed for a particular division, such as storage, office space and urinalysis facilities, and adjacencies of spaces, to promote the most effective judicial operations.

  The U.S. Marshals Service also has standards used in new courthouse construction, entitled *Judicial Security Systems Requirements and Specifications, Volume 1-3, Publication 64*. These volumes provide standards for U.S. Marshals Service controlled spaces, including prisoner holding, circulation, and other operational areas.

- After constructing 66 courthouses, many lessons learned have been captured in GSA's database, *Courtsweb*, which is available to A/E firms and GSA project managers. For example, the database provides different potential courtroom layouts, including 2, 4, 6, 8 courtrooms per floor, a determination affected by the size, shape and context of the site selected for courthouse construction and judicial need.

- Additionally, specific guidance provided in the GSA publication, *Conducting Effective Courthouse Visits,* provides project teams the means to visit and understand comparable facilities during programming and design.

- GSA has also established a "benchmark" budgeting system that standardizes project budgeting for new courthouse construction which is based upon client specifications and standards that drive efficient design plans.

The Judiciary has stated that the approved program of spaces ("AnyCourt," a list of specific spaces needed for court functions, including size) is the definitive source of requirements for a courthouse project, and has in place a process for approval of exceptions to that program by the Judicial Conference of the United States. This program of spaces is a standardized list that enumerates all the required spaces for a particular locale, based on the projected number of judges and court operations.

Similar to the example provided by Trent Frazier, Director, Land Port of Entry Modernization Program Management Office, regarding pre-primary and primary lane component design allowing "plug & play" of new technologies, GSA designs telecommunications infrastructure to accommodate changing requirements. Flexibility in courtroom design and finishes allows new "smart" courtroom technologies to be incorporated without significant cost or renovation. The existing publications and policies, and the experience gained through years of courthouse construction, provide significant standardization in the courthouse program. As with Land Ports of Entry, certain elements of distinction in the design of federal courthouses give context to the environment and the community in which they are located.

The current standards identified above provide appropriate uniformity, while allowing distinctive contextual architecture within budgetary constraints.

## 12. Please provide a copy of the small business plan and the results thus far for Recovery projects.

PBS is proud of our small business achievements, and look forward to continued success. We recognize that the influx of Recovery Act project funding has had an impact on our small business award goals. Therefore, PBS has adapted current small business outreach and education efforts, and increased the focus on our subcontracting program.

**Goal:** Educate the public, industry and key stakeholders about PBS procurement opportunities.

**Initiatives:**

**A. Provide outreach to industry, and facilitate training and awareness of PBS procurement opportunities.**

Completed or Ongoing Activities:

- Established a centralized e-mail (industryrelations@gsa.gov) and Vendor Information Line (1-866-PBS-VEND) to respond to vendor inquiries.
- Increasing presence on the GSA.gov website (www.gsa.gov/industryrelations), to provide information on relevant topics, such as the American Recovery and Reinvestment Act, contracting procedures, what and how PBS buys, and appropriate PBS contacts.
- Increasing participation in conferences, tradeshows, industry days and other events that encourage vendor education, outreach and networking.
- Adopted the use of new media services, such as Twitter (www.twitter.com/gsapbsIRD) and LinkedIn, to engage industry, solicit feedback and enable interaction amongst vendors. Topics posted include notice of all PBS FedBizOpps solicitations, event attendance, speaking engagements, ARRA spending progress, training, job opportunities in PBS, and useful websites and contacts.
- Partnering with professional and trade organizations and associations to distribute information, such as new procurement opportunities, set asides, upcoming conferences and press releases.
- Hired/assigned Subject Matter Experts (SMEs) as Industry Relations Managers to establish "knowledge centers" for all major PBS industries (*i.e.*, design and construction). These "knowledge centers" respond to industry inquiries, serve as liaisons between vendors and PBS programs, and work to expand communication, marketing, and electronic media campaigns.
- Meeting with other agencies to share and adopt successful vendor outreach and utilization techniques.
- Tracking vendor inquiries and responses to create a knowledge library and target areas for future outreach.

Planned

- Explore the possibility of hosting virtual tradeshows as a means of low cost, no-travel outreach to small businesses.
- Develop educational and informational content using Webinars, Podcasts, and other mass-learning tools and services.
- Develop a mechanism to share vendor capability information with internal stakeholders so vendors achieve greater exposure inside of PBS.

**B. Increase the monitoring and enforcement of contracting procedures and subcontracting plans targeted at small and local businesses.**

Completed or Underway

- Leveraging internal acquisition business intelligence, PBS is analyzing our current business practices, and identifying opportunities and activities to increase small and local business participation in procurement opportunities. Some examples include:
    a. Analyze current procurement practices within each industry PBS obtains services to determine where additional opportunities for small and local businesses may exist.
    b. Review options for reporting on the total number of procurement opportunities that are targeted to, and responded by, small or local business.
    c. Ensure forecast opportunities are posted to www.gsa.gov/smbusforecast in a timely fashion.

Planned

- Standardize processes and documents involved in the creation and posting of PBS procurement opportunities.
- Develop process/mechanism that will make it easier for our contracting officers to carry out their oversight mission and facilitate consistency across all regions.

**C. Increase the utilization and effectiveness of critical tracking and reporting mechanisms.**

Completed or Underway

- Regularly follow-up on vendor inquiries to determine if responses were helpful and if the vendor is successfully moving forward.

Planned

- Report on the total number of procurement opportunities that are targeted towards, and responded to, by small or local businesses.

- Develop a method of measuring, over the long term, if vendor outreach results in the vendor obtaining a GSA contract.

**American Recovery and Reinvestment Act**
***Small Business Summary as of December 8, 2009***

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|---|---|---|
| **Recovery Award Obligations** | **$ 1,776,449,680** | |
| **Awarded to Small Business** | **$ 122,529,272** | **6.897%** |
| **Small Disadvantaged Business** | **$ 22,741,919** | **1.280%** |
| **Service Disabled Veteran Owned Small Business** | **$ 3,619,140** | **0.204%** |
| **Women Owned Small Business** | **$ 38,995,581** | **2.195%** |
| **HUB Zone** | **$ 8,528,686** | **0.480%** |
| **Veteran Owned Small Business** | **$ 4,791,507** | **0.270%** |



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