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March 11, 2020

Congressional Requesters

Border Security: U.S. Customs and Border Protection’s Management of a Temporary Facility in Texas Raised Concerns about Resources Used

Beginning in fall 2018, the Department of Homeland Security’s (DHS) U.S. Customs and Border Protection (CBP) experienced a significant increase in the number of individuals apprehended at or between U.S. ports of entry along the southwest border.¹ Apprehensions by the U.S. Border Patrol (Border Patrol) increased from nearly 400,000 individuals in fiscal year 2018 to over 850,000 in fiscal year 2019, an increase of 115 percent, according to CBP data.² The increase in individuals apprehended resulted in overcrowded and difficult humanitarian conditions in CBP short-term processing and holding facilities.³

To help address this issue, in May 2019, CBP determined it needed a temporary soft-sided facility for processing and holding single adults in the El Paso Border Patrol sector, based on the significant increase in apprehensions in that sector.⁴ Specifically, according to CBP data, total Border Patrol apprehensions of single adults in the El Paso sector increased from nearly 14,000 individuals in fiscal year 2018 to over 33,000 in fiscal year 2019, an increase of 140 percent. On July 3, 2019, CBP placed a sole-source, firm-fixed price delivery order with a 3-month initial period of performance and five 2-month options for building, operating, and maintaining a temporary, soft-sided facility in Tornillo, Texas with a capacity to hold 2,500 single

¹Within DHS, CBP’s U.S. Border Patrol apprehends individuals between ports of entry, and Office of Field Operations (OFO) encounters individuals that arrive at ports of entry. According to CBP officials, OFO encounters aliens (instead of apprehending them) because individuals do not enter the United States at ports of entry until OFO officers have processed them. For the purposes of this report, we use the term “apprehend” to describe both Border Patrol and OFO’s first interactions with individuals at the border.

²Border Patrol detains apprehended individuals at short-term holding facilities to complete processing and determine a course of action, such as custody transfer, removal, or release. Along the southwest border, Border Patrol divides responsibility for border security operations geographically among nine sectors that include border stations.

³See, for example, Department of Homeland Security, Office of Inspector General, *Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley (Redacted)*, OIG-19-51 (Washington, D.C.: July 2, 2019); *Management Alert - DHS Needs to Address Dangerous Overcrowding Among Single Adults at El Paso Del Norte Processing Center (Redacted)*, OIG-19-46 (Washington, D.C.: May 30, 2019); and Department of Homeland Security, *Acting Secretary McAleenan’s Prepared Remarks to the Council of Foreign Relations* (September 23, 2019).

⁴Soft-sided facilities are tent-like structures, which include services and equipment to hold individuals in those facilities, such as heating, ventilation, air conditioning, plumbing, electrical, and lightning protection. CBP acquired a total of six temporary, soft-sided facilities in Texas and Arizona from April 2019 to July 2019. Adults are defined as any individual age 18 or older on the date of their apprehension by Border Patrol.

adult detainees (see figure 1).⁵ CBP used funds appropriated from an emergency supplemental appropriations act for this delivery order.⁶

Figure 1: U.S. Border Patrol's Soft-Sided Facility in Tornillo, Texas



Source: U.S. Border Patrol. | GAO-20-321R

The price for the initial 3-month period of performance (August 4, 2019 through November 3, 2019) was approximately \$47 million, with each option priced at approximately \$19 million. Under the order, the contractor was responsible for the physical construction of the facility, including areas for intake and holding of detained individuals, property storage, and medical evaluations, among other things. The contractor was also responsible for providing services to support the intake, processing, and temporary holding of detained individuals, such as meal service, guard services, toilets, and showers.⁷ The facility in Tornillo opened and began holding single adults on August 13, 2019.⁸ CBP exercised the first option to extend operations at the facility on November 4, 2019 and declined to exercise the second option, resulting in the closure of the facility on January 3, 2020.

You asked us to review how CBP provides care and custody for adults and children the agency apprehends, including the resources and facilities CBP uses. As part of this work, we conducted

⁵CBP placed a delivery order for the temporary facility in Tornillo, Texas against an existing General Services Administration contract through the Federal Supply Schedule program, which is governed by the procedures of Federal Acquisition Regulation (FAR) subpart 8.4. Under this subpart, orders exceeding a certain dollar threshold are required to be placed using procedures to promote competition among the schedule contractors, but this requirement may be waived and an order may be placed noncompetitively (i.e., sole source to one contractor) under certain circumstances, such as when urgent and compelling needs exist and competing the order would result in unacceptable delays. FAR § 8.405-6(a)(1)(i)(A). Generally, Federal Supply Schedule orders are placed on a fixed price basis, which is when the contractor has full responsibility for the costs of performance and the resulting profit or loss. However, other types of orders may be placed, such as time and material orders, which provide for acquiring supplies or services on the basis of direct labor hours at specified fixed hourly rates and actual cost for materials. FAR § 8.404(d), (h).

⁶On July 1 2019, the Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act was enacted, which included approximately \$1 billion in emergency supplemental funds for CBP to respond to the significant rise in the number of individuals apprehended at the southwest border. Pub. L. No. 116-26, 133 Stat. 1018 (2019).

⁷The order called for the contractor to provide all material, supplies, supervision, labor, equipment, and amenities to provide a solution for the set-up and operation of a temporary facility in Tornillo, Texas (also known as a turnkey solution).

⁸The period of performance was August 4, 2019 through November 3, 2019, but Border Patrol did not begin holding single adults in the facility until August 13, 2019, due to the time required to set up information technology at the facility and train personnel.

a site visit to the El Paso sector in Texas—the Border Patrol sector in which the Tornillo facility is located—in September 2019, where we interviewed Border Patrol El Paso sector officials to discuss the care of individuals in Border Patrol’s custody and observed Tornillo facility operations and services provided. During this site visit, we identified concerns regarding use of resources at the Tornillo facility. This correspondence examines how CBP utilized and managed the Tornillo facility.⁹ To address this objective, in addition to the site visit to the facility, we interviewed Border Patrol officials from the El Paso sector and headquarters. We also interviewed CBP officials from the Office of Acquisition and Office of Facilities and Asset Management.¹⁰ We reviewed relevant Federal Acquisition Regulations (FAR), agency guidance, and procurement documentation, including the acquisition plan, statement of work, the delivery order, and order modifications.¹¹

Further, we reviewed our past work and that of the Project Management Institute about the importance of evaluating results and identifying lessons learned.¹² We also interviewed the contractor responsible for performing the delivery order to obtain the contractor’s perspectives on the utilization of the Tornillo facility. Additionally, we analyzed data on the number of individuals held at the facility through January 3, 2020, along with pricing information, such as the schedule for supplies and services.¹³ We assessed the reliability of these data by reviewing the data for missing elements, outliers, obvious errors, and interviewing officials about applicable quality control procedures to ensure the accuracy and integrity of the data. We determined that the data were sufficiently reliable for the purposes of reporting information on the number of individuals held at the Tornillo facility. We conducted the work on which this correspondence is based from June 2019 to March 2020 in accordance with generally accepted government auditing standards. Those 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁹This correspondence is based on work we conducted as part of our ongoing review of the medical care of adults and children in CBP’s custody. We plan to issue a report on the medical care for adults and children in CBP’s custody in the summer of 2020.

¹⁰Within CBP, the Office of Acquisition is responsible for procuring goods and services, such as the temporary soft-sided facilities. The Office of Facilities and Asset Management is responsible for determining facility design requirements and managing the execution of facility goods and services procured. Border Patrol is responsible for determining the operational requirements for the facilities, communicating those requirements to CBP’s Office of Facilities and Asset Management, and managing the daily operations of the holding facilities, including determining staffing needs.

¹¹The FAR is the primary regulation used by all federal executive agencies to acquire supplies and services with appropriated funds. See FAR § 1.101.

¹²For example, see GAO, *Project Management: DOE and NNSA Should Improve Their Lessons-Learned Process for Capital Asset Projects*, [GAO-19-25](#) (Washington, D.C.: Dec. 21, 2018). Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition (2017), and Project Management Institute, Inc., *Implementing Organizational Project Management: A Practice Guide, First Edition* (2014). PMBOK is a trademark of Project Management Institute, Inc. The *PMBOK® Guide* provides guidelines for managing individual projects, including collecting requirements and defining the project’s scope. The Project Management Institute is a not-for-profit association that provides global standards for, among other things, project and program management. These standards are utilized worldwide and provide guidance on how to manage various aspects of projects, programs, and portfolios.

¹³We analyzed data on the number of individuals held in the Tornillo facility from August 15, 2019 through January 3, 2020, as that was the time period for which data were available during the course of our review.

CBP Detained Far Fewer Individuals in Its Facility in Tornillo, Texas than the Facility's Capacity and Spent Millions of Dollars for Food Services Not Needed

CBP's Management of Resources at the Tornillo Facility

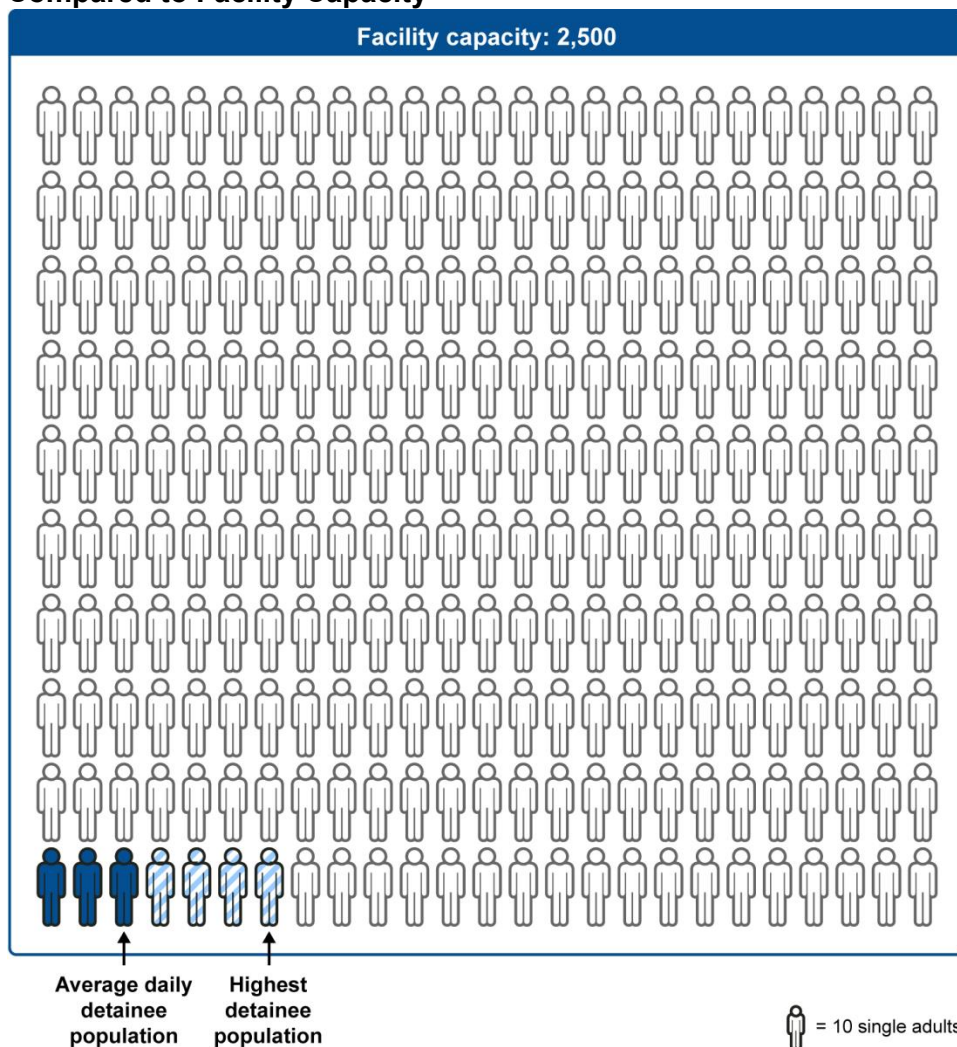
Since opening the Tornillo facility in August 2019, CBP held far fewer individuals in the facility than its capacity and spent about \$5.3 million for food services—the preparation and delivery of meals and snacks—it did not need during the initial period of performance. Additionally, CBP allocated significant personnel resources to the facility during its entire period of operation. CBP then modified the delivery order to reduce costs and subsequently closed the facility in January 2020.

During the initial period of performance (August 4, 2019 through November 3, 2019), Border Patrol held no more than 66 adults in the Tornillo facility on any given day, far below the 2,500-person capacity.¹⁴ Our analysis of Border Patrol data showed that, on average, there were 28 adults held in custody at the Tornillo facility per day during this period—approximately 1 percent of the facility's daily capacity (see figure 2).¹⁵

¹⁴The number of detainees per day is based on Border Patrol data that recorded a count of detainees at the Tornillo facility as of 6 a.m. each day. Therefore, the exact number of detainees that were at the facility within a 24-hour period may be greater than the number of detainees recorded in Border Patrol's system, as detainees were brought into and transferred out of the facility. However, Border Patrol officials stated that the detainee population at the Tornillo facility did not vary significantly from the data Border Patrol collected.

¹⁵We used Border Patrol data on the total number of detainees held per day at the Tornillo facility from August 15, 2019, the first date of available data, through November 3, 2019 (2,234 detainees) and divided that by the 81 days the facility was open and data was available during the initial period of performance to calculate the average number of detainees per day.

Figure 2: Average and Maximum Number of Single Adult Detainees Held at U.S. Border Patrol’s Facility in Tornillo, Texas from August 15, 2019 through November 3, 2019, as Compared to Facility Capacity



Source: GAO analysis of U.S. Border Patrol data. | GAO-20-321R

Note: The number of detainees per day is based on U.S. Border Patrol (Border Patrol) data that recorded a count of detainees at the Tornillo facility as of 6 a.m. each day. Therefore, the exact number of detainees that were at the facility within a 24-hour period may be greater than the number of detainees recorded in Border Patrol’s system as detainees were brought into and transferred out of the facility. However, Border Patrol officials stated that the detainee population at the Tornillo facility did not vary significantly from the data Border Patrol collected.

During the initial period of performance, CBP paid the contractor to operate the facility at full capacity, including food and guard services, regardless of the number of individuals housed in the facility, due to the terms of the delivery order it negotiated with the contractor.

- **Food service.** Based on our analysis, CBP paid approximately \$5.3 million for meals it did not need during the initial period of performance. Specifically, according to CBP officials, per the terms of the order, CBP paid for food service (breakfast, lunch, and dinner) for the full capacity of the Tornillo facility (2,500 detainees), regardless of the

daily population on-site.¹⁶ As such, CBP paid for about 675,000 meals during the initial period of performance despite only ordering 13,428 meals.

- **Guard service.** Based on our analysis, CBP paid approximately \$6.7 million for 75 unarmed contract security guards on-site at the Tornillo facility at all times to report any situations with individuals held in the facility and provide facility and perimeter security, though the facility had an approximate average daily population of 28 adults.

In addition to contracted personnel, a number of different federal agencies provided law enforcement and military personnel to help support operations at the Tornillo facility during the initial period of performance. Specifically, according to CBP documents and officials, there were generally:

- 21 CBP law enforcement officers for facility operations, such as detainee intake, welfare checks, and transportation, among other things. Of these, there were:
 - 11 Border Patrol agents (from the El Paso sector and detailed from Border Patrol's northern border sectors) and
 - 10 CBP officers (from the Office of Field Operations);
- 5 U.S. Immigration and Customs Enforcement personnel during day shifts, to help coordinate on decisions made about individuals at the facility, such as whether individuals were to be transferred to longer term detention, potentially removed, or subject to other action; and
- 116 Texas National Guard personnel for logistical support, such as meal distribution and monitoring security cameras, among other things.¹⁷

Based on our analysis, on average, for each individual detainee transferred and held in the facility during the initial period of performance, there were generally four Texas National Guard personnel, three contracted security guards, and one CBP law enforcement officer (see figure 3).¹⁸

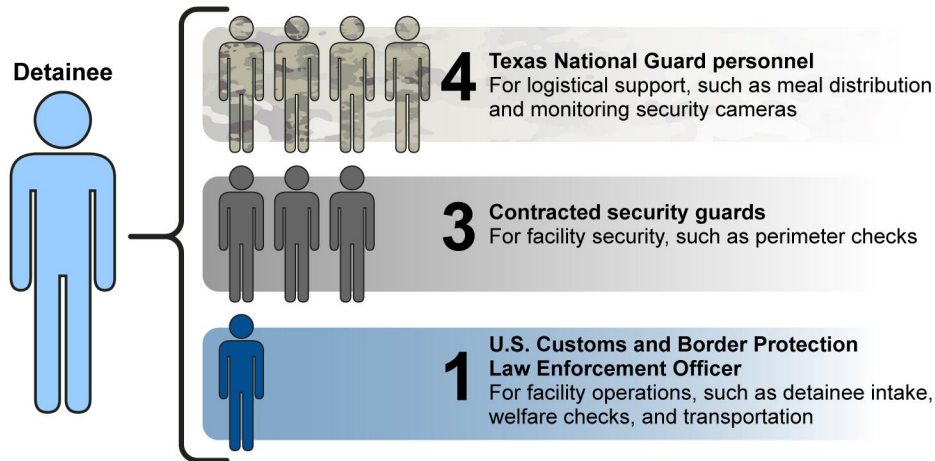
¹⁶Included in the pricing for food services were snacks (up to 4,000 per day) and delivery of the food.

¹⁷DHS asked that Department of Defense provide National Guard support on a non-reimbursable basis. According to Border Patrol officials, the Texas National Guard were requested and, with the agreement of the Governor of Texas, deployed to the Tornillo facility because DHS did not have the resources to fully staff the facility. Officials stated the National Guard personnel were not permitted to conduct law enforcement activities, such as interacting with detainees. Additionally, Border Patrol officials said that a minimum number of 15 law enforcement personnel were required to be on site per shift based on an interagency agreement with the Department of Defense for National Guard support, though officials said the minimum number was often exceeded to ensure proper safety and efficiency of the Tornillo facility. We have an ongoing review examining the Department of Defense's efforts to support DHS operations on the southwest border and the cost of providing this support, among other things. We plan to issue a report that addresses these issues in the summer of 2020.

¹⁸To determine the average personnel per detainee, we divided the general number of personnel CBP cited per shift (21 CBP law enforcement officers, 116 National Guard personnel and 75 contracted guards) by the average number of adults held in custody at the Tornillo facility per day using Border Patrol's data (28 detainees), resulting in about one CBP law enforcement officer, four National Guard personnel, and three contracted security guards for each individual detainee on average.

Figure 3: Average Number of Law Enforcement, National Guard, and Security Personnel at the Tornillo Facility Per Detainee, from August 15, 2019 through November 3, 2019

On average, from August 2019 through the beginning of November, for every one detainee at Tornillo, there were approximately:



Source: GAO analysis of U.S. Border Patrol information. | GAO-20-321R

CBP officials stated that, as of November 15, 2019, the Texas National Guard personnel were no longer deployed to the facility because the agreement for supplemental holding support between DHS and the Department of Defense expired.¹⁹ When asked how this impacted facility operations and personnel resources for the remainder of the first option period, CBP officials acknowledged the National Guard personnel duties were limited in nature and, as such, CBP officials were able to arrange for the contracted security guards to absorb the National Guard duties for the remainder of the first option period.

CBP Took Steps to Reduce Resource Usage, but CBP’s Management and Use of the Facility Raised Concerns

CBP’s management and use of the Tornillo facility raised concerns to us throughout the course of our review. These concerns included the (1) the initial terms and conditions negotiated by CBP which did not provide flexibility to adjust pricing when the actual number of detainees was far less than expected, and (2) the lack of input and information sharing among CBP acquisition and operational components and offices regarding the need for and use of the Tornillo facility.

Delivery order terms and conditions. The terms and conditions negotiated by CBP for the initial period of performance did not provide the flexibility to adjust pricing for the food services when the actual number of detainees held at the Tornillo facility was far less than anticipated. CBP officials said they followed an aggressive contracting schedule in order to get the Tornillo facility operational quickly and priced the services needed to meet the maximum capacity on a fixed-price basis, and did not consider potential cost-saving options at the time the delivery order was placed, such as tiered pricing for meals or other services, if the actual usage was less

¹⁹According to CBP officials, the agreement for the National Guard support was not based solely on the Tornillo facility. Officials stated the Texas National Guard request for assistance covered two mission sets – supplemental holding support for the Tornillo facility and supplemental port of entry support – and was intentionally written to allow service members to transition between the two mission sets based on operational changes. As such, officials noted some National Guard personnel were incrementally transitioned to provide port of entry support.

than expected.²⁰ According to contractor officials we interviewed, tiered pricing is a common approach used in the industry when actual needs are uncertain.

In November 2019, when exercising the first option to extend its period of performance at the facility by 2 months, CBP revised the requirements and payment structure for food services from a fixed approach it had followed during the initial period of performance (three meals and snacks for 2,500 individuals per day) to a tiered pricing approach.²¹ Under this approach, CBP paid the contractor for a tiered number of meals it needed per day (e.g., 150-500 meals, 501-999 meals), which was a positive step to help reduce the amount CBP paid for meals that were not needed. Specifically, during the first option period, CBP paid \$74,207 for 2 months of detainee meals and snacks (with tiered pricing), whereas it paid \$3.6 million for 2 months of detainee meals and snacks during the initial period of performance (without tiered pricing). Moving to a tiered pricing approach enabled CBP to reduce the cost of food services to better reflect the actual number of detainees being held at the facility. Had CBP considered or negotiated tiered-pricing when initially placing the order, CBP could have positioned themselves to better handle varying levels of detainees in a more cost-effective manner.²²

Stakeholder input and information sharing. CBP officials stated that they received direction from DHS leadership in May 2019 to open the Tornillo facility in the El Paso sector. This direction served as the basis for supporting the placement of the sole-source delivery order on an urgent and compelling basis in July 2019. However, Border Patrol officials in the El Paso sector—who operated the facility—told us they were not consulted by Border Patrol headquarters prior to placement of the order and they did not have input into the requirements for the facility. For example, the officials stated they were not consulted on the capacity of the facility or the population it would serve. Furthermore, Border Patrol officials in the El Paso sector told us that while they did not have sufficient space for detaining single adults in May and June 2019, this problem of overcrowding was largely resolved by July 2019, when the order for the Tornillo facility was placed and they first became aware the temporary facility would be acquired. The FAR and our prior work on acquisition planning highlight the importance of ensuring that acquisition planning activities integrate the efforts of all personnel responsible for significant aspects of the acquisition.²³

Gaps in communication between stakeholders also limited CBP's ability to consider options to modify the order in a more timely fashion. For instance, CBP acquisition officials did not modify the order to incorporate tiered-pricing for food service until they exercised the first option period in November 2019. CBP acquisition officials stated they were unaware that the facility was operating at far less than expected capacity until late September and early October 2019—

²⁰Following discussions with us, CBP modified the contract's food services to tiered pricing, which is a mechanism to capture volume-based savings in contracts where the volume is unknown.

²¹The first option period was from November 4, 2019 through January 3, 2020.

²²Following discussions with us, CBP requested a credit from the contractor for food service meals not delivered under the firm fixed-price terms and conditions of the delivery order during the initial period of performance. The contractor agreed to a \$250,000 credit in early January 2020.

²³See FAR § 7.102. The FAR defines acquisition planning as the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition. FAR § 2.101. See also GAO, *Acquisition Planning: Opportunities to Build Strong Foundations for Better Services Contracts*, [GAO-11-672](#) (Washington, D.C.: Aug. 9, 2011).

approximately halfway through the initial period of performance, and around the time we spoke with them about the issue. However, Border Patrol officials in the El Paso sector said that the CBP contracting officer's representative was on-site at the Tornillo facility during the first few weeks that the facility was operating. In addition, these officials said they regularly conveyed concerns regarding the low number of individuals at the Tornillo facility to both the contracting officer's representative and Border Patrol headquarters divisions.²⁴ Additionally, Border Patrol officials in the El Paso sector stated they were recording the number of individuals being held at the Tornillo facility in their data system on a real-time basis and that Border Patrol headquarters officials had access to that data. However, even when CBP acquisition officials became aware of the low utilization of the facility, they did not attempt to modify the order during the initial period of performance, by for example, negotiating tiered pricing for meals. CBP acquisition officials said that although they had the ability to modify the order, they did not do so because Border Patrol (which is responsible for setting the requirements for the facility) did not request that they do so. According to Border Patrol officials, they did not request any change in the requirements during the initial performance period in case apprehensions increased.

In addition, the decision to extend the delivery order's period of performance highlighted differences between key stakeholders on the continued need for and potential uses of the Tornillo facility. Border Patrol officials in the El Paso sector told us that the sector recommended to Border Patrol headquarters that the facility be closed and resources reallocated elsewhere for other CBP missions, due to the consistently low numbers of individuals held at the facility and the personnel resource requirements to operate the facility. In contrast, CBP headquarters officials told us, despite the consistently low numbers of detainees held in the Tornillo facility, they decided to continue operations for the 2,500-person facility because they were operating in an environment with considerable uncertainty related to migrant flow and wanted to prepare for the possibility of increased apprehensions. For example, according to officials, DHS initiatives, such as the Migrant Protection Protocols, could have ended due to litigation or without the cooperation of the government of Mexico, and if so, apprehensions would have likely increased.²⁵ Officials also said that at the time they made the decision to extend operations at the Tornillo facility in November 2019, they believed that new DHS initiatives, such as the Prompt Asylum Claim Review program and Asylum Cooperative Agreements, could potentially require use of the Tornillo facility and its associated services. Specifically, at that time officials said these programs would require Border Patrol to hold subjects for longer periods of time and they would need a facility such as the Tornillo facility with services that could accommodate those longer hold periods for single adults.²⁶ However, in January 2020, CBP officials told us the

²⁴A contracting officer's representative assists in the technical monitoring or administration of a contract. The contracting officer's representative is assigned to oversee the contract and ensure that the contractor is performing in accordance with the standards and terms of the contract. If problems with a contractor's performance arise, the contracting officer serves as the contract focal point between the contracting officer and contractor.

²⁵The Migrant Protection Protocols is a DHS program, in coordination with the government of Mexico, to return individuals seeking asylum who are determined inadmissible and placed into full removal proceedings to Mexico to await their court hearings. As of March 2020, litigation related to this program was ongoing. See *Innovation Law Lab v. Nielsen*, No. 19-0807 (N.D. Cal. filed Feb. 14, 2019); *Doe v. McAleenan*, No. 19-2119 (S.D. Cal. filed Nov. 5, 2019).

²⁶The Prompt Asylum Claim Review program is a Border Patrol pilot program to expedite the credible fear screening process for individuals placed into expedited removal who express an intention to apply for asylum, a fear of persecution or torture if returned to their home country. See 8 U.S.C. § 1225(b); 8 C.F.R. § 208.30. We have an ongoing review related to the program. Asylum Cooperative Agreements are bilateral or multilateral agreements that are formed between the United States and foreign countries where individuals removed to those countries would have access to a procedure for determining a claim to asylum or equivalent protection. On November 19, 2019, DHS and the Department of Justice promulgated an interim final rule to implement new Asylum Cooperative Agreements

Tornillo facility was never used for these DHS initiatives. Specifically, officials stated they determined in late October and early November they would pilot the Prompt Asylum Claim Review initiative at another facility in the El Paso sector and the Asylum Cooperative Agreements initiative was not operational at that time.²⁷

CBP officials told us that in November 2019 the agency decided not to exercise another option on the delivery order for the Tornillo facility and, as of January 3, 2020, the facility has been closed. CBP officials stated they did not exercise another option because of the low numbers of individuals detained (an average of 30 adults per day, and no more than 68 adults on any given day during the 5-month period the Tornillo facility was open) and because a permanent holding facility would be opening in the El Paso sector in 2020.²⁸

Although CBP closed the Tornillo facility, we identified issues with how CBP managed the acquisition and its use of resources at the facility, such as the costs of services provided and how CBP components shared information about the number of individuals at the facility. According to key practices that we and others have identified for both program and project management, it is important to identify and apply lessons learned from programs, projects, and missions to limit the chance of recurrence of previous failures or difficulties. Moreover, as we and others have previously found, agencies can learn lessons from an event and make decisions about when and how to use that knowledge to change behavior.²⁹ Given the issues and concerns with the Tornillo facility, assessing the acquisition and use of the facility to identify lessons learned, such as how acquisition approaches could be improved to be more cost-effective and incorporate better stakeholder input and information sharing, could help provide CBP with insights to inform future acquisitions.

Conclusions

During the 5-month period the Tornillo facility was open, CBP paid approximately \$66 million in total for the facility services and leveraged significant federal personnel resources (both CBP and otherwise), despite holding an average of 30 detainees per day—about 1 percent of the facility’s capacity. Throughout our review, we were concerned with how CBP managed the acquisition and its use of resources at the Tornillo facility, such as how CBP offices and components shared information about the number of individuals at the facility and the costs of services being provided. While CBP modified the pricing approach for food services in exercising the first option in November 2019 and closed the facility as of January 2020, during the facility’s operation, CBP ultimately paid millions of dollars for food service it did not need and allocated personnel resources to the facility that, as Border Patrol El Paso sector officials noted

recently entered into with El Salvador, Guatemala, and Honduras, which outlined a “threshold” screening process by an asylum officer to determine whether the individual is subject to the terms of an Asylum Cooperative Agreement, whether they fall under an exception, and whether, if subject to an Asylum Cooperative Agreement, they can demonstrate that it is more likely than not that their life or freedom would be threatened or that they would be tortured in the third country. See generally 84 Fed. Reg. 63,994 (Nov. 19, 2019). Border Patrol officials stated these new initiatives and related screening processes would require Border Patrol to hold individuals up to 7 days.

²⁷The Asylum Cooperative Agreements interim final rule was not published until November 19, 2019.

²⁸In January 2020, CBP officials stated a Centralized Modular Processing Center is set to open soon in the El Paso sector, which will provide a permanent and more centrally located solution for expedited processing and holding facilities with nearby access to medical providers and fewer transportation requirements.

²⁹[GAO-19-25](#). We also identified lessons-learned practices from reports by the Project Management Institute. See Project Management Institute, Inc., *A Guide to the Project Management Body of Knowledge (PMBOK® Guide)*, Sixth Edition (2017); and Project Management Institute, Inc., *Implementing Organizational Project Management: A Practice Guide*, First Edition (2014).

to us, could have been allocated to other missions. In light of these concerns, assessing the acquisition and use of the Tornillo facility and identifying lessons learned could help inform future CBP acquisitions.

Recommendation for Executive Action

The Commissioner of CBP should conduct an assessment of the acquisition and use of the Tornillo facility and identify any lessons learned. (Recommendation 1)

Agency Comments

We provided a draft of this report to DHS for review and comment. DHS provided written comments, which are reproduced in full in enclosure I. DHS concurred with our recommendation and stated that CBP will conduct an assessment of the acquisition and use of the Tornillo facility and identify any lessons learned to be used for future similar acquisitions. DHS also provided technical comments, which we incorporated as appropriate.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees and the acting Secretary of Homeland Security. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or GamblerR@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report include Adam Hoffman (Assistant Director), Kelsey Hawley (Analyst-in-Charge), Tim DiNapoli, Janet McKelvey, and Meghan Perez. Also contributing to the report were Lori Achman, Sara Cradic, Dominick Dale, Kathleen Donovan, Michele Fejfar, Eric Hauswirth, and Heidi Nielson.

Rebecca Gambler
Director, Homeland Security and Justice

List of Requesters

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
The Honorable Bennie Thompson
Chairman
Committee on Homeland Security
House of Representatives
The Honorable Tammy Baldwin
United States Senate
The Honorable Michael Bennet
United States Senate
The Honorable Richard Blumenthal
United States Senate
The Honorable Cory Booker
United States Senate
The Honorable Sherrod Brown

United States Senate
The Honorable Robert Casey
United States Senate
The Honorable Catherine Cortez Masto
United States Senate
The Honorable Tammy Duckworth
United States Senate
The Honorable Kirsten Gillibrand
United States Senate
The Honorable Kamala Harris
United States Senate
The Honorable Mazie Hirono
United States Senate
The Honorable Amy Klobuchar
United States Senate
The Honorable Edward Markey
United States Senate
The Honorable Robert Menendez
United States Senate
The Honorable Jeffrey Merkley

United States Senate
The Honorable Jack Reed
United States Senate
The Honorable Bernard Sanders
United States Senate
The Honorable Tina Smith
United States Senate
The Honorable Tom Udall
United States Senate
The Honorable Elizabeth Warren
United States Senate
The Honorable Ron Wyden
United States Senate

Enclosure I: Comments from the Department of Homeland Security

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



**Homeland
Security**

February 24, 2020

Rebecca Gambler
Director, Homeland Security and Justice
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-20-321R, "Border Security: U.S. Customs and Border Protection's Management of a Temporary Facility in Texas Raised Concerns about Resources Used"

Dear Ms. Gambler:

Thank you for the opportunity to comment on this draft report. The Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The U.S. Customs and Border Protection (CBP) mission 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 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.

In October 2018, CBP faced unprecedented numbers of migrants attempting to cross into the United States, having, on average, apprehended *each day* more than 1,950 persons crossing the border illegally or presenting themselves without documents at ports of entry. This number grew to more than 4,600 *each day* in May 2019. More than half of these arrivals were family units and unaccompanied children, most of whom were victims of or had placed themselves in the hands of violent human smugglers during their journey to the United States. The increase in individuals apprehended resulted in overcrowded conditions in CBP short-term processing and holding facilities, which presented migrant health and welfare challenges.

In response to this crisis and based upon the high numbers of apprehensions in the El Paso, Texas Border Patrol Sector, CBP determined there was a need for a temporary soft-sided facility to alleviate the overcrowded conditions to accommodate the

unprecedented migrant surge. On July 3, 2019, CBP placed a sole-source, firm-fixed price delivery order with a 3-month initial period of performance and five 2-month options for building, operating, and maintaining a temporary, soft-sided facility in Tornillo, Texas. The Tornillo encampment was intended to support up to 2,500 detainees and up to 300 support staff and government personnel.

After the Tornillo facility opening in August 2019, the number of detainees fell below what had been projected, and CBP modified the delivery order to reduce costs. The facility was eventually closed in January 2020.

With the benefit of hindsight, GAO's draft report questions the adequacy of CBP's acquisition and oversight approach, based primarily on conclusions that the government paid for more capacity than was needed, for a longer period than was necessary. It is important to note that CBP did not have the benefit of hindsight as it made *day-to-day* decisions based on assessments of the risks involved with various solutions. Senior CBP leadership assessed a broad range of solutions and concluded they could not presume the crisis would abate nor that Congress would swiftly enact legislation that helped make the extremely volatile and unpredictable border situation better. In leadership's view, it would have been worse to close facilities, such as the one in Tornillo, Texas, too early and be forced again to hold detainees in locations not suited to that purpose, than it was to take the risk that CBP would have a level of overcapacity for some time.

DHS and CBP believe that learning from the past is essential to good government and are leveraging the lessons learned from the Tornillo experience. Opportunities for improvement identified in GAO's draft report are areas where leadership continues to focus, and efforts are already underway to address.

The draft report contained one recommendation, with which the Department concurs. Attached find our detailed response to the recommendation. Technical comments were previously provided under separate cover.

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. We look forward to working with you again in the future.

Sincerely,



JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to the Recommendation
Contained in GAO-20-321R**

GAO recommended that the Commissioner of CBP:

Recommendation 1: Conduct an assessment of the acquisition and use of the Tornillo facility and identify any lessons learned.

Response: Concur. CBP will conduct an assessment of the acquisition and use of the Tornillo facility and identify lessons learned to be used for future similar acquisitions. CBP's Office of Acquisition is currently in the process of developing acquisition documents for another soft-sided facility to be opened in Donna, Texas, and is evaluating its experience with the Tornillo contract to ensure that "lessons learned" from that contract are considered and incorporated into the Donna contract. Estimated Completion Date: September 30, 2020.

Text of Enclosure I: Comments from the Department of Homeland Security

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February 24, 2020

Rebecca Gambler

Director, Homeland Security and Justice

U.S. Government Accountability Office 441 G Street, NW

Washington, DC 20548

Re: Management Response to Draft Report GAO-20-321R, "Border Security: U.S. Customs and Border Protection's Management of a Temporary Facility in Texas Raised Concerns about Resources Used"

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Director

Departmental GAO-OIG Liaison Office

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