

**CBP Has Not
Demonstrated Acquisition
Capabilities Needed to
Secure the Southern
Border**





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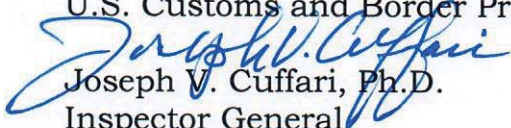
July 14, 2020

MEMORANDUM FOR: Randolph D. Alles
Senior Official Performing the Duties of the
Under Secretary for Management

Scott Glabe
Senior Official Performing the Duties of the
Under Secretary for Office of Strategy, Policy,
and Plans

Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection

FROM:


Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *CBP Has Not Demonstrated Acquisition Capabilities
Needed to Secure the Southern Border*

For your action is our final report, *CBP Has Not Demonstrated Acquisition Capabilities Needed to Secure the Southern Border*. We incorporated the formal comments provided by your office.

The report contains three recommendations aimed at improving U.S. Customs and Border Protection's ongoing acquisition to obtain operational control of the southern border. Your office concurred with one of the three recommendations. Based on information provided in your response to the draft report, we consider all recommendations open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendations. Until your response is received and evaluated, the recommendations will be considered open and unresolved.



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Please send your response or closure request to
OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Sondra McCauley, Assistant Inspector General for Audits, at (202) 981-6000.

Attachment

cc: James McCament, Deputy Under Secretary, Office of Strategy,
Policy, and Plans



DHS OIG HIGHLIGHTS

CBP Has Not Demonstrated Acquisition Capabilities Needed to Secure the Southern Border

July 14, 2020

Why We Did This Audit

Executive Order 13767, issued on January 25, 2017, directed the Department of Homeland Security to plan, design, and construct a physical wall along the southern border. We conducted this audit to determine to what extent CBP has executed the Analyze/Select Phase, the second phase of the Acquisition Life Cycle Framework, for the acquisition of the barrier along the southern border.

What We Recommend

We made three recommendations to improve CBP's ongoing acquisition to obtain operational control of the southern border.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov.

What We Found

U.S. Customs and Border Protection (CBP) has not demonstrated the acquisition capabilities needed to execute the Analyze/Select Phase of the Wall Acquisition Program effectively. Specifically, CBP:

- did not conduct an Analysis of Alternatives to assess and select the most effective, appropriate, and affordable solutions to obtain operational control of the southern border as directed, but instead relied on prior outdated border solutions to identify materiel alternatives for meeting its mission requirement; and
- did not use a sound, well-documented methodology to identify and prioritize investments in areas along the border that would best benefit from physical barriers.

The Department also did not complete the required plan to execute the strategy to obtain and maintain control of the southern border, as required by its *Comprehensive Southern Border Security Study and Strategy*. Without an Analysis of Alternatives, a documented and reliable prioritization process, or a plan, the likelihood that CBP will be able to obtain and maintain complete operational control of the southern border with mission effective, appropriate, and affordable solutions is diminished.

DHS Response

DHS concurred with recommendation 2 but did not concur with recommendations 1 and 3. Appendix D contains DHS management comments in their entirety. We consider all recommendations unresolved and open.



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Abbreviations

ADE	Acquisition Decision Event
ALF	Acquisition Lifecycle Framework
AoA	Analysis of Alternatives
CBP	U.S. Customs and Border Protection
DOD	Department of Defense
IPLAN	DHS Executive Order Implementation Plan
OIG	Office of Inspector General
U.S.C.	United States Code



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Background

Within the Department of Homeland Security, U.S. Customs and Border Protection (CBP), U.S. Border Patrol is responsible for preventing terrorists, terrorist weapons, transnational crime, and illegal immigrants from entering the United States between the land ports of entry. Border Patrol also disrupts and degrades transnational criminal organizations by targeting enforcement efforts against the highest priority threats, smuggling, and crimes associated with smuggling. In total, nine Border Patrol Sectors are responsible for guarding the nearly 2,000-mile U.S. border shared with Mexico.¹

CBP invests in and deploys essential personnel, technology, and infrastructure to gain and maintain operational control of the southern border.² According to the 2017 *U.S. Border Patrol Impedance and Denial Prioritization Strategy* (2017 Impedance and Denial Strategy), four capability needs have consistently been identified as required for operational control.

- impedance and denial – the ability to slow or stop illicit cross border activity;
- domain awareness – the ability to continuously detect, identify, classify, and track border incursions for the purpose of planning and executing a response;
- access and mobility – the ability to access areas of responsibility and, under all conditions, effect mobility for the purpose of responding to illicit cross-border activity; and
- mission readiness – the ability to develop, construct, deploy and maintain a proper logistics chain for the purpose of securing infrastructure and equipping agents.

CBP's infrastructure investments for impedance and denial needs have resulted in construction of 654 miles of fencing along the southern border — comprising 354 miles of pedestrian fence and 300 miles of vehicle fence. These structures span Federal, private, and tribal areas. Table 1 depicts the pedestrian and vehicle fencing in place along the southern border, as of January 2017.

¹ Border Patrol divides responsibility for border security operations geographically among nine sectors along the southwest border – San Diego, California; El Centro, California; Yuma, Arizona; Tucson, Arizona; El Paso, Texas; Big Bend, Texas; Del Rio, Texas; Laredo, Texas; and Rio Grande Valley, Texas. Each sector is further divided into stations, with agents assigned to patrol defined geographic areas, or zones, within each station.

² To achieve its mission, Border Patrol has identified 12 needed Master Capabilities: (1) impedance and denial, (2) domain awareness, (3) access and mobility, (4) mission readiness, (5) command and control, (6) security and partnerships, (7) human capital management, (8) doctrine and policy, (9) intelligence and counter-intelligence, (10) planning and analysis, (11) communications, and (12) information management.



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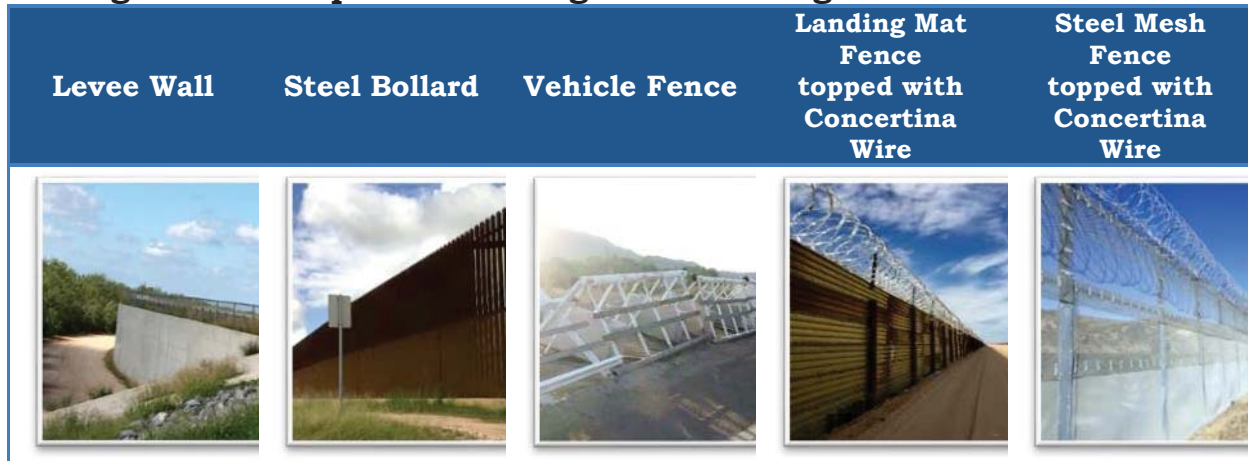
Table 1: Southern Border Fencing Miles, as of January 2017

Land Type	Primary Pedestrian Fence Miles	Primary Vehicle Fence Miles
Federal	294	298
Private	60	0
Tribal	0	2
Total	354	300

Source: CBP Facilities Management and Engineering Division

CBP has used various designs and materials to construct this existing border fencing. Figure 1 illustrates each type of structure.

Figure 1: Examples of Existing Barriers along the Southern Border



Source: Photos taken by DHS Office of Inspector General (OIG)

On January 25, 2017, the President issued Executive Order No.13767, *Border Security and Immigration Enforcement Improvements* (Executive Order). The Executive Order directed the Secretary of Homeland Security to take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border, using appropriate materials and technology to most effectively achieve complete operational control of the southern border.³

In response, then-Secretary John F. Kelly issued a memorandum instructing CBP to immediately begin planning, designing, constructing, and maintaining a wall along the land border with Mexico in the most appropriate locations. He also established the Executive Order Task Force (Task Force) to outline for DHS the action items needed to implement the Executive Order. CBP received funding to support accomplishment of the objectives of the Executive Order and its operational requirements.

³ Executive Order 13767 defines operational control as the prevention of all unlawful entries into the United States, including entries by terrorists and other unlawful aliens, and instruments of terrorism, narcotics, and other contraband.



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CBP Wall Acquisition Program Establishment

In March 2017, CBP’s Wall Acquisition Program was established as a DHS “Level 1” major acquisition program and was added to the DHS Major Acquisition Oversight List.⁴ As a major acquisition, the Wall Acquisition Program must follow government-wide acquisition regulations implemented through the DHS Acquisition Lifecycle Framework (ALF).⁵ The ALF is a four-phase review process DHS uses to determine whether to proceed with an acquisition. The four phases are:

1. Need Phase – Define the problem;
2. Analyze/Select Phase – Identify alternatives and resource requirements;
3. Obtain Phase – Develop and evaluate capabilities; and
4. Produce/Deploy/Support/Dispose Phase – Produce and maintain capabilities.

Each phase in the ALF leads to an Acquisition Decision Event (ADE). An ADE is a predetermined point in the phase at which, before commencing the next phase, the acquisition undergoes a review.⁶ The review ensures that needs are aligned with DHS’ strategic direction and that upcoming phases are adequately planned. The border wall was to be constructed in segments, with each segment requiring approval of the necessary acquisition documents prior to the acquisition proceeding to the Obtain Phase.

At the start of our review, CBP had entered the second phase of the ALF — the Analyze/Select Phase. The purpose of the Analyze/Select Phase is to determine the most effective and affordable way to fill the capability gap identified by the program in its “Mission Needs Statement,” which documented the functional capabilities CBP must have to effectively obtain operational control of the southern border. On May 3, 2019, CBP was granted permission to move to the Obtain Phase where it develops and evaluates capabilities for just the Rio Grande Valley sector wall project. Figure 2 depicts each lifecycle phase and acquisition event.

⁴ The DHS Major Acquisition Oversight List identifies acquisition programs designated as Level 1 or Level 2 acquisitions in accordance with the Acquisition Management Directive 102-01. Special interest programs or programs with lifecycle cost estimates exceeding \$1 billion or services programs with an annual expenditure level exceeding \$1 billion are designated as Level 1 programs.

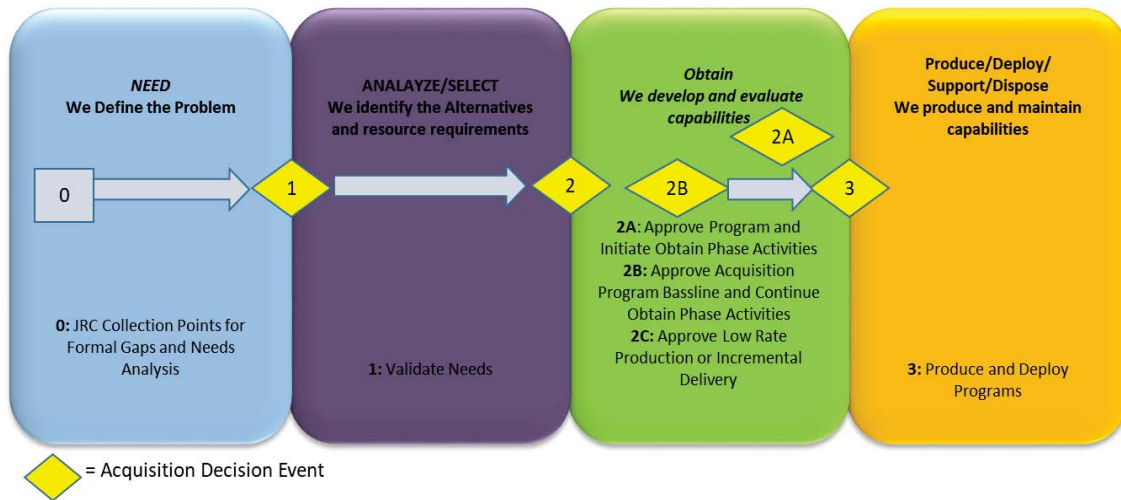
⁵ *DHS Instruction 102-01-001, Rev 01.1, Acquisition Management Instruction*, May 3, 2019

⁶ The DHS Acquisition Review Board reviews Level 1 and 2 investments for proper management, oversight, accountability, and alignment to strategic functions of the Department. The Acquisition Review Board reviews investments before granting approval to proceed to the next phase of an acquisition.



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Figure 2: Four-Phase Acquisition Lifecycle Framework



Source: DHS Instruction 102-01, Rev 01.1, Acquisition Management Instruction, May 3, 2019

CBP's Wall Acquisition Program Results through July 2019

Since May 2017, CBP has received over \$12 billion to support procurement, construction, and improvements along the southern border through a combination of appropriations, the Treasury Forfeiture Fund and in reprogrammed funds from the Department of Defense (DOD).^{7 8} For summary of yearly appropriations, see appendix B.

As of July 2019, CBP had expended \$268 million of the \$341 million appropriated in fiscal year 2017. According to CBP, the majority of work along the southern border was accomplished using FY 2017 funds. Specifically:

- CBP obligated \$292 million for a total of 40 miles of replacement wall in San Diego, El Centro, and El Paso Sectors. At the time of our review, CBP completed 39.5 of the 40 miles of new border wall in place of pedestrian fence and vehicle barrier in those sectors.
- CBP also obligated \$49 million to construct 35 border wall gates in the Rio Grande Valley Sector, which were under construction.

Using FY 2018 funds, CBP completed 7.2 miles of approximately 80 miles of planned new and replacement border wall. Construction started in February

⁷ 10 United States Code (U.S.C.) § 284(b)(7) authorizes DOD to support the counterdrug activities of other Federal agencies, including DHS, with the construction of roads, fences, and lighting to block drug smuggling corridors across international boundaries.

⁸ 10 U.S.C. § 2808 authorizes the Secretary of Defense to determine whether border barriers are necessary to support the use of the armed forces and to re-direct unobligated DOD Military Construction funding to construct border barriers if required.



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2019 for about 14 miles of secondary wall replacement in San Diego Sector, and in April 2019 for 37 miles of primary wall replacement in San Diego and Calexico, California, and Yuma, Arizona. Anticipated construction completion for these projects is late 2020. Additionally, about 25 miles of new border wall and levee wall was planned for the Rio Grande Valley Sector with FY 2018 funding. Construction activities started for about 13 miles of the new levee wall system in Rio Grande Valley Sector’s Hidalgo County with estimated completion dependent on availability of real estate. CBP expected to award a construction contract for the remaining 12 miles of new border wall system in Rio Grande Valley Sector’s Starr County by December 31, 2019. As of July 2019, CBP had expended \$36.7 million of the \$1.375 billion appropriated in FY 2018 for border wall construction.

CBP also planned to supplement \$1.375 billion in FY 2019 appropriations with \$601 million from the Treasury Forfeiture Fund to construct 11 miles of new primary levee wall system and 74 miles of new border wall system in Rio Grande Valley Sector. On May 2019, CBP awarded a \$42.9 million contract to construct approximately three miles of new border wall system Rio Grande Valley Sector that was scheduled to begin in August 2019. See appendix C for the status of CBP’s use of appropriated funds for construction of new and replacement border wall along the southern border as of July 2019.

Table 2 shows CBP’s planned construction of new and replacement border wall along the southern border using funds received through FY 2019.

Table 2: CBP Planned Border Wall Construction through FY 2019

New Primary Wall	New Primary Levee Wall	Primary Wall Replacement (in place of dilapidated designs)	Primary Wall Replacement (in place of vehicle barrier)	Secondary Wall Replacement (in place of dilapidated designs)	Total
86 miles*	24 miles	62–66 miles	144 miles	14 miles	330–334 miles

Source: CBP

* Miles are approximate and as of June 14, 2019

According to CBP, DOD plans to fund up to \$2.5 billion pursuant to 10 U.S.C. § 284(b)(7) in support of CBP requirements to construct up to 129 miles of new replacement wall in place of dilapidated or outdated designs and vehicle barrier, within Yuma, El Paso, El Centro, and Tucson Sectors. In March 2019, DOD authorized the U.S. Army Corps of Engineers to begin planning and executing up to \$1 billion to build 57 miles of pedestrian fencing, construct and improve roads, and install lighting within the Yuma and El Paso Sectors. However, these projects were subject to a permanent injunction on June 28,



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2019.⁹ On appeal, the Ninth Circuit affirmed the district court's permanent injunction and held that Section 8005 of the Department of Defense Appropriations Act of 2019, Pub. L. No. 115-245, 132 Stat. 2981 did not provide transfer authority for projects funded under 10 U.S.C. § 284.¹⁰ Although work on these projects had continued because the Supreme Court previously granted the government's application for stay of the district court injunction pending appeal in the Ninth Circuit,¹¹ funding for these projects is now barred until the government petitions for a writ of certiorari, at which time the stay will continue until the Court enters judgement, or declines certiorari.

This is our second report on CBP's efforts to secure the southern border physically.¹² We conducted this audit to determine to what extent CBP has executed the Analyze/Select Phase, the second phase of the Acquisition Lifecycle Framework, for the acquisition of the barrier along the southern border.

Results of Audit

CBP has not demonstrated the acquisition capabilities needed to execute the Analyze/Select Phase of the Wall Acquisition Program effectively. Specifically, CBP:

- did not conduct an Analysis of Alternatives (AoA) to assess and select the most effective, appropriate, and affordable solutions to obtain operational control of the southern border as directed, but instead relied on prior outdated border solutions to identify materiel alternatives for meeting its mission requirement; and
- did not use a sound, well-documented methodology to identify and prioritize investments in areas along the border that would best benefit from physical barriers.

The Department also did not complete its plan to execute the strategy to obtain and maintain control of the southern border, as required by its *Comprehensive Southern Border Security Study and Strategy*.¹³ Without an AoA, a documented and reliable prioritization process, or a plan, the likelihood that CBP will be able to obtain and maintain complete operational control of the southern

⁹ *Sierra Club v. Trump*, No. 19-cv-00892-HSG, 2019 WL 2715422 (N.D. Cal. Jun. 28, 2019)

¹⁰ *Sierra Club v. Trump*, No. 19-16102 19-16300, 2020 WL 3478900, at *11 (9th Cir. Jun. 26, 2020)

¹¹ *Trump v. Sierra Club*, 140 S.Ct. 1 (2019)

¹² *Special Report: Lessons Learned from Prior Reports on CBP's SBI and Acquisitions Related to Securing our Border*, OIG -17-70-SR, June 12, 2017

¹³ *U.S. Department of Homeland Security Comprehensive Southern Border Security Study and Strategy*, November 2017



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border with mission effective, appropriate, and affordable solutions is diminished.

CBP Did Not Conduct an Analysis of Alternatives to Assess All Possible Alternatives to Secure the Southern Border

Although directed to do so by Congress and the Department, CBP did not conduct an AoA to assess and select the most effective, appropriate, and affordable solutions to obtain operational control of the southern border. Specifically, the *Consolidated Appropriations Act* of 2017 (Public Law 115-31) as well as subsequent appropriations, required the Department submit to the Committees on Appropriations of the Senate and the House of Representatives a risk-based plan for improving security along the borders of the United States, including the use of personnel, fencing, other forms of tactical infrastructure, and technology. The plan was to include a description of the methodology and analyses used to select specific resources for deployment to particular locations that included among other things an AoA, and comparative costs and benefit analysis.¹⁴ Additionally, DHS acquisition guidance requires programs to identify alternatives and resource requirements during this phase.¹⁵ As previously stated, this phase, called the Analyze/Select Phase, aims to determine the most effective and affordable way to obtain operational control of the southern border.

Analysis of Alternatives Was Outdated

An AoA is a fundamental step necessary to determine the optimal way to meet the requirement. This analysis aims to fully evaluate the cost, effectiveness, and risk of potential materiel alternatives to meet a mission requirement. According to CBP's Component Acquisition Executive, in 2008 CBP completed 85 AoAs for all segments along the southern border. Based on the 2008 AoA results, CBP recommended a border wall as the most cost-effective option to fulfill its operational requirements at that time. However, we requested copies during our audit 10 years later, but CBP could not locate 59 of the 85 (69 percent) AoAs. The remaining 26 AoAs CBP provided were limited in their usefulness because they did not reference the locations prioritized by Border Patrol for border wall investment.

After reviewing the 26 AoAs, we concluded that the cost per mile to construct a border wall in 2008 was outdated. In the AoAs, CBP estimated that about 60

¹⁴ *Consolidated Appropriations Act, 2017*, Public Law 115-31, May 5, 2017; *Consolidated Appropriations Act, 2018*, Public Law 115-141, March 23, 2018; and *Consolidated Appropriations Act, 2019*, Public Law 116-6, February 15, 2019

¹⁵ *DHS Instruction 102-01-001, Rev 01, Acquisition Management Instruction*, March 9, 2016



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miles of new border wall would cost approximately \$466 million, or \$8 million per mile. However, in the 2017 Impedance and Denial Strategy, which includes Border Patrol's priorities for deploying barriers and other assets along the southern border, Border Patrol estimated that completing construction in its 17 priority groups would result in about 722 additional miles of new border wall at a cost of approximately \$18 billion, or \$25 million per mile.¹⁶

Furthermore, according to the 26 AoAs, a border wall was less costly in the long run than additional agents. However, the outdated AoAs did not account for the hiring of 5,000 additional Border Patrol agents, as required by the President's 2017 Executive Order. Additional Border Patrol agents can have a significant effect on border security as evidenced in a recent OIG report.¹⁷ For example, our report disclosed that moving agents out of mission support roles and returning them to their primary border enforcement duties resulted in an increase in apprehensions along the southern border. In response to the Executive Order, Border Patrol has taken steps to recruit additional agents. This constitutes a change that would be important to consider in completing updated AoAs.

Instead of conducting a new AoA, CBP conducted an Alternatives Analysis to identify a type of physical barrier for each location prioritized in the 2017 Impedance and Denial Strategy. However, this type of analysis is more limited than an AoA because it will only evaluate a specific solution, rather than a broader range of solutions, such as technologies or additional personnel.

Fulfilling the direction to secure the southern border constitutes a significant investment. Without full and up-to-date AoAs, CBP cannot accurately identify the cost, effectiveness, and risk of potential materiel alternatives to meeting its mission requirement.

Methodology for Identifying and Prioritizing Investments along the Southern Border Was Not Comprehensive

Congress required the Department submit a risk-based plan for improving security along the U.S. border that identifies the planned locations, quantities, and types of resources. The plan must also include a description of the methodology and analyses used to select specific resources for deployment to particular locations. In its 2017 Impedance and Denial Strategy, Border Patrol documented its process for identifying and prioritizing impedance and denial

¹⁶ Border Patrol divided the 9 southern border sectors into 197 segments, which it then organized into 33 groups. Each group consists of one or more segments.

¹⁷ *Border Patrol Needs a Staffing Model to Better Plan for Hiring More Agents*, OIG-19-23, February 28, 2019



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investments along the southern border. Border Patrol intended for its process to lead to informed investments that achieve the greatest possible operational impact, are feasible in terms of constructability, and are scalable to available budgetary resources. However, Border Patrol did not use a sound methodology to identify and prioritize these investments. Border Patrol did not document its justification for re-ordered priority rankings for border wall construction, or how evaluation criteria were weighted. It also used only a single fiscal year of border activity data as a basis for prioritizing construction locations. Without a comprehensive, well-documented approach, Border Patrol cannot be certain it is making fully informed investment decisions and investing in border locations that could best benefit from physical barriers.

Inadequate Justification for Prioritizing Locations for Wall Construction

Border Patrol did not adequately justify its decisions to prioritize certain southern border locations over others for wall construction. To help evaluate and prioritize locations for investment, Border Patrol developed a decision support tool in a spreadsheet. Data in this tool comes from two existing sources — the Capability Gap Analysis Process, and the 2017 *Southwest Capability Roadmap* (Roadmap). Specifically:

- In the Capability Gap Analysis Process, Border Patrol collected and managed capability and operational requirements by identifying resources (personnel, training, equipment, technology, and infrastructure) in each southern border sector that fell short of meeting required needs.
- In the Roadmap, Border Patrol surveyed stations with border zones in their area of responsibility and identified the most important capabilities each station and sector needed. The Roadmap also identified areas of the border that might benefit from improved impedance and denial, domain awareness, and access and mobility.

Using information from both of these processes, the decision support tool scored groups and ranked them 1 through 33 in priority for border wall construction.¹⁸ CBP's Operational Review Board, comprised of CBP and Border Patrol subject matter experts, then considered the decision support tool rankings, along with broader operational concerns and intelligence reports, to establish a list of priority locations for border wall construction. However, the Board adjusted the rankings without documenting its rationale for prioritizing certain lower scoring southern border locations over those that the decision

¹⁸ Border Patrol used this decision support tool to establish and score 197 segments of varying distances, across the 9 southern border sectors. Border Patrol organized these 197 segments into 33 groups for evaluation and prioritization. Each group consists of one or more segments that collectively promote greater operational control along the border.



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support tool had scored higher for investment in impedance and denial. For example, the Operational Review Board elevated San Diego Group D — a location that already has a dual-layer border wall system and had already received funding for primary wall replacement — to a higher priority. Specifically, the decision support tool ranked San Diego Group D as 12 of 33, although the Operational Review Board moved the group up to 4 of 33.

Upon further analysis, we determined that border wall construction in San Diego Group D is not supported by CBP’s previous analyses or scheduled plans. First, neither the Roadmap, which cited the San Diego Sector as among the lowest priorities on the southern border for impedance and denial investment, nor the decision support tool’s evaluation of the sector supports wall construction. Second, border wall construction in the San Diego Sector is not supported by the Department’s 2017 *Comprehensive Southern Border Security Study and Strategy* to obtain and maintain operational control of the southern border, in which DHS assessed and categorized the sector’s risk level as low. Finally, under the *Consolidated Appropriations Act, 2017*, CBP had already scheduled about 14 miles of fence removal and replacement in San Diego Group D. Conversely, the decision support tool ranked El Centro Group X as the top priority for border wall construction, but the Operational Review Board moved El Centro Group X to 5 of 33. Figure 3 shows the Operational Review Board’s rankings compared to those of the decision support tool.

Figure 3: Comparison of Sector Group Rankings

Sector	Group	Decision Support Tool Ranking Overall Score (100%)	Operational Review Board Ranking	Decision Support Tool Ranking	Change
Rio Grande Valley	Group C	79.71	1	4	▲ 3
Rio Grande Valley	Group B	78.71	2	5	▲ 3
Rio Grande Valley	Group A	77.81	3	9	▲ 6
San Diego	Group D	75.01	4	12	▲ 8
El Centro	Group X	81.25	5	1	▼ -4
Yuma -	Group X	80.85	6	2	▼ -4
Laredo	Group A	79.78	7	3	▼ -4
El Paso	Group X	78.22	8	6	▼ -2
El Centro	Group A	78.05	9	7	▼ -2
Yuma -	Group B	77.85	10	8	▼ -2
San Diego	Group A	77.65	11	10	▼ -1
Laredo	Group C	75.98	12	11	▼ -1
El Paso	Group B	74.90	13	13	■ 0
El Paso	Group C	73.68	14	14	■ 0
El Centro	Group B	73.58	15	15	■ 0
Del Rio	Group D	72.96	16	16	■ 0
Tucson -	Group E	71.51	17	17	■ 0

Source: DHS OIG analysis of the decision support tool and Border Patrol’s *Impedance and Denial Prioritization Strategy*

We asked Border Patrol to explain why the lower scoring southern border locations were prioritized over those that its decision support tool scored higher



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for investment in impedance and denial. In response, Border Patrol officials provided us a presentation that included the same justifications for investing in all 33 groups along the southern border as in the 2017 Impedance and Denial Strategy. But, they offered no further rationale for prioritizing for example San Diego Group D over the other groups. Documenting revisions to priority justification would help ensure that Border Patrol made sound decisions and selected and prioritized the most appropriate locations for border wall construction.

Weighting of Decision Support Tool Criteria Was Not Explained

Border Patrol did not provide rationale for how it weighted the criteria in its decision support tool for prioritizing wall construction locations. Federal Government standards call for management to clearly document internal controls, all transactions, and other significant events to allow documentation to be readily available for examination.¹⁹ Border Patrol's 2017 Impedance and Denial Strategy outlined the evaluation criteria used in the decision support tool to score and prioritize impedance and denial investments along the southern border and the corresponding weights per the following:

- ability to achieve strategic objectives (40 percent),
- analysis of border census data (40 percent), and
- operational and engineering feasibility considerations (20 percent).

Using Border Patrol's scoring process, weighting of the criteria greatly influenced the score of each border location. As such, Border Patrol should establish and document a clear rationale for the weights to provide more informative, transparent, and defensible investment decisions. For example, if the operational and engineering feasibility considerations criteria had been weighted more heavily than 20 percent, certain areas in the Rio Grande Valley Sector may not have scored as highly because these areas present unique feasibility challenges related to land acquisition and environmental requirements. Such challenges could inhibit construction and increase costs beyond available funding. Border Patrol officials said they weighted operational and engineering feasibility considerations lower than achieving strategic objectives and analysis of border census data because the tool focused on where the need is regardless of implementation. However, Border Patrol's process for identifying and prioritizing investments along the southern border is supposed to result in fully informed investments that achieve the greatest possible operational impact, but are also feasible to implement.

¹⁹ *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014



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These issues are magnified by CBP's plans to rely solely on an analysis of types of physical barriers for all segments prioritized for improved impedance and denial, rather than completing an AoA, which might identify alternative solutions. Constructing a border wall may be a viable option for some locations, but in other locations non-construction alternatives may be more feasible, and may best help CBP achieve operational control of the southern border.

Multi-year Border Activity Data Was Not Used to Support Investment Decisions

Although Border Patrol recognizes that the threat along the southern border is dynamic, it used only the most recent complete year (FY 2016) of border activity data, such as drug seizures, apprehensions, and assaults on Border Patrol agents, to determine the locations with the greatest need for impedance and denial investment. According to Border Patrol officials, they considered using multi-year data but decided instead to use the most recent complete year of data in the decision support tool. However, they also said they would consider using multi-year data in their future assessments as they see the value in multi-year data and trends.

Using multiyear data may help Border Patrol maximize the decision support tool's utility in addressing its mission needs by providing insights about trends and context not available from single year data. For example, if segment X experienced more illicit activity in FY 2016 than segment Y, the decision support tool would score segment X higher based on information from just that single year. However, using data from multiple years might show illicit activity trending upward in segment Y and downward in segment X, providing more insight and fuller context to better inform Border Patrol's prioritization and investment decisions.

Inadequate Planning for Operational Control of the Southern Border

A lack of detailed planning to help guide acquisition management efforts may be a contributor to the deficiencies we identified in the Analyze/Select Phase of the Wall Acquisition Program. Specifically, the Department has not conducted adequate planning for ensuring southern border security. Executive Order 13767 required the Department to conduct a comprehensive study of the southern border's security, including a strategy to obtain and maintain complete operational control. This study was due 180 days from the issuance of the Executive Order, or on July 24, 2017.



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In response to these requirements, the Department submitted the *Comprehensive Southern Border Study and Strategy* 4 months after the 180-day deadline. The study included information on all geophysical and topographical aspects of the southern border, the availability of Federal and state resources necessary to achieve complete operational control of the southern border, and a strategy to obtain and maintain complete operational control of the southern border. The strategy included three general goals and objectives:

- securing the southern border and approaches;
- dismantling transnational criminal organizations; and
- deterring flow of illegal entries through consequence delivery, benefit adjudication, interior enforcement, and partner engagement.

To achieve these goals and objectives, the Department reported it planned to deploy physical barriers and personnel to high-risk areas; position security and response assets to prevent, detect, and defeat threats as far forward of the physical border as possible; and improve domain awareness using state-of-the-art technology and operational assets, such as radar towers, cameras, aircraft, ships, and vehicles.

However, the study was not accompanied by an implementation plan, as required. To execute the strategy described in the study, the DHS Office of Strategy, Policy, and Plans was to complete, with components including CBP and the Under Secretary for Management, a joint implementation plan. As of September 2019, the Department had neither finalized nor submitted an implementation plan. According to officials in the Office of Strategy, Policy, and Plans, they have not been involved or tasked to help with this action. Without an implementation plan, the Department cannot ensure it will fulfill its mission requirements with effective, appropriate, and affordable solutions.

Conclusion

CBP has not fully demonstrated that it possesses the capability to potentially spend billions of dollars to execute a large-scale acquisition to secure the southern border. The majority of work along the southern border so far has been accomplished using FY 2017 appropriations. As of July 2019, CBP had expended \$268 million of the \$341 million appropriated in FY 2017 to replace 39.5 miles of fencing. CBP also had expended \$36.7 million of \$1.375 billion appropriated to install or replace 7.2 of approximately 80 miles of border wall in FY 2018. In FY 2019, \$6.7 billion of DOD funds were reprogrammed for border construction.

Given the challenges we identified through our lessons learned review, CBP's inability to effectively guide this large-scale effort poses significant risk of



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exponentially increased costs.²⁰ Until it takes corrective action to improve its acquisition planning and management, CBP will remain challenged as in the past; any future initiative may take longer than planned, cost more than expected, and deliver less capability than envisioned to secure the southern border.

Recommendations

Recommendation 1: We recommend the Under Secretary for Management of DHS require CBP to conduct an up-to-date independent Analysis of Alternatives to identify the most appropriate and effective solutions to obtain complete operational control of the southern border.

Recommendation 2: We recommend Border Patrol revise its methodology for prioritizing southern border investments to include:

- a comprehensive justification for the Operational Review Board’s final group rankings for southern border investment;
- a rationale for the weights assigned to the decision support tool’s evaluation criteria;
- multi-year border activity data in the decision support tool; and
- documenting any deviation from the decision support tool results.

Recommendation 3: We recommend the Office of Strategy, Policy, and Plans for DHS determine the need for an implementation plan for obtaining and maintaining complete operational control of the southern border, as instructed by the *Comprehensive Southern Border Security Study and Strategy*.

Management Comments and OIG Analysis

The Department provided formal written comments in response to a draft of this report. We have included a copy of the Department’s response in its entirety in appendix D. The Department concurred with one recommendation, but did not concur with the remaining two. Additionally, the Department raised concerns about conclusions and assertions within our report.

First, the Department claimed that we overlook CBP’s role as an agency under the executive branch of the government. The Department claimed we “seem to chastise” CBP and DHS for not undertaking actions to explicitly violate language in the Executive Order — namely, actions other than *immediately* constructing a border wall. Although we recognize our report is critical of

²⁰ *Special Report: Lessons Learned from Prior Reports on CBP’s SBI and Acquisitions Related to Securing our Border*, OIG -17-70-SR, June 12, 2017



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CBP's and the Department's implementation of the Executive Order, our criticism is appropriate considering the cost and scope of a project as large as the construction of the southern border wall. We recognize the Department's explicit, required role in the construction of the border wall in accordance with the Executive Order. However, DHS' lead in implementing the construction of the border wall does not exempt the Department from following congressional requirements and established acquisition practices to safeguard taxpayers dollars from fraud, waste, and abuse. The Department can fully and successfully comply with the Executive Order while also adhering to these acquisition controls.

Second, DHS claimed the purpose or objective of our audit is misaligned with the conclusions and recommendations contained within the report. Specifically, the Department stated that our report "pivots" from the original purpose of determining the extent to which CBP executed the Analyze/Select phase of the acquisition lifecycle framework for the acquisition of the barrier for the southern border to focus on CBP's efforts to gain operational control of the southern border. DHS argued that the physical barrier constitutes an element of impedance and denial, which is only one of three aspects that comprise operational control.

We recognize that implementing impedance and denial solutions are only a part of gaining operational control of the southern border. However, border wall construction was to be in the most appropriate locations to effectively achieve operational control of the border. This is significant because our review of Border Patrol's Capability Gap Analysis Process for stations that have border zones within their areas of responsibility did not always identify impedance and denial as a need for securing the southern border. Specifically, three stations prioritized for border wall construction did not identify impedance and denial as a capability need. In fact, the capability needs most often identified for operational control of the southern border were domain awareness, followed by human capital management, mission readiness, and security partnerships.

Third, the Department took issue with our analysis and discussion of CBP's use of an AoA versus an Alternatives Analysis. Specifically, CBP claims that it did not conduct an AoA to select the most effective, appropriate, and affordable solution to obtain operational control of the southern border because it would have been inappropriate to do so. According to CBP, it conducted an extensive review on how best to provide impedance and denial when it previously built several hundred miles of barrier. This past analysis conclusively showed that the only cost-effective approach to impedance and denial was through the use of a physical barrier.



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As discussed in our report, CBP completed an AoA in 2008 for all segments along the southern border and recommended a border wall as the most cost-effective option to fulfill its operational requirements at that time. However, we found those AoA to be outdated. We also concluded that CBP's decision to use prior AoAs was not responsive to the DHS Executive Order Implementation Plan (IPLAN) and to congressional appropriations requirements for an AoA. Contrary to the Department's assertion, conducting an AoA would not violate the Executive Order. An AoA would support the solutions most appropriate for prioritized locations along the southern border while also being responsive to congressional appropriation requirements.

Lastly, the Department emphasized that this audit took 34 months to complete. Although we recognize the length of the audit timeline, the purpose of the OIG remains, as established in the *Inspector General Act of 1978* as amended. Our purpose, in part, is to conduct and supervise audits related to agency programs and operations; to recommend policies for activities designed to promote economy, efficiency, and effectiveness; and to prevent and detect fraud and abuse. Our work keeps the Department and the Congress fully and currently informed about problems and deficiencies related to the administration of such programs and operations as well as the necessity for, and progress of, corrective action. Border wall construction remains a significant, high-cost work in progress in need of oversight. As such, we believe our report provides value to the Department, Congress, and the public.

We also received technical comments from the Department and made revisions to the report where appropriate. We consider the three recommendations unresolved and open. A summary of the Department's responses and our analysis follows.

DHS Response to Recommendation 1: Non-concur. According to the Department, the CBP Wall Acquisition Program appropriately conducted an Alternatives Analysis in accordance with DHS Acquisition Management Directive 102-01, its implementing instruction, and other related guidance. The Alternatives Analysis examined performance characteristics of alternative ways to implement the material solution of creating a physical barrier in accordance with Executive Order 13767. The Department added that the CBP Wall Acquisition Program addressed impedance and denial capabilities as stated in the Mission Need Statement, not operational control.

DHS indicated conducting an AoA of solutions to obtain complete operational control of the southern border was neither appropriate nor necessary. Alternatives for operational control of the southern border are not generally considered through an AoA, nor under the authority of the DHS Under Secretary for Management. Instead, reviews of these types of alternatives are



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conducted through strategic and operational evaluations, such as the Border Security Improvement Plan, which was required pursuant to language set forth in the *DHS Appropriations Act of 2018*. The alternatives considered through this strategic and operational review process were considered in a complementary fashion via CBP's layered enforcement strategy and through the Requirements, Acquisition, and Planning, Programming, Budgeting, Execution processes. Additionally, DHS' Chief Acquisition Officer required that CBP further document the rationale for its integrated system architecture. This deliverable will further portray the complementary nature of the integrated systems planned to support operational control of the southern border. Estimated Completion Date: January 31, 2021.

OIG Analysis: We do not agree with the Department's conclusion that the CBP Wall Acquisition Program properly followed instruction and other related guidance. We also disagree with the Department's assertion that conducting an AoA of solutions is neither appropriate nor necessary to obtain complete operational control of the southern border. The IPLAN identified and instructed lead components responsible for executing tasks to implement the executive orders. It also established responsibilities for activities the Department must perform for this broad unity of effort and strategy to succeed. Specifically, the IPLAN tasked CBP with ensuring compliance with DHS Management Directive 102, including completing an AoA to include an analysis of costs, benefits, and effectiveness of existing fencing.

Additionally, the *Consolidated Appropriations Act of 2017* (Public Law 115-31) as well as subsequent appropriations, required the Department to submit to the Committees on Appropriations of the Senate and the House of Representatives a risk-based plan for improving security along the borders of the United States, including the use of personnel, fencing, other forms of tactical infrastructure, and technology. The plan was to include a description of the methodology and analyses used to select specific resources for deployment to particular locations that included, among other things, an AoA and comparative costs and benefits. The Department's Border Security Improvement Plan was developed pursuant to language set forth in the Appropriations Act. However, an AoA was not completed.

We consider this recommendation unresolved. It will remain open until CBP provides an estimated completion date along with a corrective action plan to conduct an AoA identifying appropriate and effective solutions to obtain complete operational control of the southern border or provides evidence that it has satisfied its congressional requirement.

DHS Response to Recommendation 2: Concur. The Department stated that the Chief of Border Patrol addressed the recommended enhancements as a



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result of a U.S. Government Accountability Office audit report,²¹ and an independent verification and validation analysis. Enhancements to the process included improving the documentation associated with quantitative and qualitative data input into the decision support tool, weighting, and calculations to assess the most operationally effective location for the border wall. Border Patrol removed feasibility to avoid skewing operational prioritization with nonoperational data. Feasibility, however, remains an important aspect, which was addressed after the prioritization, as a part of DHS Acquisition Management Directive 102-01.

Border Patrol assessed 198 segments of border wall requirements that were not funded as of June 30, 2019, scoring segments individually according to the updated decision support tool methodology. These segments were then combined into 31 groups that collectively promoted operational control. Border Patrol convened an Operational Review Board on May 8, 2019. The Operational Review Board, comprised of executive leadership, reviewed and validated the decision support tool's results, making some minor adjustments to the prioritization and applying and documenting a border-wide perspective. On June 21, 2019, the Chief of Border Patrol was briefed on the outcomes and approved the Operational Review Board's priority list.

The Department, however, clarified that Border Patrol will not be using multi-year operational data given the dynamic and changing environment in which it operates. Instead, Border Patrol needs to utilize the most recent information and threat data to adequately assess requirements needs. DHS requested the recommendation be closed as implemented upon issuance of the final report.

OIG Analysis: Although the Department concurred with the recommendation, we find Border Patrol's actions do not meet the intent of the recommendation. Border Patrol has taken steps to enhance the selection process for prioritizing southern border investments. Enhancements to the decision support tool, which is used to prioritize locations for investment through a scoring process, included improving the documentation associated with the quantitative and qualitative data input, weighting, and calculations to assess the most operationally effective locations for the border wall. However, these stated enhancements do not include the Operational Review Board's documented justification for deviating from the decision support tool's results.

Additionally, we disagree with Border Patrol's decision not to use multi-year border activity data. As presented in our report and confirmed in the Department's formal written comments, activity along the southern border is dynamic and constantly changing. Using multiyear data helps Border Patrol

²¹ *Southwest Border Security: CBP Is Evaluating Designs and Locations for Border Barriers but Is Proceeding Without Key Information*, GAO-18-614, July 30, 2018



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maximize the decision support tool's utility to obtain operational control by providing insights about trends and context not available from single year data. Using multi-year data would provide additional insight and fuller context to inform Border Patrol's prioritization and investment decisions, while also minimizing the likelihood of the Operational Review Board making significant adjustments to the decision support tool's priority rankings. Refining the prioritization methodology to include multi-year data in the decision support tool would also account for changes in illegal entry traffic patterns as CBP constructs new border wall.

We consider this recommendation unresolved. It will remain open until Border Patrol provides an estimated completion date along with updates and documentary evidence that these enhancements were completed and implemented.

DHS Response to Recommendation 3: Non-concur. The Department disagrees with our conclusion that “[w]ithout an implementation plan the Department cannot ensure it will fulfill its mission requirements with effective, appropriate, and affordable solutions.” According to DHS, the DHS Executive Order Implementation Plan (IPLAN), dated March 1, 2018, is exactly the implementation plan the Secretary directed to be created in order to unify the disparate and broad requirements and tasks embodied within multiple related national security Executive Orders and supplemental guidance. The IPLAN established responsibilities for the remaining activities that the Department must perform for this broad unity of effort and strategy to succeed.

The Department also stated that the Border Security Improvement Plan provided more detail to guide wall acquisition than the IPLAN could have. Of necessity, a Department implementation plan such as the IPLAN is a high-level guidance document that does not provide the details to influence an AoA or revision to Border Patrol's methodology for prioritizing southern border investments. The Department concluded that it made very little sense as a matter of appropriate resource management or logic for the Office of Strategy, Policy, and Plans in 2020 to retrospectively determine the need for an implementation plan for efforts successfully ongoing since January 2017. The Department requested the recommendation be closed as implemented upon issuance of the final report.

OIG Analysis: During the course of our audit we had numerous written exchanges with the Strategy and Analysis team within the Office of Strategy, Policy, and Plans. Through these exchanges, we confirmed that the Department never produced an implementation plan for its *Comprehensive Southern Border Study and Strategy*. The Strategy and Analysis team's misrepresentation of the IPLAN as exactly the implementation plan required by



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the *Comprehensive Southern Border Study and Strategy* highlights the Department's ongoing struggle with providing appropriate documentation, which reduces program auditability and extends audit timelines. The inability to prepare and provide appropriate documentation also inhibits the ability to determine and assign accountability by Department decision makers. The IPLAN assigned lead and support components responsible for executing tasks to implement the Executive Orders. Among the tasks articulated in the IPLAN was ensuring that DHS Headquarters produce a final draft of the *Comprehensive Southern Border Security Study and Strategy*. However, the Department now claims that the IPLAN is an implementation plan of that same *Comprehensive Southern Border Security Study and Strategy*.

The Department also indicated in its response that the Border Security Improvement Plan provides more detail to guide wall acquisition than the IPLAN could. The Border Security Improvement Plan was developed in accordance with the *Consolidated Appropriations Act* of 2017 (Public Law 115-31). However, the Department did not explain how the Border Security Improvement Plan satisfies the requirement for an implementation plan called for in the *Comprehensive Southern Border Security Study and Strategy*. To state otherwise in our opinion, is misleading.

We disagree with the Department's conclusion that it makes very little sense as a matter of appropriate resource management or logic to retrospectively determine the need for an implementation plan to execute the approach identified in the *Comprehensive Southern Border Study and Strategy*. The *Comprehensive Strategy's* implementation plan was to include baselines to monitor implementation and progress as well as an impact analysis for DHS to adjust its approach to ensure that resources were optimally applied to securing the border. Although the Department referenced other documents that it created to meet the requirements of Executive Order 13767, the *Comprehensive Strategy's* implementation plan was to ensure the right capability was deployed to secure the southern border. We consider this recommendation unresolved. It will remain open pending further review and clarification of the Department's next steps to determine the need for an implementation plan to execute the *Comprehensive Southern Border Security Study and Strategy*.



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Appendix A

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine to what extent CBP has executed the Analyze/Select Phase, the second phase of the ALF, for the acquisition of the barrier along the southern border. Specifically, we (1) determined to what extent CBP identified the alternatives to select the most appropriate solution and locations to effectively and efficiently achieve operational control, (2) determined to what extent CBP and Border Patrol supported its decision making, and (3) assessed to what extent the Department developed and implemented a strategy to obtain complete operational control of the southern border.

To accomplish our objective, we obtained and reviewed pertinent Federal, DHS, CBP, and Border Patrol specific regulations, policies, procedures, and guidance relevant to the Analyze/Select Phase of the Wall Acquisition Program. We reviewed prior DHS OIG and GAO reports, the Department's *Comprehensive Southern Border Security Study and Strategy*, and the Department's *Border Security Improvement Plan*. We reviewed acquisition documents produced during the Need Phase, such as the Mission Need Statement and the Capability Development Plan. We interviewed representatives of DHS' Joint Requirements Council and CBP's Component Acquisition Executive. We also met with Border Patrol officials and staff responsible for management and oversight of the Wall Acquisition Program as well as the Border Patrol's Enforcement Systems Division.

To determine relevant executive and departmental guidance, we reviewed the requirements set forth in Executive Order 13767 and then-DHS Secretary John F. Kelly's implementation memo. To assess whether CBP followed the appropriate acquisition steps, we compiled pertinent Federal and departmental regulations, policies, procedures, and guidance relevant to DHS acquisitions. To verify compliance with DHS acquisitions policy, we reviewed acquisition documents, including the Requirements Decision and Action Memorandum, Acquisition Decision Memorandum, the Concept of Operations for Impedance and Denial, Preliminary Operational Requirements Document for Impedance and Denial, the Border Wall System Program Cost Estimating Baseline Document, and the Acquisition Plan produced during the Analyze/Select Phase of the Wall Acquisition Program. We interviewed DHS, CBP, and Border Patrol officials responsible for recommending a solution to fulfill the capability gap in the southern border and analyzed the requirements set forth in Public Law



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115–31 and the DHS *Executive Order Implementation Plan*. We obtained and analyzed the letter from the U.S. Senate Committee on Appropriations requesting that the Department complete an AoA. We obtained and assessed 26 of the 85 AoAs that CBP developed during the Secure Border Initiative Network (SBI*net*) to determine whether the estimated cost included in the analysis was comparable to the estimated cost in the Wall Acquisition Program and assessed the cost estimate’s accuracy.

To verify Border Patrol’s capability development need, we reviewed FY 2016 Capability Gap Analysis Process (CGAP) reports from four of the nine Sectors along the southern border. We judgmentally selected San Diego, El Centro, Yuma, and Rio Grande Valley Sectors because (1) the decision support tool ranked El Centro and Yuma highest, (2) CBP prioritized San Diego and Rio Grande Valley for FY 2018 border wall funding, and (3) the Operational Review Board ranked these four sectors highest. We selected FY 2016 CGAP reports because they were current during the creation of the Roadmap, the decision support tool, and CBP’s FY 2018 Budget Request (the 2017 CGAP was not completed until September 2017). We obtained the CGAP reports directly from Border Patrol’s Webtool, which is the system of record for Border Patrol’s sector and station CGAP reports. We also examined Capabilities, Objective Measures, Resources, Evaluative Methods cards submitted by stations located in El Centro, Rio Grande Valley, San Diego, and Yuma Border Sectors. Specifically, we reviewed 190 - FY 2016 cards from 13 of the 16 stations that have border zones within their area of responsibility located in the four judgmentally selected sectors.

We conducted site visits to the four judgmentally selected sectors and interviewed Sector Chiefs, station patrol agents-in-charge, and the Sector Strategic Planning Teams, who were involved in the CGAP process. We assessed the reliability of the CGAP data by contacting the Strategic Planning Officers in El Centro, Rio Grande Valley, and San Diego to verify the completeness of CGAP reports. We also compared the sector to station Capabilities, Objective Measures, Resources, Evaluative Methods cards to confirm that the capability gaps identified matched between the sector and stations. We determined the CGAP reports were sufficiently reliable for the purposes of this report. We also toured the southern border, observed the prototypes in San Diego, and examined the various types of barriers to determine how terrain influences barrier types appropriate to each location.

To assess the Roadmap, we analyzed the instructions provided to the 9 Border Patrol sectors and 47 Border Patrol stations along the southern border. We then met with Border Patrol’s Operational Requirements Management Division to understand the methodology for the statistical information contained in the document. We compared relevant data included in the Roadmap to Border



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Patrol's prioritized locations for border wall and found variances. However, we considered them immaterial for the purposes of our report.

To understand the decision support tool, we met with Operational Requirements Management Division and contractor staff. We also analyzed the decision support tool's evaluation criteria, the segments scoring and ranking, and the qualitative and quantitative details. To determine whether the decision support tool was consistent with standards for internal control requirements, we compared the supporting documentation of the evaluation criteria and its weights and sub-weights to the standards. We also reviewed source documents used to populate the decision support tool from three southern border Sectors to determine whether the decision support tool considered the impact of scheduled work funded from prior year appropriations on the southern border. In their submissions, Border Patrol sectors identified whether scheduled work will be ongoing in their area of responsibility.

To assess the reliability of the decision support tool, we performed comparative analyses of the quantitative and qualitative data. We compared the decision support tools quantitative data to data in the Border Patrol Enterprise Reporting Tool and to data obtained directly from Border Patrol stations. Although we found slight variances, we determined the decision support tool data was sufficiently reliable for the purposes of this report. We also compared the qualitative data to the results of the CGAP reports. Specifically, we identified locations with capability gaps that related to "impedance and denial," and we reviewed the scores for these locations in the decision support tool that related to the ability to impede and deny.

We conducted this performance audit between June 2017 and September 2019 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards (GAGAS). GAGAS standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.



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Appendix B
CBP Funding for Procurement, Construction, and Improvements along the Southern Border

Fiscal Year		Appropriated Amount
2017 ²²	\$497.4 Million*	<ul style="list-style-type: none"> \$341.2 million to replace approximately 40 miles of existing primary pedestrian and vehicle border fencing along the southwest border, and to add gates to existing barriers; \$78.8 million for acquisition and deployment of border security technology; and \$77.4 million for new border road construction.
2018 ²³	\$1.5 Billion	<ul style="list-style-type: none"> \$251 million for approximately 14 miles of secondary fencing along the southwest border in the San Diego Sector; \$445 million for 25 miles of primary pedestrian levee fencing along the southwest border in the Rio Grande Valley Sector; \$196 million for primary pedestrian fencing along the southwest border in the Rio Grande Valley Sector; \$445 million for replacement of existing primary pedestrian fencing along the southwest border; \$38 million for border barrier planning and design; and \$196 million for acquisition and deployment of border security technology.
2019 ²⁴	\$2.3 Billion	<ul style="list-style-type: none"> \$1.375 billion for the construction of primary pedestrian fencing, including levee pedestrian fencing, in the Rio Grande Valley Sector; \$725 million for the acquisition and deployment of border security technologies and trade and travel assets and infrastructure; and \$270.2 million for construction and facility improvements and humanitarian needs.
	\$6.7 Billion**	<ul style="list-style-type: none"> about \$601 million from the Treasury Forfeiture Fund; up to \$2.5 billion under DOD funds transferred for support for counterdrug activities (10 U.S.C. 284); and up to \$3.6 billion reallocated from DOD military construction projects under the President’s declaration of a national emergency (10 U.S.C. 2808).
2020 ²⁵	\$1.9 Billion	<ul style="list-style-type: none"> \$1.375 billion for the construction of barrier system along the southern border; \$221.9 million for the acquisition and deployment of border security technologies and trade and travel assets and infrastructure; \$62.3 million for facility construction and improvements; \$199.5 million for integrated operations assets and infrastructure; and \$45.6 million for mission support and infrastructure.

Source: DHS OIG analysis of 2017, 2018, 2019, and 2020 *Consolidated Appropriations Act*

*Amount does not include appropriations for border security assets and infrastructure

**Upon signing the FY 2019 appropriations bill into law in February 2019, the President identified about \$6.7 billion in funds that could be re-programmed, primarily from DOD.

²² *Consolidated Appropriations Act, 2017, Public Law 115-31, May 5, 2017*

²³ *Consolidated Appropriations Act, 2018, Public Law 115-141, March 23, 2018*

²⁴ *Consolidated Appropriations Act, 2019, Public Law 116-6, February 15, 2019*

²⁵ *Consolidated Appropriations Act, 2020, Public Law 116-93, December 20, 2019*



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Appendix C
Status of Border Wall Construction as of July 2019

Type of Barrier and Location	Amount Appropriated	Funded work
FY 2017 Appropriations:		
Replace approximately 40 miles of existing primary pedestrian and vehicle border fencing along the southern border	\$341 million	<ul style="list-style-type: none"> 40 miles of new wall replacement in San Diego, El Centro, and El Paso Sectors. Construction underway for 35 border wall gates in the Rio Grande Valley Sector.
FY 2018 Appropriations:		
14 miles of secondary wall replacement in San Diego Sector	\$251 million	<ul style="list-style-type: none"> Construction started in February 2019.
25 miles of new border wall and levee wall in Rio Grande Valley Sector	\$445 million	<ul style="list-style-type: none"> Construction activities have started for approximately 13 miles of new levee wall system in Hidalgo County. Estimated completion will depend on availability of real estate. An additional 12 miles of new border wall system located in Starr County is set for award by December 31, 2019.
Primary pedestrian fencing in Rio Grande Valley Sector	\$196 million	<ul style="list-style-type: none"> No work to date.
Replacement of existing primary pedestrian fencing along the southern border	\$445 million	<ul style="list-style-type: none"> Construction started in April 2019 for approximately 37 miles of new border wall in place of dilapidated and outdated designs in San Diego and Calexico, California, and Yuma, Arizona.
FY 2019 Appropriations:		
Construction of primary pedestrian fencing, including levee pedestrian fencing, in the Rio Grande Valley Sector	\$1.375 billion*	<ul style="list-style-type: none"> Contract awarded May 2019 to construct approximately three miles of new bollard wall system within Rio Grande Valley Sector's Rio Grande City Border Patrol Station area of responsibility. Construction is anticipated to begin in 2019.

Source: DHS OIG analysis of 2017, 2018, and 2019 *Consolidated Appropriations Act* and CBP's status update of border wall construction.

* Amount does not include funds from the Treasury Forfeiture Fund or 10 U.S.C. § 284(b)(7)



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Appendix D
DHS Comments to the Draft Report

U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

April 24, 2020

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Jim H. Crumacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

SUBJECT: Management Response to Draft Report: “CBP Has Not Demonstrated Acquisition Capabilities Needed to Secure the Southern Border” (Project No. 17-087-AUD-CBP)

JIM H
CRUMPACKER

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JIM H CRUMPACKER
Date: 2020.04.24
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Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the Office of Inspector General’s (OIG) work in planning and conducting its review and issuing this report.

The Department, however, is seriously concerned that OIG’s draft report contains a series of significantly flawed and inaccurate factual representations—despite numerous meetings with program officials, subject matter experts, and others—and the continual sharing of extensive supporting documentation since OIG announced this audit 34 months ago on June 5, 2017. The OIG’s apparent misunderstanding of the facts during the past nearly three years has resulted in three recommendations, two with which the Department must non-concur, and one with which it concurs.

Overarching Concerns with the Report’s Misalignment of Purpose and Product

The Department’s concerns with the draft report fall into three major categories, specifically, the OIG’s evident and puzzling: (1) misperception of the established role of an Executive Branch agency in carrying forward executive direction, (2) lack of clarity when discussing its analysis of “operational control” (OPCON) versus “impedance and denial” (I&D), and (3) improper use of an Analysis of Alternatives (AoA) versus an Alternatives Analysis (AA).

1. Regarding the Role of an Executive Branch Agency

The mission of the U.S. Customs and Border Protection (CBP) is to safeguard America’s borders, thereby protecting the public from dangerous people and materials while enhancing the Nation’s global economic competitiveness by enabling legitimate



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trade and travel. As the lead federal agency charged with detecting and preventing the illegal entry of aliens into the United States, CBP, together with other law enforcement partners, protects our Nation's physical and economic security by facilitating the flow of legal immigration and goods while preventing the illegal trafficking of people and contraband.

As background, in 2017, CBP revisited its methods for gaining OPCON of the border pursuant to the President's Executive Order (EO) 13767, "Border Security and Immigration Enforcement Improvements," dated January 25, 2017. This EO established the policy of the Chief Executive to obtain "complete operational control" of the southern border (i.e., preventing all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband). Within CBP, the President's EO required additional improvements to the existing border OPCON framework which the U.S. Border Patrol (USBP) had been undertaking to refine and advance for many years.

As relates to OIG's review, the President's EO specifically directed the "*immediate* construction of a physical **wall** on the southern border" (emphasis added), which it unambiguously defined as "a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier." Accordingly, CBP, as an executive agency within the executive cabinet-level Department of Homeland Security, began to implement the EO requirement to build a wall.

The OIG's draft report, however, seems to chastise CPB, and DHS, for not undertaking actions to violate the explicit language of the EO and pursue courses of action other than *immediately* building a wall. This is puzzlingly evident in the report language. For example, the report states on page 9 that, "Without a comprehensive, well-documented approach, Border Patrol cannot be certain it is making fully informed investment decisions and investing in border *locations that could best benefit* from physical barriers." (emphasis added.) This particular assessment includes the OIG suggesting it would be appropriate for CBP not to build a wall at all (e.g., on page 12 of the report, OIG states: "Constructing a border wall may be a viable option for *some locations*, but in other locations *non-construction alternatives* may be more feasible, and may best help CBP achieve operational control of the southern border." (emphasis added)). These opinions do not correspond with, and indeed stand in direct contravention of, the plain directive language of the EO to CBP and DHS.

Accordingly, this analysis by the OIG seems to overlook repeatedly that DHS, again as part of the Executive Branch, operates under the direction of the President setting forth Executive Branch policies as the *fons et origo* (i.e., source or origin) of executive power. DHS and CBP, as members of the Executive Branch, are to seek to proceed immediately to implement such order of the Chief Executive in keeping with



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the parameters of their mission. This is particularly so in this instance where USBP has been undertaking specific OPCON improvements for many years.

2. Conflation and Confusion of “Operational Control” and “Impedance and Denial”

Gaining OPCON, according to both the “DHS-U.S. Customs and Border Protection Strategy 2020 – 2025” and “2020 DHS-U.S. Border Patrol Strategy,” requires attaining three interrelated, operational elements: I&D, situational awareness, and execution of a law enforcement response. The ability to achieve these operational elements is dependent on mission readiness, which is a supporting capability focusing on agent training, equipment readiness, and agent availability. I&D represents USBP’s ability to stop or slow down the adversary at the immediate border. USBP accomplishes this I&D by using tactical infrastructure with emphasis on a physical barrier (e.g., wall).

The draft report states that OIG’s audit was specifically conducted “to determine to what extent CBP has executed the Analyze/Select Phase, the second phase of the Acquisition Life Cycle Framework, for the acquisition of the barrier along the southern border.” There is a significant pivot, however, in direction from the purpose to the resultant report in that the conclusions and recommendations in the draft report focus on CBP efforts “to obtain operational control of the southern border.” Although these efforts are complementary, they are obviously not the same. The steps taken to analyze, select, and build an “impassable physical barrier” are different from the steps taken to attain “complete operational control” of the southern border. As a result, the purpose (i.e., overall objective) of the OIG’s audit is misaligned with the conclusions and recommendations documented in the draft report.

CBP specifically conducts analyses to determine the most cost-effective approach to each one of three interrelated operational elements. “Operational control” or OPCON requires a mix of systems to cover the three operational elements of I&D, situational awareness, and execution of a law enforcement response. For example, things that impede generally do not provide effective situational awareness, and things that provide situational awareness generally do not effectively impede. Some individuals are apparently of the opinion that surveillance systems, such as cameras and radars, could become a “virtual wall,” but cameras and radars do not impede progress or deny access. Surveillance systems let us know that people are moving—they do not impede that movement. Accordingly, it is incorrect to confuse I&D with OPCON, as OIG unfortunately does.

OIG further states on page 3 of the draft report that the purpose of the Analyze/Select Phase “is to determine the most effective and affordable way to fill the capability gap identified by the program in its “Mission Needs Statement” (MNS), which

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documented the functional capabilities that CBP must have in order to effectively obtain *operational control* of the southern border” (emphasis added). However, this statement is in error given that the MNS specifically highlights that the key capability gaps it addresses are for *impedance and denial only*, not the full suite of capabilities (e.g., mission readiness) necessary for operational control (emphasis added).

In addition, OIG states on page 1 of the draft report, “According to Border Patrol, four capability needs have consistently been identified as required for operational control: (1) I&D [...]; (2) domain awareness [...]; (3) access and mobility [...]; and (4) mission readiness [...].” However, in several places, the MNS highlights that the key capability gaps it addresses are for I&D only and not the other three capability needs necessary for OPCON. Again, OIG’s draft report appears to confuse I&D with OPCON.

3. Proper Use of an Analysis of Alternatives versus an Alternatives Analysis

As previously noted, the OIG’s stated audit purpose (i.e., overall objective) was “to determine to what extent CBP has executed the Analyze/Select Phase, the second phase of the Acquisition Life Cycle Framework, for the acquisition of the barrier along the southern border,” and the OIG notes in its Highlights summary, as well as on pages 6 and 7 of the draft report, that “CBP did not conduct an Analysis of Alternatives to assess and select the most effective, appropriate, and affordable solutions to obtain operational control of the southern border as directed, but instead relied on prior outdated border solutions to identify materiel alternatives for meeting its mission requirement”

CBP did not conduct an AoA because doing so would have been inappropriate. During the past nearly three years of this audit, CBP program officials and subject matter experts have repeatedly explained to OIG staff that CBP conducted an *extensive* review of how best to provide I&D when it previously built several hundred miles of barrier. That review confirmed that options such as surveillance systems could not, by their very definition, perform I&D functions. The only options that provide actual I&D are physical barriers or, of course, USBP personnel lined side by side on the border. The latter would not only be prohibitively expensive but would prevent enforcement personnel from responding and executing law enforcement functions. In short, past analysis *conclusively* showed that the only cost-effective approach to I&D was through use of a physical barrier. The only remaining question, then, was about the specific type of physical barrier needed.

CBP’s Wall Acquisition Program was established to address I&D needs identified by USBP in its MNS and to comply with EO 13767 to *immediately* plan, design, and construct a physical **wall** on the southern border. The Department’s Acquisition Management Directive (MD) 102-01, its implementing instructions, and other related



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guidance supports an AA rather than an AoA when the preferred solution is already narrowed down to a specific material solution. In accordance with this guidance, the CBP Wall Acquisition Program conducted an AA to examine performance characteristics of alternative ways to implement the material solution (i.e., a physical barrier, as called for in the EO).

The OIG further states in the draft report on page 7, “[a]dditionally, DHS acquisition guidance requires programs to identify alternatives and resource requirements during this phase. As previously stated, this phase, called the Analyze/Select Phase, is meant to determine the most effective and affordable way to obtain OPCON of the southern border.” The OIG’s statement is inaccurate because the Analyze/Select phase as applied to the Wall Acquisition Program, and as traced to the MNS, is, of course, for *I&D*. This once again misaligns the purpose (i.e., overall objective) of OIG’s audit with the conclusions and recommendations documented in the draft report in that I&D is a component of, but not equivalent to, OPCON.

DHS Response to Recommendations

The draft report contained three recommendations. DHS concurs with one (Recommendation 2) and non-concurs with two (Recommendations 1 and 3). Attached find our detailed response to each recommendation. DHS previously submitted technical comments under a separate cover for OIG’s consideration.

* * *

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment



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Attachment: Management Response to the Recommendations Contained in Project No. 17-087-AUD-CBP

Recommendation 1: The Under Secretary for Management of DHS require CBP to conduct an up-to-date independent Analysis of Alternatives to identify the most appropriate and effective solutions to obtain complete operational control of the southern border.

Response: Non-concur. As identified in the USBP MNS, the CBP Wall Acquisition Program addressed I&D capabilities, not OPCON. The Program appropriately conducted an AA, in accordance with DHS's Acquisition MD 102-01, its implementing instruction, and other related guidance, to examine performance characteristics of alternative ways to implement the material solution of creating a physical barrier (i.e., wall) in accordance with EO 13767.

Conducting an AoA of solutions to obtain complete OPCON of the southern border is neither appropriate nor necessary. Alternatives for OPCON of the southern border are not generally considered through an AoA, nor under the authority of the DHS Under Secretary for Management. Instead, reviews of these types of alternatives are conducted through strategic and operational evaluations, such as the Border Security Improvement Plan (BSIP), which was required pursuant to language set forth in the DHS Appropriations Act of 2018. The alternatives considered through this strategic and operational review process are considered in a complementary fashion via CBP's layered enforcement strategy and through the Requirements, Acquisition, and Planning, Programming, Budgeting, Execution processes.

It is also important to note that DHS's Chief Acquisition Officer has required that CBP further document the rationale for its integrated system architecture. This deliverable will further portray the complementary nature of the integrated systems planned to support OPCON of the southern border. Estimated Completion Date (ECD): January 31, 2021.

Recommendation 2: Border Patrol revise its methodology for prioritizing southern border investments to include:

- a comprehensive justification for the Operational Review Board's final group rankings for southern border investment;
- a rationale for the weights assigned to the decision support tool's evaluation criteria;
- multi-year border activity data in the decision support tool; and
- documenting any deviation from the decision support tool results.

Response: Concur. The Chief of the USBP has already addressed the recommended enhancements (with the exception of using multi-year operational data), which were the result of a U.S. Government Accountability Office audit report GAO-18-614,



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“SOUTHWEST BORDER SECURITY: CBP Is Evaluating Designs and Locations for Border Barriers but Is Proceeding Without Key Information,” published on July 30, 2018, and publicly released on August 6, 2018, and an Independent Verification and Validation (IV&V) analysis for the second iteration of the Decision Support Tool (DST 2) to improve the methodology for collection, prioritization, and documentation of I&D solutions. These enhancements to the process included improving the documentation associated with the quantitative and qualitative data input, weighting, and calculations to assess the most operationally effective location for the border wall. USBP removed feasibility from the model to avoid skewing operational prioritization with non-operational data. Feasibility, however, remains an important aspect, which is addressed after the prioritization, as a part of DHS MD 102-01, Revision 03.

USBP had assessed 198 segments of border wall requirements that had not been funded, as of June 30, 2019, scoring segments individually according to the updated DST 2 methodology. These segments were then combined into 31 groups that collectively promote OPCON.

The USBP convened an Operational Review Board (ORB) on May 8, 2019. The board, comprised of executive leadership, reviewed and validated the DST results making some minor adjustments to the prioritization, and applying and documenting a border-wide perspective. On June 21, 2019, the Chief of Border Patrol was briefed on the outcomes and approved the priority from the ORB.

USBP will not be using multi-year operational data given the dynamic and changing environment in which it operates. Instead, USBP needs to utilize the most recent information and threat data to adequately assess requirements needs.

We request that the OIG consider this recommendation resolved and closed as implemented.

Recommendation 3: The Office of Strategy, Policy, and Plans for DHS determine the need for an implementation plan for obtaining and maintaining complete operational control of the southern border, as instructed by the Comprehensive Southern Border Security Study and Strategy.

Response: Non-concur. Unfortunately, it is our understanding that the OIG did not deem it necessary to consult with leadership of the Office of Strategy, Policy, and Plans (PLCY) during the course of this years-long audit or in making this recommendation. And so OIG’s *ipse dixit* (i.e., unproven statement) that “[w]ithout an implementation plan [from PLCY] the Department *cannot* ensure it will fulfill its mission requirements with effective, appropriate, and affordable solutions” is misplaced (see page 13 of the draft report) (emphasis added). OIG does not seem to recognize that the DHS Executive Order Implementation Plan (IPLAN), dated March 1, 2018, is *exactly* the implementation plan

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the Secretary expressly “directed” be created to “unify the disparate and broad requirements and tasks embodied” within multiple related national security EOs and supplemental guidance, and was “the result of the analytical and operational planning process derived from this requirement.” (see page 3 of the IPLAN.) The IPLAN by its very terms “establishes responsibilities for the remaining activities that the Department must perform for this broad unity of effort and strategy to succeed.” (*Id.*) And the IPLAN explains that this cross-component effort was administered by the Deputy’s Management Action Group, and that PLCY was one of two leads for “coordinating EO implementation activities.” (*Id.* at page 8.) The IPLAN even contains an Annex called “Implementation” to *inter alia* list discrete requirements and track progress over time. (*Id.* at page 21.) OIG somehow omits all of this in its draft report.

In addition, the BSIP provides *more* detail to guide wall acquisition than the IPLAN could have. Of necessity, a Department implementation plan such as the IPLAN is a high-level guidance document that does not provide the details to influence an AoA or revision to USBP’s methodology for prioritizing southern border investments. Moreover, it makes very little sense as a matter of appropriate resource management or logic for PLCY in 2020 to retrospectively “determine the need for an implementation plan” for efforts successfully ongoing since January 2017 pursuant in substantial part to an implementation plan as to which PLCY was a co-lead (which, again, OIG entirely ignores). (See, e.g., CBP, “Border Wall System,” <https://www.cbp.gov/border-security/along-us-borders/border-wall-system>.)

We request that the OIG consider this recommendation resolved and closed as implemented.



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