

~~CONTROLLED UNCLASSIFIED INFORMATION~~

23

383.7

ACTION MEMO

DepSec Action

A/USD(P)

OCT 13 2020

Prepared by: (b) (6)

FOR: SECRETARY OF DEFENSE

FROM: Kenneth P. Rapuano, Assistant Secretary of Defense, Homeland Defense & Global Security

OCT 09 2020

SUBJECT: Department of Homeland Security/Customs and Border Protection Request for Modification of a Portion of the FY 2020 Border Barrier Request for Assistance Pursuant to 10 U.S.C. § 284.

PURPOSE: Approve the DHS/CBP request to modify a portion of the existing, and approved, DHS/CBP Border Barrier Request for Assistance pursuant to 10 U.S.C. § 284, dated January 14, 2020.

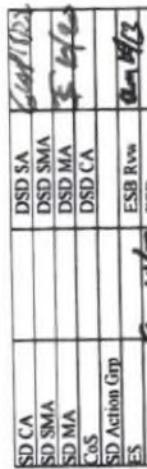
COORDINATION: Policy coordinated with OUSD(C)/CFO, OGC, and USACE.

BLUF: If you approve this request, the U.S. Army Corps of Engineers will relocate the planned placement of a yet-to-be-constructed portion of the El Paso D project, to avoid unfavorable site conditions posed by proximity to a railway easement. This change will not increase the cost of construction; will not affect completion of 450 miles of border barrier by the end of calendar year (CY) 2020; and will not risk expiring funds, as funds have already been fully obligated.

DISCUSSION:

DHS/CBP RFA MODIFICATION

- On January 14, 2020, DHS/CBP requested assistance in blocking drug-smuggling corridors on Federal land along the U.S. southern border. On February 13, 2020, you approved the construction of 31 projects and segments, totaling approximately 177 miles of border barrier, pursuant to 10 U.S.C. § 284; and further approved the transfer of \$3.831B in funds to provide this support to DHS (TAB D).
- On September 23, 2020, DHS/CBP submitted a request to modify its January 14, 2020, request for assistance, specifically regarding the location of El Paso D, Segment 1 (TAB B).
 - The modification relocates a yet-to-be-constructed, approximately-1.6-mile section of what will be a secondary border fence. The current planned location has insufficient land on which to build the fence without encroaching on an existing easement owned by the



23 Sept.



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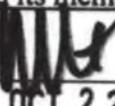
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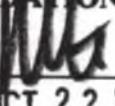
Union Pacific Railroad and the American Canal, and would cause safety and construction concerns.

- The total length of the El Paso D project (approximately 3 miles) will remain unchanged.
- All other provisions of the original DHS/CBP request for assistance remain unchanged, including DHS/CBP's commitment to issue waivers necessary for construction.
- Current coordinates:
 - o Start coordinate: (31.763185, -106.447753);
 - o End coordinate: (31.748581, -106.488527)
- New coordinates:
 - o Start coordinate: (31.7596583, -106.4679806);
 - o End coordinate: (31.7541083, -106.4233472)

RECOMMENDATION # 1: Approve the modification to El Paso D, Segment 1, as requested by DHS/CBP in its memorandum of September 23, 2020 (TAB B).

Approve:  Disapprove: _____ Other: _____
OCT 22 2020

RECOMMENDATION # 2: Authorize the Executive Secretary to respond on your behalf.

Approve:  Disapprove: _____ Other: _____
OCT 22 2020

Attachments:

TAB A: Response to DHS

TAB B: DHS/CBP FY 2020 284 RFA Modification Request, dated September 23, 2020

TAB C: El Paso D Project Change Map

TAB D: SD-Approved DHS RFA Border Barrier Pursuant to 10 USC 284 - February 13, 2020

TAB E: Coordination

~~CONTROLLED UNCLASSIFIED INFORMATION~~

TAB
A



OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1000

OCT 22 2020

MEMORANDUM FOR EXECUTIVE SECRETARY, DEPARTMENT OF HOMELAND SECURITY

SUBJECT: Modification of Request for Assistance Pursuant to 10 USC § 284

Thank you for your September 23, 2020 memorandum modifying grid coordinates for El Paso D. Segment 1, originally articulated in your January 14, 2020 memorandum requesting Department of Defense support pursuant to title 10, U.S.C., section 284.

The Secretary has reviewed and approved the requested modification of El Paso D. Segment 1, as specified in your modified request for assistance, and has authorized me to respond on his behalf.

All conditions articulated in the Secretary of Defense approval of February 13, 2020 also apply to this modified project.

The Commander, U.S. Army Corps of Engineers, is authorized to coordinate directly with the Department of Homeland Security and U.S. Customs and Border Protection regarding the contracting actions required for barrier construction at this location.

(b) (6)

Executive Secretary

TAB

B

**Homeland
Security**

September 23, 2020

MEMORANDUM FOR:

(b) (6)Executive Secretary
U.S. Department of Defense

FROM:

Clark Barrow
Executive Secretary
U.S. Department of Homeland Security

SUBJECT:

Modification of Request for Assistance (RFA) Pursuant to 10 U.S.C. § 284

REFERENCE:

(a) RFA Pursuant to 10 U.S.C. § 284, dated January 14, 2020
(b) Department of Defense (DOD) Secretary of Defense Response Letter,
dated February 13, 2020**Overview**

The Department of Homeland Security (DHS) requests DoD relocate El Paso D, Segment 1 requested in reference (a) and approved in reference (b). Except as detailed below, all other provisions of references (a) and (b) remain unchanged. DHS will ensure waivers issued by the Secretary of Homeland Security pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 are appropriately amended, as required. A portion of barrier included in this modification is currently included in the existing environmental waiver for the project. The remaining area will be included in a modification to the existing waivers. Pending Secretary of Defense approval, DHS remains committed to publishing amended waivers prior to September 30, 2020.

Modification

DHS is requesting a modification to the alignment of El Paso Project D, Segment 1, an approximate 3-mile section of secondary border fence planned for construction near the Paso Del Norte Port of Entry in El Paso, Texas. The modification will not impact the overall length of the segment (it will remain 3 miles), but will move 1.6 miles of the originally planned border fence to the opposite end of the same segment. The modification is being requested because the original alignment placed 1.6 miles of border fence in close proximity to an existing and active railroad easement and, as a result, creates safety issues for both the construction and use of the border fence.

CBP is requesting that the location of El Paso D, Segment 1 be modified such that the segment begins at 31.7596583, -106.4679806 and continues for approximately 3-miles to 31.7541083, -106.4233472.

DHS confirms that the modified coordinates are within federal property (IBWC).



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Subject: Modification of Request for Assistance (RFA) Pursuant to 10 U.S.C. § 284
Page 2

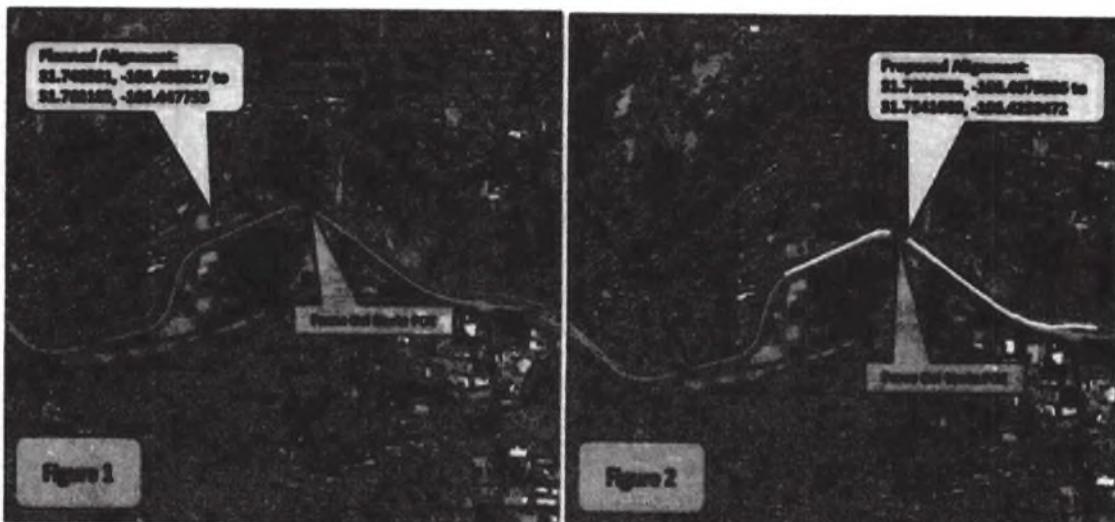
Current coordinates for El Paso D, Segment 1:

- Start coordinate: (31.763185, -106.447753);
- End coordinate: (31.748581, -106.488527)

New coordinates for El Paso D, Segment 1:

- Start coordinate: (31.7596583, -106.4679806);
- End coordinate: (31.7541083, -106.4233472)

The following maps provide visual representations of the requested modification.



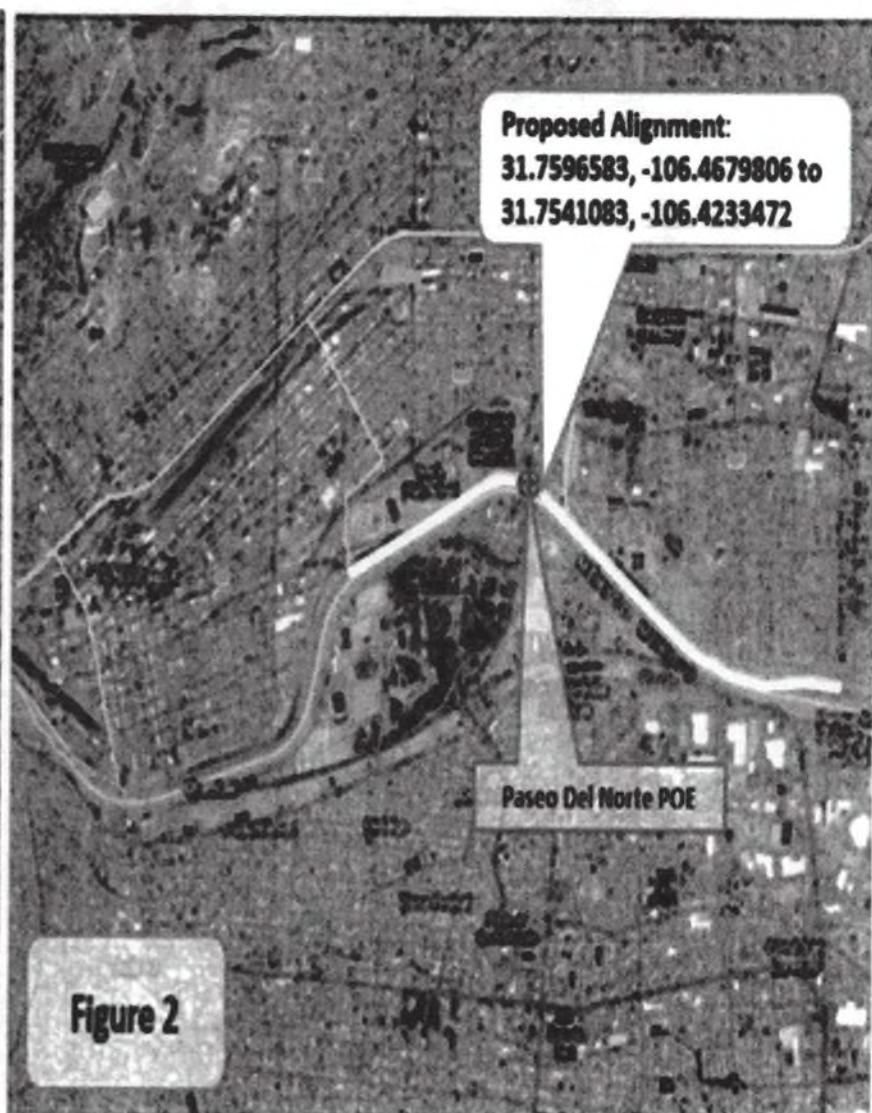
As set forth in reference (a), El Paso County and the modified project location is a designated High Intensity Drug Trafficking Area (HIDTA) and experiences a significant amount of narcotics smuggling and illegal entry.

~~FOR OFFICIAL USE ONLY // LAW ENFORCEMENT SENSITIVE~~

TAB

C

El Paso D Alignment Change



2000 FEB - 6 AM 8:46

DEFINITION
DEFINITION

TAB
D

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ACTION MEMO

DSD
DSD(P) ~~JY~~ FEB - 6 2020

(b) (6)

FEB 9 5 2020

FOR: SECRETARY OF DEFENSE

Kenneth R. Feinman
Defense & Global

FROM: Kenneth P. Rapuano, Assistant Secretary of Defense, Homeland Defense & Global Security

SUBJECT: Department of Homeland Security Request for Department of Defense Support to Block Drug-Smuggling Corridors

PURPOSE: To obtain your approval of a Department of Homeland Security (DHS) request for certain assistance in blocking drug-smuggling corridors along the southern border; and for you to direct specific actions by the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD(C)/CPO) and the Secretary of the Army/Commander, U.S. Army Corps of Engineers.

COORDINATION: This action was coordinated with SecArmy, USD(C)/CFO, OGC, ASD(SO/LIC), and the Joint Staff.

BLUF: Approving this request will support DHS's efforts to secure the southern border by blocking drug-smuggling corridors. You have the authority under 10 U.S.C. § 284 to construct roads and fences, and to install lighting, to block drug-smuggling corridors across international boundaries of the United States in support of the counter-narcotics activities of Federal law enforcement agencies.

BACKGROUND:

- On January 14, 2020, the Acting Secretary of Homeland Security requested DoD assistance in blocking drug-smuggling corridors on Federal land along the southern border of the United States. DHS identified 13 drug-smuggling corridors and requested that DoD undertake, as DoD resources allow, construction of 38 segments of border barrier covering 270.6 miles by (1) constructing new pedestrian fencing and replacing existing vehicle barriers or dilapidated pedestrian fencing with new pedestrian fencing (i.e., fences that would block both vehicles and pedestrians), (2) constructing new and improving existing patrol roads, and (3) installing lighting (TAB D). Providing this type of support to DHS is consistent with the President's direction in his April 4, 2018, memorandum, "Securing the Southern Border of the United States" (TAB E).
- 10 U.S.C. § 284(b)(7) gives you the authority, using funds from the counter-narcotics support line in DoD's "Drug Interdiction and Counter-Drug Activities, Defense" appropriation, to construct roads and fences, and to install lighting, to block drug-smuggling corridors across international boundaries of the United States in support of counter-narcotic activities of Federal law enforcement agencies.
 - The requirements of Section 284 are met: DHS/Customs and Border Protection (CBP) is a Federal law enforcement agency; DHS has requested projects in areas that it has identified

SDCA	SD SMA	DESD SMA
SD SMA	DESD SMA	DESD SMA
SD DMA	DESD DMA	DESD DMA
SD ²	DESD ²	DESD ²
SD Action Gap	DESD Action Gap	DESD Action Gap
SD	DESD Rev	DESD Rev
SDR	ESD	ESD

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as drug-smuggling corridors; and the work requested by DHS falls within the scope of subsection 284(b)(7) in that it involves construction of fences (including a linear ground detection system (LGDS)), construction of roads, and installation of lighting (supported by grid power and including embedded cameras).

- Any support provided under Section 284, including under subsection (b)(7), is subject to 10 U.S.C. § 276, which provides that support may not be provided if the provision of such support would adversely affect the military preparedness of the United States.
- On January 17, 2020, you directed an evaluation of the DHS request for assistance, and amplified this guidance on January 30, 2020 (TAB F).
 - The Secretary of the Army/Commander, U.S. Army Corps of Engineers (USACE) estimates that it would cost approximately \$5.5B to construct all 38 segments, totaling 270.6 miles, as requested by DHS. USACE anticipates that it is capable of undertaking 31 of the 38 segments, totaling approximately 177 miles of 30-foot bollard fencing, in fiscal year (FY) 2020 at an estimated cost of \$3.8B. This \$3.8B covers fencing, including the field elements of the LGDS (i.e., the fiber optic cables and the laser interrogator), but not further electronic components (i.e., the server and the command and control display). This \$3.8B also includes road construction and refurbishment and installation of lighting with embedded cameras and fiscal year (FY) 2020 Supervision & Administration costs for all recommended segments. (TAB G)
 - To meet the level of support requested by DHS, the Department must transfer additional funds into the "Drug Interdiction and Counter-Drug Activities, Defense" appropriation using DoD's general transfer authority (GTA), which is provided in Section 8005 of the Department of Defense Appropriations Act, 2020, and Section 1001 of the National Defense Authorization Act (NDAA) for FY 2020, and DoD's special transfer authority (STA), which is provided in Section 9002 of the Department of Defense Appropriations Act, 2020, and Section 1520A of the NDAA for FY 2020. Together, these GTA and STA provisions allow total transfers of up to \$6B. Congressional notification is required under both sections, but there is no legal requirement to obtain prior congressional approval.
 - The Department may use GTA and STA only upon a determination by the Secretary of Defense that such action is necessary in the national interest, and the transfer may only be used to provide funding for higher-priority items, based on unforeseen military requirements, than those items for which funds were originally appropriated, and in no case for an item for which funds or authorization have been denied by Congress.
 - The Acting USD(C)/CFO has identified up to \$3.831B in DoD funding that can be transferred into the Drug Interdiction and Counter-Drug Activities, Defense, account (Tab H). The funding sources identified by the Acting USD(C)/CFO are excess or early to current programmatic needs.
 - **(b) (5)**



- For the remaining projects, you may determine that:

(b) (5)

- The CJCS assesses that providing the support requested by DHS in TAB D from the funding sources identified by the Acting USD(C)/CFO (TAB H) will have no significant immediate negative impact on joint force readiness and will not seriously compromise the military capability of DoD to defend the United States at a strategic level. (TAB I). The Under Secretary of Defense for Policy (USD(P)) concurs.
 - CJCS reviewed the list of funding sources identified by the Acting USD(C)/CFO and determined that the proposed reprogramming will not seriously compromise the military capability of DoD to defend the United States at a strategic level.
 - CJCS also states that if these funds are not reprogrammed, they would likely be used to address other unfunded DoD requirements and additions in excess of the DoD programmed budget 2020 submission including unfunded National Guard requirements.
 - (b) (5)
- The ASD SO/LIC projects no fiscal or operational impacts for DoD counter-drug programs in FY 2020 related to this proposed response to the DHS RFA (TAB J). The Under Secretary of Defense for Policy (USD(P)) concurs.

REPORTING REQUIREMENT:

- Sec. 1707 of the NDAA for FY 2020 requires that DoD provide to the Committees on Armed Services of the Senate and the House of Representatives, not later than seven calendar days after DoD approves a request for assistance from DHS, a copy of the request for assistance and, immediately upon submitting the official response approving a request to DHS, a copy of the official response approving such a request to DHS (TAB K).

LITIGATION:

- Prior decisions to provide support pursuant to Section 284 in FY 2019 are the subject of ongoing litigation.
- In July 2019, the Supreme Court granted a stay of a lower court injunction that would have stopped DoD from relying on its GTA/STA authority to fund border barrier construction pursuant to Section 284. The appeal of this lower court injunction is currently pending before the U.S. Court of Appeals for the Ninth Circuit. Construction may continue due to the Supreme Court's stay.
- Additional litigation is expected if you decide to undertake additional construction pursuant to Section 284.

DISCUSSION:

- DHS's request for assistance includes approximately 270.6 miles of fencing and road construction and lighting installation across 38 segments. DHS specifically requested "that DoD's support under 10 U.S.C. § 284 address the requirements in order of priority as DoD resources allow."
 - All projects require that the Acting Secretary of Homeland Security use his authority to waive such legal requirements (including environmental laws) as he determines are necessary to ensure expeditious construction. The Secretary of Homeland Security must consult with relevant governmental officials, Indian tribes, and property owners to minimize effects on the environment, culture, commerce, and quality of life. The DHS request provides that DHS will be responsible for exercising its authority under such laws, including by undertaking stakeholder outreach and consultation.
- With \$3.8B in available resources, USACE would be able to undertake approximately 177 miles of 30-foot bollard fencing in FY 2020, including the field elements of the LGDS (i.e., the fiber optic cables and the laser interrogator), but not further electronic components (i.e., the server and the command and control display), road construction and/or refurbishment, and installation of lighting with imbedded cameras. This \$3.8B also covers all FY 2020 Supervision and Administration costs for all FY 2020 approved projects.
 - Additional funds from the Drug Interdiction and Counter-Drug Activities, Defense, account will be required in future FYs for USACE Supervision and Administration costs incurred in those FYs, such as labor and travel costs, for the oversight and management of these and other existing Section 284 construction contracts in those fiscal years.
 - No funds will be transferred or re-programmed from the drug-demand-reduction program, the National Guard counter-drug program, or the National Guard counter-drug schools program in order to fund this support to DHS.



TAB

E



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB - 1 2020

MEMORANDUM FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF
FINANCIAL OFFICER OF THE DEPARTMENT OF DEFENSE

SUBJECT: Assessing the Department of Homeland Security Request for Department of Defense Support to Block Drug-Smuggling Corridors in FY 2020 pursuant to 10 U.S.C. § 284

This is amplifying guidance to my January 17, 2020, memorandum at Attachment 1.

I have been informed that the U.S. Army Corps of Engineers can support \$3.8B in construction of fencing and roads and installation of lighting pursuant to 10 U.S.C. § 284 in response to the January 14, 2020, Department of Homeland Security request for assistance (Attachment 2). As such, the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer will provide to the Chairman of the Joint Chiefs of Staff a list of potential funding sources totaling \$3.8B to fund such construction.

The Chairman of the Joint Chiefs of Staff will use this list of funding sources and provide to me, no later than Monday, February 3, 2020, his military advice as to whether, consistent with 10 U.S.C. § 276, using these sources and the associated transfer authority to undertake \$3.8B in construction pursuant to 10 U.S.C. § 284 will adversely affect the military preparedness of the United States.

Attachment:
As stated

cc:
Under Secretary of Defense for Policy
General Counsel of the Department of Defense
Assistant Secretary of Defense for Legislative Affairs
Assistant Secretary of Defense for Homeland Defense and Global Security
Assistant to the Secretary of Defense for Public Affairs
Chief, U.S. Army Corps of Engineers



OSD001160-20/CMD001379-20

TAB

F



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

1/17/2020

MEMORANDUM FOR SECRETARY OF THE ARMY
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE FOR POLICY
UNDER SECRETARY OF DEFENSE (COMPTROLLER)/CHIEF
FINANCIAL OFFICER OF THE DEPARTMENT OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Assessing the Department of Homeland Security Request for Department of Defense Support to Block Drug-Smuggling Corridors in FY 2020

On January 15, 2020, the Department of Defense received the attached request from the Department of Homeland Security (DHS), dated January 14, 2020, to provide support to U.S. Customs and Border Protection pursuant to 10 U.S.C. § 284, for construction of fences and roads and installation of lighting to block drug-smuggling corridors across specific sections of the southern border with Mexico.

The Secretary of the Army will review the list of projects provided by DHS for border-barrier construction and provide to the Under Secretary of Defense for Policy (USD(P)), no later than January 24, 2020, a prioritized list of projects for which the U.S. Army Corps of Engineers is capable of obligating funds during this fiscal year, including the anticipated timeline (both commencement and completion) and the estimated costs for each project.

The Chairman of the Joint Chiefs of Staff (CJCS) will provide to me, no later than January 24, 2020, military advice on whether, consistent with 10 U.S.C. § 276, providing the requested support will adversely affect the military preparedness of the United States. In this assessment, the CJCS will consider the funding sources identified by the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer (USD(C)/CFO) and other factors regarding the requested support.

The Acting USD(C)/CFO will identify potential funding sources and provide funding recommendations, in consultation with the CJCS, to the USD(P) no later than January 24, 2020.

The USD(P) will evaluate the effects, if any, on DoD's counterdrug program. The USD(P) will also, by January 30th, 2020, consolidate the above information and recommendations from components in coordination with the General Counsel and other appropriate DoD officials, for my decision.

Attachment:
As stated

cc:

Assistant Secretary of Defense for Legislative Affairs
Assistant Secretary of Defense for Homeland Defense
and Global Security
Assistant to the Secretary of Defense for Public Affairs
Chief, U.S. Army Corps of Engineers



OSD000472-20/CMD000610-20

TAB

G



SECRETARY OF THE ARMY
WASHINGTON

4 FEB 2020

MEMORANDUM FOR Under Secretary of Defense for Policy

SUBJECT: Prioritized List of Projects for which the U.S. Army Corps of Engineers (USACE) is Capable of Executing During FY20

1. The Army received a copy of the Department of Homeland Security (DHS) Request for Assistance (RFA) project list on 15 January 2020, and USACE conducted a preliminary risk analysis on the ability to execute the proposed projects. The project list comprises 38 projects at an estimated cost of \$5.5B. USACE anticipates it is capable of executing 31 of the 38 projects estimated at \$3.8B in FY20.
2. In accordance with the current process for the execution of Section 284 projects, the Secretary of the Army is required to provide the Under Secretary of Defense for Policy a list of DHS requested projects for which USACE is capable of executing during FY20, including the anticipated timeline and estimated costs for each project (enclosure).
3. Executing these projects in FY20 would be in addition to approximately \$1.4B in DHS appropriations for DHS border projects that USACE will execute under the Economy Act.
4. To mitigate the inherent risk of executing projects in support of the current DHS RFA, USACE requests the following actions to ensure delivery on this very aggressive request. Without these mitigating actions in place, the risk to deliver increases significantly to the potential of not being able to obligate current year Section 284 funds before the end of FY20.
 - a. USACE must receive the environmental waiver for each project from DHS through its unique authority under Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended. Execution of the waiver authority by DHS is required prior to any construction work occurring and thus must be received on an expedited basis. USACE estimates it will require all waivers by 15 March 2020 or timely delivery is at high risk. Additionally, USACE will require DHS to confirm that all necessary access to project areas has or will be obtained to meet project timelines.
 - b. USACE estimates it will require increased resourcing at headquarters for program administration to support this increased workload. Final requirements will be based on the actual workload to support the current national emergency.

c. USACE will require additional FY21 funding to support construction oversight, contract administration, and contingencies. USACE is not able to obligate FY20 funds to support these requests in future years.

d. USACE requires confirmation from DHS Customs and Border Protection (CBP) on the border barrier design by 8 March 2020. USACE plans assumes the "standard 30-foot bollard barrier" with anti-climb feature currently being constructed along the Southwestern border. Incorporation of a new design will be problematic and greatly increase the risk of not obligating funding in FY20.

Encl



Ryan D. McCarthy



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON DC 20314-1000

CECG

AB
3 February
30 January 2020

MEMORANDUM FOR Honorable Ryan McCarthy, Secretary of the Army, 101 Army
Pentagon, Washington, DC 20310-0101

SUBJECT: USACE's Project Execution Evaluation of DHS' RFA Project List

1. The Army received a copy of the DHS Request for Assistance (RFA) project list on 15 JAN 20, and USACE conducted a preliminary risk analysis of its ability to execute the proposed projects. The project list comprises 38 projects at an estimated cost of \$5.5B. USACE anticipates it is capable of executing 31 of the 38 projects estimated at \$3.8B in FY20.
2. In accordance to the current process for the execution of Section 284 projects, the Secretary of the Army is required to provide the Under Secretary of Defense an evaluation, informed through USACE, on the Department's ability to execute the projects requested by DHS.
3. Executing these projects in FY20 would be in addition to projects funded with approximately \$1.4B in DHS appropriations, which USACE will execute under the Economy Act.
4. To mitigate the inherent risk of executing projects in support of the current DHS RFA, USACE requests the following actions to ensure we can deliver on this very aggressive request. Without these mitigating actions in place, the risk to deliver increases significantly to the potential of not being able to obligate the current year Section 284 funds before the end of FY20.
 - a. USACE must receive the environmental waiver for each project from DHS through DHS' unique authority under Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended. Execution of the waiver authority by DHS is required prior to any construction work occurring and thus must be received on an expedited basis. USACE estimates it will require all waivers before 15 MAR 20 or timely delivery is at high risk. Additionally, USACE will require DHS to confirm that all necessary access to project areas has or will be obtained to meet project timelines.
 - b. USACE estimates it will require increased resourcing at Headquarters USACE for program administration to support this increased workload. Final requirements will be based on the actual workload to support the current National Emergency.

SUBJECT: USACE's Project Execution Evaluation of DHS' RFA Project List

- c. USACE will require additional FY21 funding to support construction oversight, contract administration, and contingencies. USACE is not able to obligate FY20 funds to support these requirements in future years.
- a. USACE requires confirmation from DHS/CBP on the border barrier design NLT 8 MAR 20. USACE plans assume construction of the "standard 30 foot bollard barrier" with anti-climb feature currently being constructed along the Southwestern Border. Incorporation of a new design will be problematic and greatly increase the risk of not obligating funding this fiscal year.

5. My point of contact for information in this memorandum is BG Glenn Goddard,

(b) (6) or (b) (6)

(b) (6)

(b) (6) TODD T. SEMONITE (b) (6)
Lieutenant General, USA
Commanding

Attachment:
FY20 284 Planning Matrix

Attachment: FY20 284 Planning Matrix

370. Business Project Planning Matrix



**SECRETARY OF THE ARMY
WASHINGTON**

30 JAN 2020

MEMORANDUM FOR Under Secretary of Defense for Policy

SUBJECT: Prioritized List of Projects for which the U.S. Army Corps of Engineers (USACE) is Capable of Executing During FY20

1. The Army received a copy of the Department of Homeland Security (DHS) Request for Assistance (RFA) project list on 15 January 2020, and USACE conducted a preliminary risk analysis on the ability to execute the proposed projects. The project list comprises 38 projects at an estimated cost of \$5.5B. USACE anticipates it is capable of executing 31 of the 38 projects estimated at \$3.8B in FY20.
2. In accordance with the current process for the execution of Section 284 projects, the Secretary of the Army is required to provide the Under Secretary of Defense for Policy a list of DHS requested projects for which USACE is capable of executing during FY20, including the anticipated timeline and estimated costs for each project (enclosure).
3. Executing these projects in FY20 would be in addition to approximately \$1.4B in DHS appropriations for DHS border projects that USACE will execute under the Economy Act.
4. To mitigate the inherent risk of executing projects in support of the current DHS RFA, USACE requests the following actions to ensure delivery on this very aggressive request. Without these mitigating actions in place, the risk to deliver increases significantly to the potential of not being able to obligate current year Section 284 funds before the end of FY20.
 - a. USACE must receive the environmental waiver for each project from DHS through its unique authority under Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended. Execution of the waiver authority by DHS is required prior to any construction work occurring and thus must be received on an expedited basis. USACE estimates it will require all waivers by 15 March 2020 or timely delivery is at high risk. Additionally, USACE will require DHS to confirm that all necessary access to project areas has or will be obtained to meet project timelines.
 - b. USACE estimates it will require increased resourcing at headquarters for program administration to support this increased workload. Final requirements will be based on the actual workload to support the current national emergency.

4

- c. USACE will require additional FY21 funding to support construction oversight, contract administration, and contingencies. USACE is not able to obligate FY20 funds to support these requests in future years.
- d. USACE requires confirmation from DHS Customs and Border Protection (CBP) on the border barrier design by 8 March 2020. USACE plans assumes the "standard 30-foot bollard barrier" with anti-climb feature currently being constructed along the Southwestern border. Incorporation of a new design will be problematic and greatly increase the risk of not obligating funding in FY20.

Encl



Ryan D. McCarthy

TAB

H



UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

FEB 04 2020

COMPTROLLER

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR POLICY

SUBJECT: Assessing the Department of Homeland Security Request for Department of Defense Support to Block Drug-Smuggling Corridors

As directed by the Secretary of Defense on January 17, 2020, I am providing an assessment of the fiscal considerations and funding recommendations of the Department of Homeland Security (DHS) request for assistance, dated January 14, 2020, to provide counter-drug support pursuant to 10 U.S.C. 284(b)(7).

In order to support the DHS request for assistance, the Department would need to transfer funding into the Drug Interdiction and Counter-Drug Activities, Defense appropriation, using the general transfer authority (GTA) provided for under Section 8005 and special transfer authority (STA), which is provided in Section 9002 of the Department of Defense Appropriations Act, 2020. The Department can use these authorities to transfer funding if the funds are used for 1) a higher priority item, 2) the item is based on unforeseen military requirements, and 3) the item for which funds are requested has not been denied by Congress.

I recommend implementing the transfer of up to \$3.8 billion for the construction efforts resourced from various accounts that would minimize the risk to operations and readiness.

(b) (5)

Elaine McCusker
Elaine McCusker
Acting

Sources for Reprogramming Actions

Sources (\$ in Millions)	Cong Adds	Sources	Cum Total	Comments
National Guard Equipment (OCO)	790	790	790	Unrequested Annual Add with lagging obligations.
Reserve Equipment (OCO)	510	510	1,300	Unrequested Annual Add with lagging obligations.
LHA Replacement	650	650	1,950	Congressional add (+1). Fund in FY 23/24
Heavy Expanded Mobile Tactical Truck	101	101	2,051	Congressional add; old platform not needed by the Army
Expeditionary Fast Transport	261	261	2,312	Congressional add (+1); not requested
Army Guard HMMWV Modernization Program	100	100	2,412	Congressional add; old platform not requested by the Army
MQ-9 (OCO)	215	160	2,572	Congressional add (+12); about to phase down in FY 21. Sources uses 8 A/C
C-130J (OCO) (Air Guard)	338	169	2,741	Congressional add (+4) Source uses 2 A/C
JSF STOVL	669	223	2,964	Congressional add +6 Bs; UPL +2Bs +4Cs. Source uses 2Bs
P-8A Poseidon	541	180	3,144	Congressional add (+3 Navy Reserve); +2 on UPL; met operational requirements. Source uses 1 A/C
C-130J (AF Reserve)	392	196	3,340	Congressional add (+4); AF expects annual adds for their modernization plan. Source uses 2 A/C
V-22	310	155	3,495	USMC has +2 on UPL but Congress added +4. Source uses 2 A/C
OA-X Light Attack	210	180	3,675	Congressional add
F-35 (AP)	156	156	3,832	AF requested long-lead items for an additional 12 A/C in FY21. AF is not requesting funds to procure the additional 12 A/C FY21. AP amount not required in FY20.
Total Sources	3,831			
-- STA	1,629			
-- GTA	2,202			

Source Criteria:

- Congressional Adds
- Not on or Above Unfunded Priority List (UPL); Exception: F-35 AP, which was on UPL, but is no longer required in FY20

TAB

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CHAIRMAN OF THE JOINT CHIEFS OF STAFF
WASHINGTON, DC 20318-9999

COPY

INFO MEMO

CM-0032-20
3 February 2020

FOR: SECRETARY OF DEFENSE

DepSec Info _____

FROM: General Mark Milley, CJCS

SUBJECT: Military Advice Assessing the Department of Homeland Security Request for
Department of Defense Support to Block Drug-Smuggling Corridors in Fiscal
Year 2020

(b) (5)

COORDINATION: NONE

Attachments:
As stated

Prepared by: Lieutenant General Andrew P. Poppas, U.S. Army; Director, J-3; (b) (6)

UNCLASSIFIED

TAB

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PDO ASD SOLIC

**Effects on the Counterdrug Program on Supporting the
FY 2020 DHS Southwest Border (SWB) Support Request**

Superseded Paragraph for SecDef Action Memo (HDA&GS OPR) Detailing Impacts to the
CD Program:

(b) (5)

TAB

K

(7) An assessment of logistical challenges that evacuations from the Arctic in connection with such operations entail, including potential rotary and fixed-wing aircraft trans-load locations and onward movement requirements.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.



SEC. 1706. REPORT AND BRIEFING ON IMPLEMENTATION OF NATIONAL DEFENSE STRATEGY.

(a) REPORT AND BRIEFING.—In addition to the assessment required under section 113(g)(1)(F) of title 10, United States Code, by not later than April 30, 2020, the Secretary of Defense shall submit to the congressional defense committees a report, and provide an accompanying briefing, on the implementation of the national defense strategy required under section 113(g) of title 10, United States Code. Such report and briefing shall include each of the following:

(1) An explanation of the joint operational concepts to deter and, if necessary, to defeat strategic competitors, including—

(A) an evaluation of the risks associated with the employment of such joint operational concepts;

(B) the ways of adapting innovative joint operational concepts to strategically significant scenarios;

(C) the ways that such joint operational concepts address operational challenges to achieve advantages against strategic competitors in the nuclear, space, and cyber domains; and

(D) the employment of the force in peacetime to dissuade strategic competitors from conducting malign activities below the threshold of open warfare, including an

TAB

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Policy Coordination Sheet

Subject: Department of Homeland Security Request for Department of Defense Support to
Block Drug-Smuggling Corridors
Control Number: *OSD000609-20* *CMD000722-20*

Title/Organization	Name	Coordination Requested	Coordination Received
USD(P)			
SecArmy	Hon McCarthy	January 30, 2020	January 31, 2020
USD(C)/CFO	Elaine McCusker	January 31, 2020	February 5, 2020
OGC	William Castle	January 30, 2020	February 5, 2020
Joint Staff	GEN Milley	January 31, 2020	February 3, 2020
ASD(SO/LIC)	Tom Alexander	January 30, 2020	January 31, 2020

12 March, 2021 (1345)

ccr

ACTION MEMO

DepSec Action

A/USD(P) ~~12 MAR 12 2021~~

Prepared by:

(b) (6) (b) (6)

325

FOR: SECRETARY OF DEFENSE

FROM: Robert G. Salesses, Performing the Duties of the Assistant Secretary of Defense,
Homeland Defense and Global SecuritySUBJECT: Extension of COVID-19 Mobile Surveillance Camera (MSC) Support to the U.S.
Customs and Border Protection Border Security Mission

PURPOSE: (U) This memorandum seeks your authorization to not further extend specific MSC support to the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) on the U.S. southern border as part of the Federal response to the coronavirus disease 2019 (COVID-19) pandemic.

COORDINATION: (U) Policy coordinated this action with the Department of the Army, the Under Secretary of Defense (Comptroller)/CFO, the National Guard Bureau, and the Joint Staff. The General Counsel has no legal objection.

BLUF: ~~(U)~~ Given the evolving border mission, we will allow USNORTHCOM the opportunity to reassess how best to utilize the 380 remaining National Guard personnel.

12 MAR 21

10 FEB 21

BACKGROUND

Requested Support

- (U) On February 10, 2021, DHS requested a third extension of military personnel staffing 60 MSC sites along the U.S. southern border in response to the COVID-19 pandemic (TAB B). Up to 650 military personnel have been staffing the MSC sites since March 19, 2020 (TAB C).
 - (U) The first request for extension was in September 2020 (TAB D)
 - (U) The second request for extension was in December 2020 (TAB E)

Scope of Support

- (U) Military personnel are currently deployed at locations in the Rio Grande Valley and Laredo CBP Sectors.
- (U) Military personnel supporting this mission are National Guard personnel mobilized in a Title 10 duty status under 10 U.S.C. 12302, and are operating under the command and control of U.S. Northern Command (USNORTHCOM) and U.S. Army North.

Controlled by: OUSD(P)

Controlled by: ASD(HD&GS)

ccr Category: OPSEC

POC: (b) (6)

030001219-21/CM0003283-21

SD CA	SD SA	
SD BMA	SD BMA	
SD MA	SD MA	
CoS	SD CA	
SD Action Grp		
SD	SD Rvw	SD
SDR	SD	SD
A-0035064-3/21		

ccr

Cato v. DoD, 24-0225 0078

ccw

- (CUE) Of the 650 National Guard personnel that had been staffing the 60 MSC sites, 270 have completed their period of active-duty service under their orders and have returned, or are returning, home.
- (CUE) The remaining 380 National Guard personnel were mobilized under 10 U.S.C. 12302 in November and December 2020 for a period of 400 days in support of the existing DHS request for assistance, despite its termination on March 31, 2021.

Impact on the Force

• (b) (5)

- (CUE) If required to demobilize earlier than 90 days from the expected end of orders (as would be the case here), under Department of Army Execute Order 097-13, these National Guard personnel will qualify for a "hardship" under Army policy based on the potential effects of curtailing such orders.
 - o (U) As part of the process for adjudicating a hardship, the Department of the Army works to mitigate the effects of the end of the mission for which the Soldiers were mobilized, which may include employing the Soldiers to undertake another Title 10 mission, if available.

• (b) (5)

- (U) The support being provided by military personnel to support the existing request for assistance is not a specialized or unique capability or skills-set.
- (U) The response to DHS/CBP indicates that military personnel currently providing support to this mission will be retained by USNORTHCOM, and may be used for other ongoing support to DHS/CBP at the southern border.
 - (U) Military personnel already allocated to USNORTHCOM will be re-purposed to other missions, including other ongoing support provided to DHS/CBP at the southern border.
 - o (U) Such missions may include supporting MSC sites along the U.S southern border, based on USNORTHCOM consultation with DHS/CBP regarding DHS/CBP priorities.

RECOMMENDATION #1: (CUE) Authorize not further extending this specific DoD support to DHS/CBP at 60 MSC sites on the U.S. southern border as part of the Federal response to COVID-19. The remaining 380 National Guard personnel allocated to this mission will be retained by USNORTHCOM for the duration of their mobilization period.

Approve: LM Disapprove: _____ Other: _____
MAR 23 2021

RECOMMENDATION #2: (U) Authorize the Executive Secretary to sign the attached reply to DHS (TAB A).

Approve: LM Disapprove: _____ Other: _____
MAR 23 2021

ccw

CUI

Attachments:

- TAB A: DoD Reply to the DHS Executive Secretary**
- TAB B: Request for Extension**
- TAB C: Original Request for Assistance and Approval**
- TAB D: First Extension Approval**
- TAB E: Second Extension Approval**
- TAB F: Coordination**

cc:

ASD(LA)
ATSD(PA)

TAB

A



OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1000

cc:1

MAR 23 2021

MEMORANDUM FOR EXECUTIVE SECRETARY, DEPARTMENT OF HOMELAND SECURITY

SUBJECT: Extension of Department of Defense Support to the Coronavirus Disease 2019 Mobile Surveillance Camera Mission

Thank you for the February 10, 2021 memorandum requesting the Department of Defense (DoD) continue to support U.S. Customs and Border Protection (CBP) in staffing 60 mobile surveillance camera (MSC) sites through September 30, 2021, or until the evolving public health threat has reached a level that CBP can manage with organic assets, whichever occurs first.

The Secretary of Defense did not approve the request to extend dedicated support for the 60 MSC sites. However, approximately 380 military personnel currently providing support at these sites will continue to be available to U.S. Northern Command for other support missions, including support to Department of Homeland Security (DHS)/CBP at the southern border for the remainder of FY 2021. This decision is informed by the cancellation of the national emergency at the southern border and competing demands for National Guard personnel.

DoD requests that DHS/CBP consult with U.S. Northern Command to prioritize where these personnel can best support CBP's security mission along the southern border.

(b) (6)

Executive Secretary

Controlled By: OUSD(P)
Controlled By: ASD(HD&GS)
GLI Category: OPSEC
POC: (b) (6)

cc:1

TAB

B

Executive Secretary

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



Homeland
Security

February 10, 2021

MEMORANDUM FOR:

(b) (6)

Executive Secretary
Department of Defense

FROM:

Clarissa Kornell
Executive Secretary

CLARISSA
H KORNELL

Digitally signed by
CLARISSA H KORNELL
Date: 2021.02.10
09:39:21 -05'00'

SUBJECT:

Extension of COVID-19 MSC Support

REFERENCES:

- (a) Department of Homeland Security (DHS) Request for Department of Defense (DoD) Assistance in Support of U.S. Customs and Border Protection (CBP) on the Northern and Southwest Borders to Prevent the Spread of the Novel Coronavirus Disease (COVID-19) and Maintain Public Health, dated March 19, 2020
- (b) DoD Response to DHS Request for DoD Assistance in Support of CBP on the Northern and Southwest Borders to Prevent COVID-19 and Maintain Public Health, dated March 24, 2020
- (c) DHS Rescission and Modification Request for COVID-19 Assistance, dated March 28, 2020
- (d) DoD Response to DHS Rescission and Modification Request for COVID-19 Assistance, dated March 20, 2020
- (e) Second Modification for COVID-19 Assistance, dated June 24, 2020
- (f) DoD Response to Second Modification for COVID-19 Assistance, dated July 14, 2020
- (g) Extension of COVID-19 Support with Modification, dated August 20, 2020
- (h) DoD Response to Extension of COVID-19 Support with Modification, dated September 21, 2020

Overview

The Department of Homeland Security (DHS) appreciates the continued support of the Department of Defense (DoD) in ensuring a whole-of-government approach to mitigate the public health threat posed by the illicit entry of potentially COVID-19 infected persons into the United States. On March 13, 2020 the President issued a Proclamation Declaring a National Emergency Concerning the COVID-19 Outbreak. As a result of the declaration of a National Emergency, under Title 42, U.S. Code, the Surgeon General determined that due to the global COVID-19 pandemic, the introduction of COVID-19 into the United States constituted a public

[REDACTED]
OSD001219-21/CMD001964-21

health threat, and invoked a suspension of the right to introduce persons and property into the United States. U.S. Customs and Border Protection (CBP) was directed to enforce this order at and between ports of entry, including along the Southwest border.

The enhanced Mobile Surveillance Camera (MSC) support that DoD is providing to CBP, in accordance with references (a) through (h), has significantly enhanced CBP's ability to deter, detect and apprehend individuals who attempt to enter the United States illegally each day without regard to U.S. public health measures and national security requirements. Since Title 42 authority was invoked in March 2020, CBP has encountered more than 473,000 non-citizens attempting to enter the country illegally along the SWB. In fiscal year (FY) 2021 through January 31, Title 42 encounters are up over 190% compared to the number of encounters over the same period in FY 2020. In FY 2021 through January 31, DoD personnel supporting this RFA have contributed to the apprehension of more than 4,500 non-citizens attempting to enter the country illegally, the deterrence of an additional 1,542 additional illegal entries, and the seizure of over 500 pounds of illegal narcotics. The potential illegal entry of non-citizens across our borders presents a significant public health threat to the DHS workforce and the nation during this unprecedented public health emergency.

Extension

Based on current assessments of the SWB operational environment and the continuing risks posed by non-citizens potentially infected by COVID-19, DHS requests that DoD further extend DoD support approved in reference (h) through September 30, 2021.

Funding

DHS requests DoD continue to provide this support on a non-reimbursable basis to the greatest extent possible in accordance with applicable law.

TAB

C

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

ACTION MEMO

March 20, 2020, 9:50pm

DepSec Action _____
PDO USD(P) _____

Prepared by:

(b) (6)

FOR: SECRETARY OF DEFENSE

FROM: Kenneth P. Rapuano, Assistant Secretary for Defense for Homeland Defense and Global Security

SUBJECT: U.S. Customs and Border Protection Border Support Request in Response to Coronavirus Disease - 2019

PURPOSE: This memorandum seeks your approval to provide additional support to the Department of Homeland Security/U.S. Customs and Border Protection (CBP) on the U.S. northern and southern borders as part of the Federal response to the COVID-19 pandemic.

COORDINATION: Policy coordinated this memorandum with USD(C)/CPO, General Counsel, and the Joint Staff.

BLUF: Approval of this memorandum would support CBP by providing 1,456 military personnel, and approximately 220 associated command and control personnel, to assist CBP on the U.S. northern and southern borders through September 30, 2020, in response to the COVID-19 pandemic.

DISCUSSION: On March 19, 2020, DoD received a request for assistance from the Department of Homeland Security to assist CBP by providing approximately 916 personnel on the northern border and approximately 540 personnel on the southern border through September 30, 2020 (TAB B).

- Due to the global threat presented by COVID-19, CBP is allocating manpower and resources to address security challenges safely and humanely at the U.S. northern and southern borders. CBP is undertaking enhanced enforcement efforts and working to address cross-border safety and security challenges associated with combating COVID-19. CBP does not have the resources required to maintain public health standards and national security requirements to enforce immigration laws without additional DoD support.

SOUTHERN BORDER REQUEST:

- Currently, there are approximately 5,000 military personnel supporting the CBP southern border security mission, which you approved for the duration of fiscal year (FY) 2020.
- CBP is requesting approximately 540 personnel to staff an additional sixty (60) Mobile Surveillance Camera (MSC) vehicles at the southern border.



Category	Current Status	Approved Status	Approved Date
Personnel	5,000	5,000	Mar 19, 2020
Equipment	60	60	Mar 19, 2020
Logistics	100	100	Mar 19, 2020
Other	0	0	Mar 19, 2020



OSD003134-20/CMDO03803-20

- o Currently, there are approximately 1,300 military personnel staffing 157 MSC vehicles across the southern border.
- o DoD will provide military personnel to staff these additional MSC vehicles pursuant to Chapter 15 of Title 10, U.S. Code.
- o Pursuant to Section 274 of Title 10, U.S. Code, DoD support to the MSC support mission is limited to the detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

NORTHERN BORDER REQUEST:

- DoD is not currently providing support to CBP along the Northern border.
- CBP is requesting DoD provide approximately 916 personnel to undertake the following 6 duties at the Northern border (TAB B):
 - o Motor Transportation Maintenance Support
 - o Motor Transport Operations Support
 - o Unmanned Ground Sensor Support
 - o Communications Equipment Support
 - o Camera Operator
 - o Mobile Surveillance Camera Support
- The Chairman of the Joint Chiefs of Staff has reviewed this request for assistance and non-concurs on the use of military personnel to staff MSC vehicles along the northern border because he does not see the link between MSC support, sensors, and the COVID-19 outbreak (TAB E). The Chairman cautions his non-concurrence, by noting "if supported, I recommend we work with our Canadian counterparts to address their concerns about the "militarization" of the northern border prior to committing any forces."
 - o As recommended by the Chairman, the Commander, U.S. Northern Command, has spoken with LGen Mike Rovieu, Commander, Canadian Joint Operations Command.
- The Chairman concurs in providing the remaining categories of support at the northern border, and recommends that DoD's response highlight the impacts and risks to other global commitments and anticipated Defense Support of Civil Authorities requirement stemming from the COVID-19 outbreak.
- DoD may provide military personnel to undertake the requested duties at the northern border pursuant to Chapter 15 of Title 10, U.S. Code. The requirements of Section 274 also apply to the military personnel supporting the camera operator and MSC support missions at the northern border.

SOURCING SOLUTION:

- Fulfilling this RFA will require a total of approximately 1,674 military personnel (1,456 for direct support, 220 for command and control).
- The Joint Staff is identifying whether active-duty or Reserve Component personnel (including National Guard personnel) are best suited to provide this support to CBP.

- If the Joint Staff determines that National Guard personnel are best positioned to provide this support, by signing below you also authorize the use of Title 32, U.S. Code, Section 502(f), duty status for National Guard personnel. Such duty also requires concurrence by the Governor concerned.

COST AND REIMBURSEMENT FOR SUPPORT:

- DHS requests the support be provided on a non-reimbursable basis in accordance with applicable laws.
- The A/USD(C)/CPO estimate for this support through September 30, 2020, is \$145.3M.
 - The cost estimate for this mission is subject to change, and will be affected by unit sourcing.
- Support provided to CBP in accordance with Chapter 15 or Section 502(f) of Title 32 is generally required to be reimbursed. However, Section 277(c) authorizes you to waive reimbursement if the support results in a benefit to the element of the DoD or National Guard personnel providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.
- We do not recommend you waive the requirement for reimbursement for this support pursuant to Section 277(c).

MISSION REVIEW AND COORDINATION

- DoD, in consultation with DHS, will review and validate the approved support, in writing, every 30 days beginning on the date of deployment, and on September 1, 2020. This validation will assess whether: 1) DHS has the capacity to execute the missions in this request for assistance or has sufficient funding to contract for the capabilities, 2) there is a continuing need for DoD resources and capabilities, and 3) providing this support to CBP is an effective and efficient use of military resources.
- Providing military personnel to support the "Motor Transport Maintenance" duty description is conditioned on the stipulation that CBP works to acquire contract support to relieve military personnel of performing this duty.
- Additional legal and policy conditions for providing DoD personnel to support DHS/CBP are outlined in TAB D, which will form part of the response to DHS.
- Section 1707 of the NDAA for FY 2020 requires that DoD provide to the Committees on Armed Services of the Senate and the House of Representatives, not later than seven calendar days after DoD approves a request for assistance from DHS or the Department of Health and Human Services (HHS), a copy of the request for assistance and, immediately upon submitting the official response approving a request, a copy of the official response. My staff will work with Legislative Affairs staff to submit the required documents.

RECOMMENDATION #1: Approve the requested support along the northern and southern borders of the United States on a reimbursable basis.

Approve: _____ Disapprove: _____ Other: _____

RECOMMENDATION #2: Authorize the Executive Secretary to sign the response at TAB A communicating your approval of support to CBP and the conditions for providing this support.

Approve: DL Disapprove: _____ Other: _____

COORDINATION: TAB E

Attachments:

As stated

060008134-20/CM/080808-20

ACTION MEMO

DepSec Action
A/MUSD(P)

Prepared by:

(b) (6)

POR: SECRETARY OF DEFENSE

FROM: Kenneth P. Rapuano, Assistant Secretary of Defense, Homeland Defense and
Security

SUBJECT: Department of Homeland Security, U.S. Customs and Border Protection COVID-19 Border Support Request

PURPOSE: To obtain your approval of support to the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP).

COORDINATION: Policy coordinated this memorandum with the Departments of the Army and Navy, OUSD(CYCP), the Office of General Counsel, and the Joint Staff.

BLUF: Approval of this memorandum would support the DHS/CBP revised approach for assistance (QRA) when the porters, border or a non-environmental health

DISCUSSION: On June 24, 2008, EPA, DHEC, and the Daingerfield community, along with the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the State of South Carolina, held a public meeting to discuss the proposed water quality standards for the Lower Cooper River. The meeting was held at the Daingerfield Community Center, 1000 Daingerfield Road, Daingerfield, South Carolina 29437. The meeting was moderated by EPA and included a presentation by EPA, followed by a question and answer period. The meeting was also attended by DHEC, the U.S. Army Corps of Engineers, and the State of South Carolina. The meeting was also attended by the Daingerfield community, local officials, and other interested parties. The meeting was also attended by the Daingerfield community, local officials, and other interested parties.

PERSONNEL RELOCATION:

- The March 19, 2020, DHS/CBP RFA identified the requirement to staff sixty (60) Mobile Surveillance Camera (MSC) sites across all nine CBP southern border sectors (TAB D).
- DHS requests that DoD relocate the MSC support under the March 19 RFA to the Rio Grande Valley and Laredo sectors of South Texas.
 - DHS/CBP assesses that illegal aliens who successfully evade law enforcement to enter the United States present the highest COVID-19 public health threat on the southern border. Although these illegal entries occur across the border, the challenge is concentrated in the Rio Grande Valley and Laredo sectors.
- The Commander, U.S. Northern Command (USNORTHCOM), has the authority to relocate personnel supporting this request for assistance under the conditions of your prior agreement.

⁸USP001734-200



CH 1000110-SPECIMEN NUMBER 22

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LEGAL AUTHORITY TO PROVIDE NON-REIMBURSABLE SUPPORT

- This support will be provided through September 30, 2020, in accordance with Chapter 15 of Title 10, U.S. Code.
- Your approval below will waive, to the extent legally permissible, any requirement for reimbursement pursuant to Section 277(e) of Title 10, U.S. Code, retroactive to March 24, 2020. Section 277(e) permits you to waive reimbursement if the support is provided in the normal course of military training or operations, or results in a benefit to the DoD element or National Guard personnel providing the support that is substantially equivalent to that which otherwise would be obtained from military operations or training.
 - The Department of the Army and Department of the Navy have confirmed that supporting this RFA, including the support already provided pursuant to the March 19, 2020, RFA, results in a benefit to the DoD element or National Guard personnel providing the MSC support that is substantially equivalent to that which otherwise would be obtained from military operations or training.
 - The OUSD(C)/CPO preliminary cost estimate for this support is \$53.9M through September 30, 2020. The change from reimbursable to non-reimbursable support will drive the estimated \$53.9M unplanned bill to the Military Services' military pay and operation and maintenance accounts.
 - To date, DHS has not reimbursed any expenses pursuant to the March 19, 2020, RFA.

CONGRESSIONAL NOTIFICATION

- Section 1707 of the National Defense Authorization Act for Fiscal Year 2020 requires that DoD provide to the Committees on Armed Services of the Senate and the House of Representatives, not later than seven calendar days after DoD approves a request for assistance from DHS or the Department of Health and Human Services, a copy of the request for assistance and, immediately upon submitting the official response approving a request, a copy of the official response. My staff will work with Legislative Affairs staff to submit the required documents.

RECOMMENDATION #1: Approve sending the request to DOD/CPO along the same basic lines as the previous request, as per the letter dated 7-14-2020.

Approve: ✓ Disapprove: _____ Other: _____
JUL 14 2020

RECOMMENDATION #2: Authorize the Executive Secretary to sign the response letter to TABA.

Approve: ✓ Disapprove: _____ Other: _____
JUL 14 2020

COORDINATION: TAB E

Attachments:
As stated

TAB
D

ACTION MEMO

Prepared by

(b) (6)

SEP 11 2020

FOR: DEPUTY SECRETARY OF DEFENSE

FROM: Kenneth P. Rapuano, Assistant Secretary of Defense, Homeland Defense & Global Security

SUBJECT: Extension of COVID-19 Support to the U.S. Customs & Border Protection Border Security Mission

PURPOSE: This memorandum seeks your approval to extend ongoing support to the Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP) on the U.S. southern border as part of the Federal response to the Coronavirus Disease 2019 (COVID-19) pandemic.

COORDINATION: Policy coordinated this memorandum with the Department of the Army, Department of the Navy, A/USD(C)/CFO, General Counsel, and the Joint Staff. (TAB E)

BLUF: This memorandum will extend previously approved assistance to provide approximately 610 personnel to staff up to 60 mobile surveillance capability (MSC) sites utilizing CBP equipment and vehicles through December 31, 2020.

BACKGROUND:

- On March 19, 2020, DHS/CBP requested 540 additional personnel for MSC staffing support in response to COVID-19 at locations along the U.S. southern border. On June 24, 2020, due to high levels of traffic through south Texas, DHS requested that DoD assets be redirected from across the southwest border to locations in the south Texas corridor, specifically, the Rio Grande Valley and Laredo CBP Sectors.
- On August 20, 2020, DoD received a request for assistance from DHS/CBP to:
 - Extend ongoing personnel support (expires September 30, 2020) for COVID-19 MSC deployments, and provide an additional 70 command and control personnel for a total of 610, and,
 - As a modification to current support, provide and maintain DoD-owned vehicles and detection and monitoring equipment needed for the deployment at MSC site locations. (TAB B)
- There are a variety of ways in which military personnel are employed to operate MSCs, which include Mobile Surveillance Systems, Scope Trucks, and Mobile Surveillance Teams (TAB C). Specifically, when operating as a Mobile Surveillance Team (MST), military personnel may use alternate detection and monitoring equipment (e.g., binoculars, handheld night vision optics) and non-secure vehicles (i.e., pickup trucks) at current, designated MSC site locations.

DCG	DCMA	DCMA	DCMA
DCMA	DCMA	DCMA	DCMA
DCMA	DCMA	DCMA	DCMA
CBP	CBP	CBP	CBP
DoD Action Off	DoD Action Off	DoD Action Off	DoD Action Off

08D0008200-20/CMDO10978-20

The duties of a MST will change the mission from using vehicle-mounted surveillance equipment inside a secure vehicle to using handheld and/or tripod mounted surveillance equipment outside a vehicle. The change in surveillance equipment may potentially require MSTs to operate in closer proximity to the border to achieve effectiveness. Additionally, this change will increase the risk to force as military personnel will be required to operate outside the security of their vehicles, thereby increasing the potential for contact with migrants. (TAB C)

- (b) (5)
- (b) (5)

- DoD may provide military personnel to staff MSC vehicles pursuant to Section 1059 of the National Defense Authorization Act (NDAA) for FY 2016.

DoD STAKEHOLDER VIEWS:

- (b) (5)
- (b) (5)
- (b) (5)

- DoD lacks legal authority to procure vehicles and other equipment on a non-reimbursable basis to support this request.

- (b) (5)

SOURCING SOLUTION:

- The Joint Staff has identified Reserve Component (RC) personnel that could continue to support the COVID-19 MSC mission, but recommends they be assigned only if DHS continues to provide MSCs to avoid public and partner-nation perception that DoD is militarizing the southern border.

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- DHS/CBP requests the mission extend until September 30, 2021, or until the evolving public health threat has reached a level that DHS/CBP can manage with organic assets, whichever occurs first. To ensure mission extension is directly correlated to the current public health crises, the recommended duration has been changed to December 31, 2020.

- (b) (5)
- (b) (5)

COST AND REIMBURSEMENT FOR SUPPORT:

- DHS/CBP requests the support be provided on a non-reimbursable basis, in accordance with applicable laws.
 - Support provided pursuant to Section 1059 of the NDAA for FY 2016 must be provided on a non-reimbursable basis, as there is no provision for accepting reimbursement for such support in the statute.
- The A/USD(C)/CFO estimates the FY 2021 cost to be \$108.3M to provide the personnel support through September 30, 2021.
 - The estimated cost of this support is \$27.2M through December 31, 2020.
 - This cost estimate is subject to change, and will be affected by unit sourcing.
 - Approximately 610 personnel currently support the COVID-19 MSC mission.
- Section 1707 of the NDAA for FY 2020 requires that DoD provide to Congress, not later than seven calendar days after DoD approves a DHS request for assistance (RFA), a copy of the RFA and, immediately upon submitting the official approval, a copy of the response.

RECOMMENDATION 1: Approve the extension of military personnel to operate CBP-provided Mobile Surveillance Systems or Scope Trucks for up to 60 COVID-19 MSC sites on a non-reimbursable basis pursuant to Section 1059, through December 31, 2020.

Approve: ✓ SEP 21 2020 Disapprove: _____ Other: _____

RECOMMENDATION 2: In the absence of CBP-provided MSC Systems or Scope Trucks, approve the extension of military personnel to operate as MSTs utilizing CBP-provided vehicles and equipment pursuant to Section 1059, through December 31, 2020.

Approve: ✓ SEP 21 2020 Disapprove: _____ Other: _____

RECOMMENDATION 3: Sign the response memorandum at TAB A.

Approve: ✓ SEP 21 2020 Disapprove: _____ Other: _____

Attachment:

TAB A: Response Letter to DHS

TAB B: DHS FY2021 RFA Extension Request

TAB C: Mobile Surveillance Capability Sites Descriptions

TAB D: CJCS BMA Memo

TAB E: Coordination

08D008209-20/CMDO10978-20

TAB

E

(b) (5), (b) (6)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

TAB

F

Policy Coordination Sheet

Subject: Extension of COVID-19 Support to the U.S. Customs & Border Protection Border Security Mission

Control Number: * USP000371-21* and *OSD001219-21*

Title/Organization	Name	Coordination Requested	Coordination Received
Secretary of the Army	Acting Secretary of the Army John E. Whitley	February 12, 2021	February 19, 2021
USD(C)/CFO	PTDO USD(C)/CFO Douglas A. Glenn	February 12, 2021	February 18, 2021
Joint Staff	Vice Director, Joint Staff, Rear Admiral Bill Byrne	February 12, 2021	February 17, 2021
OGC	Acting General Counsel, Paul Koffsky	February 12, 2021	February 18, 2021
National Guard Bureau	CNGB, General Daniel R. Hokanson	February 12, 2021	February 19, 2021