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BORDER STATION CONSTRUCTION: MINIMIZING COSTS AND LEVERAGING
PRIVATE DOLLARS
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
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Chairman Barletta, Ranking Member Carson, and members of the Subcommittee, my name is Sam Vale. I appear before you today, in my capacity as the Chairman of the Public Policy Committee of the Border Trade Alliance. I am also the President of the South Texas Assets Consortium, or STAC, and we participate in the 559 Public Private Partnership Program.

I am also the President of the Starr-Camargo Bridge Company, a privately owned Port of Entry (POE) in Rio Grande City, Texas. Our bridge spans the Rio Grande and connects two communities of about 20,000 inhabitants each: Rio Grande City and Camargo, Tamaulipas, Mexico. We are one of the smallest passenger and commercial POEs along the southern border. In addition to bridge operations, my company and its related companies are involved in a host of businesses related to cross-border trade and commerce in both the U.S. and Mexico.

The Border Trade Alliance

For nearly 30 years, the BTA has provided a forum for analysis and advocacy on issues pertaining to the U.S.-Canada and U.S.-Mexico border regions. A network of public and private sector representatives from all three NAFTA nations, our organization has been involved in a number of important border issues, ranging from the implementation of the North American Free Trade Agreement, to the original organization of the Department of Homeland Security to the perennial issue of staffing, infrastructure and trade processes.

The South Texas Assets Consortium

The South Texas Assets Consortium, or STAC, was formed specifically to contract with Customs and Border Protection under Section 559 of the Consolidated Appropriations Act of 2014 and its predecessor program, Section 560 of the Consolidated and Further Continuing Appropriations Act of 2013. Members are comprised of five communities operating 11 international bridges:

- City of Laredo (4 international bridges)
- City of McAllen (2 international bridges)
- City of Pharr (1 international bridge)

Cameron County (3 international bridges)
Starr-Camargo Bridge Co. (1 international bridge)

The members of STAC are also members of the BTA. The BTA is also counts the City of El Paso, Texas as a member, which is also a participant in Sec. 560.

Border infrastructure that leads to fewer delays, less congestion

The U.S.-Canada and U.S.-Mexico borders are challenging environments for those of us whose daily livelihoods depend on cross-border trade. Most U.S. citizens also benefit from this trade.

Staffing levels by our inspection agencies, specifically Customs and Border Protection, are not commensurate with today's trade volumes. Despite funding provided by the fiscal year 2014 budget to hire 2,000 new CBP officers, 40 percent of those allocated positions remain unfilled.

In a recent hearing of the Border and Maritime Subcommittee of the House Homeland Security Committee, CBP acknowledged the agency's 18-month hiring process proves challenging to its recruitment efforts.¹

I can assure you, if those of us in the private sector took 18 months to recruit new talent, we would soon be suffering economic pain.

Aging, outmoded infrastructure is also a major challenge for the trade community. Land border ports of entry average 40 years in age, many built before the North American Free Trade Agreement was even a consideration.² As a result, their configurations are oftentimes not well suited to the throngs of commercial trucks they must process on a daily basis.

The trade community's concerns over staffing levels and infrastructure are not mutually exclusive. Both must be addressed if we are to realize the full benefits of international trade.

For example, Nogales, Arizona's Mariposa Port of Entry is home to one of the nation's busiest commercial ports for produce, specifically winter fruits and vegetables grown in Mexico.

In order to keep pace with the Mariposa port of entry's ever-growing trade volumes, the General Services Administration in fall 2014 officially completed an eight-year-long \$250 million reconfiguration of the port campus that doubled from four to eight the number of commercial lanes. The port was originally constructed in 1973 and was not suited to process the nearly 4,000 trucks that make their way through it each day.

Unfortunately, the port is not reaching its full potential due to CBP's struggles to staff the port at full capacity during peak traffic periods, which leads to lane closures.³ As you can imagine, a remodeled Mariposa port of entry that is not fully operational is a source of frustration for the produce community and Nogales-area stakeholders.

¹ <https://mcsally.house.gov/media-center/press-releases/us-rep-mcsally-leads-hearing-border-infrastructure-manning-needs>

² <http://www.bloomberg.com/news/articles/2013-05-15/border-delays-cost-u-s-7-8-billion-as-fence-is-focus>

³ http://tucson.com/news/local/border/staffing-shortages-keep-expanded-port-of-entry-partly-closed/article_6bd41f7e-6304-5d43-b259-3dfda6daca96.html

Similarly, the growth in South Texas ports of entries from manufacturing to produce was predictable 10 years ago when Mexico started making significant infrastructure improvements like new transnational highways and the construction of the world's highest suspension bridge.

We would encourage the committee, as you consider future border station construction, to work closely with your colleagues with oversight over CBP staffing, federal and state highway needs, Department of Transportation and state DOT inspection staffing issues, in order to ensure that precious taxpayers dollars pay dividends to our citizens and the businesses that drive our economy.

Leveraging private sector resources to improve border crossings: Sections 559 and 560

Section 560 and its successor, Section 559, are, in many ways, part of the answers to the trade community's ongoing calls for a creative response to consistent concerns over border port infrastructure challenges, while also an acknowledgement that federal budgets are tight and that we must fund future construction in new ways.

Thanks to innovative thinking within the Department of Homeland Security, CBP, and leaders in Congress, the trade community now has a viable option to work in tandem with state and federal partners to supplement staffing levels and improve infrastructure to support secure international trade.

Under these reimbursable service agreements, local governments and private sector entities can apply available funds to secure expanded services at their POE to facilitate trade and travel processing. Under the agreements, CBP must exhaust its available budgeted resources before tapping those of its partners.

Section 560 began with five pilot partners; STAC and El Paso were the only two land border entities to enter into the initial five reimbursable service agreements.

An opportunity for infrastructure improvements under Sec. 559

Section 559 in 2014 built on Sec. 560's solid foundation by expanding the eligible service offerings to include customs, agricultural processing, border security services, and immigration inspection-related services at POEs. Sec. 559 also opens the possibility of infrastructure improvements under a donation acceptance authority with CBP and the General Services Administration, which allows for the transfer of real or personal property intended for the construction of a new POE or the maintenance of an existing one.⁴

STAC transitioned into the Sec. 559 designation and dropped the 560 process, and the program has since welcomed new partners.

⁴ <https://www.cbp.gov/newsroom/blog/meeting-challenge-alternative-funding-helps-cbp-serve-stakeholders>

Flexibility and ROI: Making the DAP attractive

While we applaud the Donation Acceptance Program, or DAP, between CBP and GSA, two big ideas must drive the program: a commitment to flexibility, and recognition that a demonstrable return on investment will be critical to attract private dollars.

Flexibility

CBP and GSA must be flexible in their project scoping and design processes if the DAP is going to prove successful. If DAP proves to be bureaucratically cumbersome or if the agencies demonstrate a rigidity that repels potential private sector partners, then the program will be underutilized.

I would also urge CBP and GSA to consult the Department of State on how the DAP will fit within the presidential permit process.

Anyone who has attempted to undertake infrastructure improvements at a land border port of entry is intimately aware of the Department of State's expensive, time consuming permit process. I can tell you from personal experience that the permitting process is not an easy one. While our thoughts on ways to improve the permitting process are more suitable for another forum, potential private sector participants in a real estate donation should have a clear understanding of each department's requirements.

Return on investment

To be blunt, real estate investors and members of the international trade community are not charities. CBP should be prepared to demonstrate the financial upside for a private sector participant in the DAP, including increased trade throughput, whether by value of commodities or traffic volumes.

A nimbler public-private partnership

We are encouraged that CBP appears to be taking concerns over flexibility to heart, as evidenced by the agency's recent announcement of a DAP geared specifically at smaller projects.

According to CBP, the Small-Scale Donation Proposal Process is a more streamlined and simplified avenue for stakeholders interested in investing in and expediting small-scale, high impact border infrastructure, technology and other related improvements.⁵

Partners interested in submitting a proposal may do so on an ongoing basis, with CBP claiming it will act on proposals 60-70 percent quicker than the regular DAP intended for medium to large-scale projects.

This a positive step and CBP should be applauded for it.

Push inspections away from the border

⁵ <https://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/donation-acceptance-program>

Not all border communities need to meet their challenges to trade processing with major infrastructure overhauls or dramatic staffing upgrades. The BTA is very supportive of efforts by the U.S. and our border neighbors to conduct cargo inspections in the country of origin rather than at the port of entry.

We are very encouraged that President Obama and Canadian Prime Minister Trudeau made improving trade efficiencies a major topic of the prime minister's White House visit in March. To that end, we support the preclearance of Buffalo-bound cargo on the Canadian side of the border in Ft. Erie Ontario⁶ and are encouraged by the outcomes of last year's pilot test.⁷

Our support for pre-inspection extends to the U.S.-Mexico border as well, including pilot programs in Laredo, Texas; Otay Mesa, California; and at a major electronics facility outside Cd. Juárez.⁸

Avoid infrastructure agreements with foreign government that lead to ongoing U.S. financial commitments

The BTA acknowledges that there is a significant debate over whether and how to construct a new span across the Detroit River connecting Detroit, Michigan and Windsor, Ontario.

Without delving into the years-long conflict, we do maintain deep concerns over any agreement between state and foreign governments to construct a new bridge that could result in ongoing commitments for CBP or any other agency that are not congressionally deliberated and appropriated.

Committing the U.S. federal government to some future performance without congressional deliberation and authorization raises serious concerns over accountability and risks an unnecessary diversion of resources. U.S.-Canada trade is down, U.S.-Mexico trade is up.

What are the justifications for scarce staffing resources being committed when projection trends do not justify it?

Responding to the skeptics

We occasionally hear from some corners that increased private sector participation in border facility infrastructure development represents an unwelcome assumption of responsibilities that should really be borne solely by the federal government as part of its obligation to manage the nation's borders.

Without this help, though, both the U.S. and Mexican governments would be in violation of their international Diplomatic Notes - agreed upon years in advance – directing when new services were to be funded and operational.

McAllen, Texas' Anzalduas International Bridge was to open commercial processing January 1, 2015, but to date has not been opened. The federal governments of both the U.S. and Mexico did

⁶ <http://www.wgrz.com/news/local/pre-clearance-program-at-peace-bridge-introduced/76629472>

⁷ <http://www.buffalonews.com/city-region/west-side/peace-bridge-pre-inspections-reveal-outdated-customs-effort-20150202>

⁸ <https://www.texastribune.org/2015/06/09/us-reps-arming-american-agents-mexico-right-move/>

not own the land and did not have the budgets to build the required infrastructure. McAllen agreed to pay the cost of road infrastructure in both Mexico and the U.S., as well as donate the needed funds for costs of the inspection facilities on U.S. government land with staged or phased construction as needed. Had a reimbursable service agreement already been in place, the original Anzalduas deadline would have been met.

We are sensitive to critics' arguments and, in a perfect world, would prefer that federal budget allocations were able to keep pace with growing trade volumes. It simply is not in our DNA to pay for what is an obligation of the federal government.

But these agreements have given the trade community something it did not have before: choice.

Before the law that made these agreements possible went into effect, we had no options to help alleviate the long backups at our ports and had to suffer the consequences and the loss of competitiveness and tax dollars. Now we have the choice to enter into a contract with CBP to augment the agency's services to respond to our most pressing needs and, hopefully, receive a strong return on that investment. We hope our contributions can be replaced when budgets can pay for federally delivered services.

Looking ahead

There is a role for the private sector to play in border station construction and we anticipate participation growth. Once investors have the confidence in the long-term viability of the offerings under Sec. 559 will they be more likely to make the financial commitments necessary to bring a project to completion and realize a return.

Confidence is the key. Today, in the case of infrastructure projects that would take longer than five years to repay investors, CBP is authorized to issue an extension for a specific time period for that project only. However, this is not sufficient for very large infrastructure investments like highways to and from the POEs. What could be projected as a 30-year payout could turn into 50 years as circumstances change in the out years that are difficult to predict. Thus, no infrastructure projects requiring significant investments have been planned that could secure financing from bonds or investors.

The Border Trade Alliance appreciates this opportunity to testify before you here today. The BTA was proud to have been a vocal advocate for the adoption of these innovative public-private partnerships between CBP and the trade community, and we believe they are proving extremely beneficial both to the nation's security and its economic competitiveness. We look forward to working with the members of the Transportation and Infrastructure Committee and this subcommittee as we seek new solutions to our border challenges.