

RON JOHNSON, WISCONSIN, CHAIRMAN

JOHN McCAIN, ARIZONA
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MICHAEL B. ENZI, WYOMING
JOHN HOEVEN, NORTH DAKOTA
STEVE DAINES, MONTANA

CLAIRE McCASKILL, MISSOURI
THOMAS R. CARPER, DELAWARE
JON TESTER, MONTANA
HEIDI HEITKAMP, NORTH DAKOTA
GARY C. PETERS, MICHIGAN
MARGARET WOOD HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

January 3, 2018

CHRISTOPHER R. HIXON, STAFF DIRECTOR
MARGARET E. DAUM, MINORITY STAFF DIRECTOR

Kevin K. McAleenan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, DC 20229

Dear Mr. McAleenan:

I write to request information about the recent award of a nearly \$300 million contract to provide “recruitment and hiring” services to Customs and Border Protection (CBP).

On November 8, 2017, CBP awarded a \$297 million dollar contract to Accenture Federal Services, LLC, to support hiring activities, including applicant testing, screening for suitability, and application process streamlining.¹ The contract obligates over \$42 million for the first year of hiring services with the option to extend the contract for up to four years. The purpose of the contract is to assist with hiring 7,500 applicants, including “5,000 Border Patrol Agents (BPAs), 2,000 Customs and Border Patrol (CBP) Officers, and 500 Air and Marine Interdiction Agents.”²

CBP solicited this contract in response to the President’s January 25, 2017, Executive Order and subsequent Department of Homeland Security (DHS) implementation memos, which directed CBP to increase staffing levels within the Border Patrol and Air and Marine Operations by 5,000 Border Patrol Agents and 500 Air and Marine Interdiction Agents.³ To date, CBP has made gradual progress in hiring additional law enforcement personnel but still has not reached target hiring goals.⁴ CBP currently employs 19,437 Border Patrol Agents, 947 Air and Marine

¹ Customs and Border Protection, Solicitation Number HSBP1017R0029 (Apr. 20, 2017) (www.fbo.gov/index?s=opportunity&mode=form&id=4a797d7673fc48ed9e48833ceef37d51&tab=core&_cview=1).

² Customs and Border Protection, *Statement of Objectives for Office of Human Resources Management Frontline Recruitment and Hiring Services*, Solicitation Number HSBP1017R0029 (Apr. 20, 2017) (www.fbo.gov/index?s=opportunity&mode=form&id=4a797d7673fc48ed9e48833ceef37d51&tab=core&_cview=1).

³ *Id.*; Exec. Order 13767, 82 Fed. Reg. 8793 (Jan. 25, 2017).

⁴ Customs and Border Protection, Briefing with Senate Committee on Homeland Security and Governmental Affairs Minority Staff (Dec. 5, 2017).

Interdiction Agents, and 23,079 CBP Officers.⁵ Despite these numbers, the Office of Field Operations (OFO) (which employs CBP Officers at ports of entry), the Border Patrol, and Air and Marine Operations are understaffed by more than 8,600 law enforcement officers below CBP targets.⁶

The Border Patrol has had the most difficulty in achieving hiring goals and is currently losing Border Patrol Agents to attrition faster than it can hire replacements.⁷ More broadly, CBP has explained that it cannot meet staffing requirements because it must compete for applicants with employers offering better pay, hours, locations and benefits, including DHS's other immigration law enforcement arm, Immigration and Customs Enforcement (ICE).⁸

Under the Accenture contract, it will reportedly cost almost \$40,000 to hire each new law enforcement officer across CBP's components.⁹ This is almost equal to the amount made by an entry level Border Patrol Agent, or CBP Officer.¹⁰ Despite the high cost, that amount will still not cover all the expenses of hiring. While the contract covers the entrance exam, the pre-qualification, the medical exam, the physical fitness test, the initiation of the background questionnaire, the background investigation, the coordination of interviews the polygraph, and the drug test, the final adjudication of most of these stages will be performed by CBP officials.¹¹

⁵ Email from Office of Congressional Affairs, Customs and Border Protection, to Senate Committee on Homeland Security and Governmental Affairs Minority Staff (Oct. 20, 2017).

⁶ Exec. Order 13767, 82 Fed. Reg. 8793 (Jan. 25, 2017); Memorandum from John Kelly, Secretary Department of Homeland Security to Kevin McAleenan, Acting Director Customs and Border Protection et.al, Implementing the President's Border Security and Immigration Enforcement Improvements Policies (Feb. 20, 2017); Email from Office of Congressional Affairs, Customs and Border Protection, to Homeland Security and Governmental Affairs Committee Minority Staff (Oct. 20, 2017); Customs and Border Protection, briefing with Senate Homeland Security and Governmental Affairs Committee Minority Staff (December 5, 2017).

⁷ *Under Trump, Drugs are Pouring Across America's Border Like Never Before*, Newsweek (Nov. 25, 2017) (www.newsweek.com/drug-dealers-making-big-runs-across-border-despite-trump-crackdown-722076).

⁸ Customs and Border Protection, Briefing with Senate Committee on Homeland Security and Governmental Affairs Staff (Mar. 16, 2017).

⁹ *CBP has to hire 5,000 new Border Patrol agents. It's paying a private company \$297 million to help*, San Diego Tribune (Dec. 12, 2017) (www.sandiegouniontribune.com/news/watchdog/sd-me-cbp-hiring-20171212-story.html).

¹⁰ *Id.*

¹¹ Customs and Border Protection, *Statement of Objectives for Office of Human Resources Management Frontline Recruitment and Hiring Services*, Solicitation Number HSBP1017R0029 (Apr. 20, 2017) (www.fbo.gov/index?s=opportunity&mode=form&id=4a797d7673fc48ed9e48833ceef37d51&tab=core&_cvview=1).

This means that CBP's own hiring components may need additional resources to accommodate the increase in personnel.

I am also concerned that this contract only accounts for the hire of 2,000 CBPOs over the course of the next 5 years. This is at least 1,600 positions below the number of CBP Officers that are needed to adequately staff ports of entry. Staffing at ports of entry is currently too low by over 3,600 positions based on CBP's internal workload staffing model.¹² As I wrote you previously, the lack of these additional 3,600 positions may compromise the ability of law enforcement to stop illicit drugs, goods, and people from entering the United States.¹³ CBP Officers at ports of entry and inspection facilities are in many cases the first line of defense in identifying illicit drugs entering the country.¹⁴ This year alone, CBP Officers have confiscated a combined 101,951 pounds of cocaine, methamphetamine and fentanyl this year—the most on record since 2012.¹⁵

Given the impact that this contract will have on CBP's ability to meet staffing targets and significantly augment their law enforcement workforce, I request the following information:

1. The final contract and contract file, including all items enumerated on the attached Schedule A;
2. Why is CBP's Office of Human Resources Management unable to hire additional CBP personnel without assistance from a contractor?
3. As discussed above, it will reportedly cost nearly \$40,000 to recruit and hire each new law enforcement officer under this contract.
 - a. Please provide the per capita cost for new law enforcement officers under this contract.
 - b. Please explain how CBP determined whether this cost was reasonable.
 - c. Has CBP requested money for this contract under its budget, and if not, what programs would be cut in order to pay for it?

¹² Customs and Border Protection, briefing with Senate Committee on Homeland Security and Governmental Affairs Minority Staff (Dec. 5, 2017).

¹³ Letter from Senator Claire McCaskill, to Kevin McAleenan, Acting Director, Customs and Border Protection (Dec. 4, 2017).

¹⁴ Department of Justice, Drug Enforcement Administration, *2016 National Drug Threat Assessment Summary*, DEA-DCT-DIR-001-17(Nov. 2016) (www.dea.gov/resource-center/2016%20NDTA%20Summary.pdf).

¹⁵ *Under Trump, Drugs are Pouring Across America's Border Like Never Before*, Newsweek (Nov. 25, 2017) (www.newsweek.com/drug-dealers-making-big-runs-across-border-despite-trump-crackdown-722076).

Kevin K. McAleenan
January 3, 2018
Page 4

4. Does CBP currently have any additional contracts that provide hiring or recruiting services? If so, please provide a description of each contract as well as the contract number.
5. Why did CBP obligate money for this contract before Congress appropriated funds for additional CBP personnel?

I request that you provide this information as soon as possible, but in no event later than January 24, 2018. In addition to this information, I request a briefing on this contract and CBP's current efforts to fully staff all of its law enforcement components.

If you have any questions regarding this request, please contact Caitlin Warner of the Committee staff at Caitlin_Warner@hsgac.senate.gov. Please send any official correspondence to Caitlin_Warner@hsgac.senate.gov and Lucy_Balczak@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman

Enclosure

Schedule A: Contract File Documents

1. The final contract and all modifications;
2. Documents related to the justification of any modification;
3. Business case memoranda or similar documents, any analyses related to contract vehicle selection and requirements development;
4. The Independent Government Cost Estimate;
5. The subcontracting plan;
6. The contractor's final proposal, both technical and cost, which led to the award of the contract;
7. The memoranda which documented the justification for award, any trade-offs made during the source selection process, the negotiations with contractor, the responsibility determination, and the determination of price reasonableness;
8. If the award was made without competition, the Justification for Other Than Full and Open Competition (JOFOC); and,
9. Plans detailing how contractor's performance would be monitored and communications related to contractor's performance under the contract (Often referred to as a QASP, Quality Assurance Surveillance Plan).