MEMORANDUM

Date: May 23, 2018

To: Carmine DeBonis, Jr.
Deputy County Administrator
for Public Works

From: C.H. Huckelberry
County Administrator

Re: **Information Request from US Customs and Border Patrol Regarding Road Maintenance Funding Assistance Provided to the US Forest Service or other Federal Agencies**

In discussions related to the adverse impacts of increased US Customs and Border Patrol (CBP) use of County highways, specifically, Ruby Road, it was learned that CBP cannot provide direct funding for local roads, but is able to provide direct funding to other federal agencies where they may impact roadways or other pathways of those federal agencies. These other agencies may be the US Forest Service and/or National Park Service.

Please determine if CBP has provided any funds to these federal agencies for road repair and/maintenance for roadways under their specific jurisdiction.

Attached is more information related to this subject from a *KOLD* report, my April 10, 2018 memorandum and a report regarding Southwest Border Security highlighting the "actions needed to enhance CBP's maintenance of roads used for its operations."

In addition, please determine, from the Department of Transportation, the status of any dirt roads the County maintains in the border area that have also been adversely impacted by CBP. If there are significant impacts, please report the impacts and potential cost of the increased roadway maintenance frequency.

CHH/anc

Attachments

c: The Honorable Sharon Bronson, District 3 Member, Pima County Board of Supervisors

ONLY ON KOLD: The worst road in Pima County and why you may be paying for it

Thursday, April 26th 2018, 5:03 pm MSTThursday, April 26th 2018, 7:45 pm MST
By Bud Foster, Reporter
BioEmail
Connect

PIMA COUNTY, AZ (Tucson News Now) -

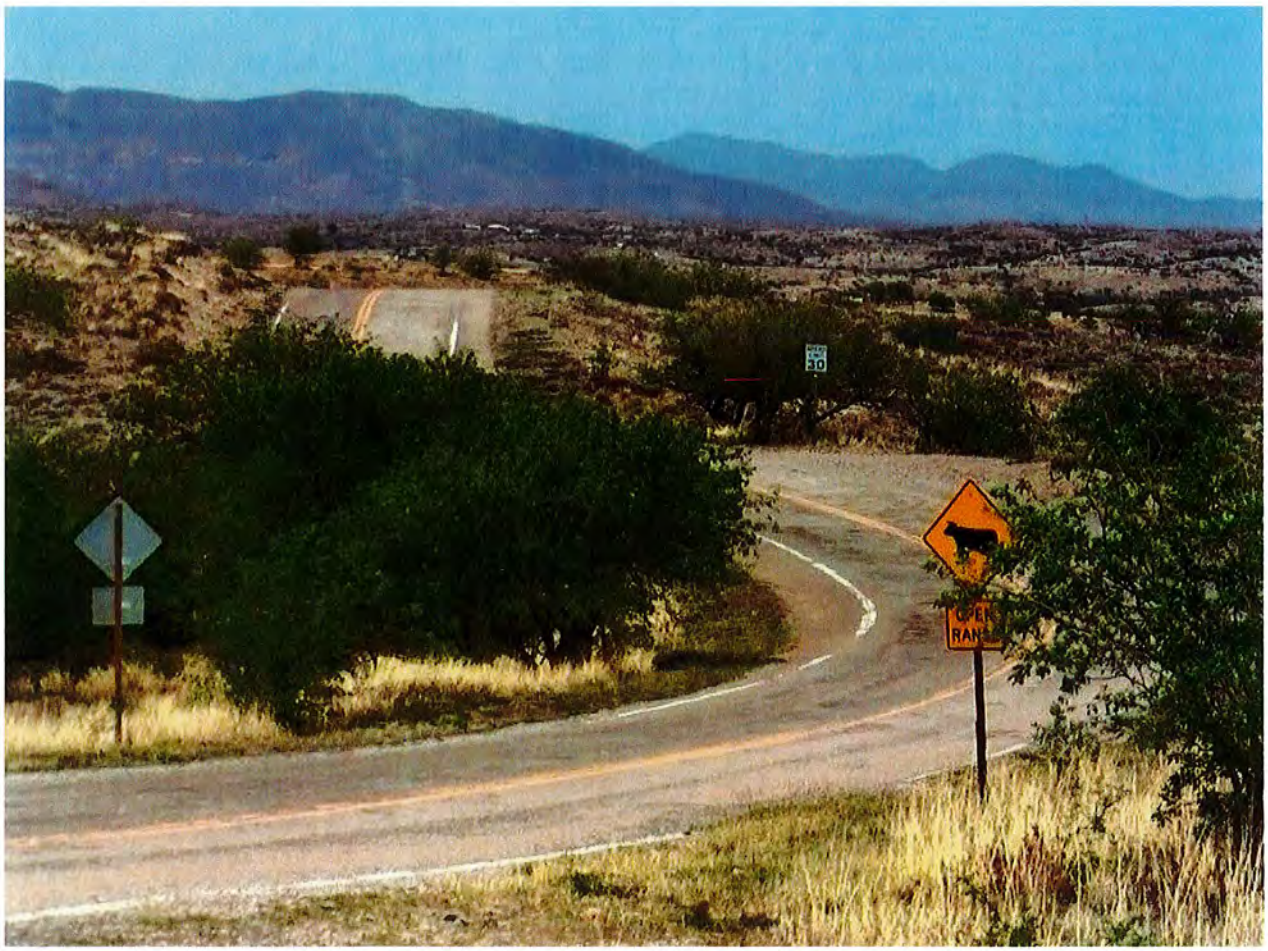
A Pima County administrator hopes having the Arizona National Guard deployed to the Southern border may increase the chance another agencies will help pay to maintain Ruby Road near Arivaca.

A multi-year battle to get federal help has failed, but now it may be revived according to a memo released by Chuck Huckelberry.

The five-mile stretch of road near the border was once called "the worst maintained" road in Pima County.

Since then, county transportation workers put a thin "skin patch" on the road at a cost of $200,000.

"It's not a repair," said Director Ana Olivares. "It's just to cover the potholes."



But now, after only a few months, the potholes are returning and the road needs more work.

It will cost an estimated $1.2 million to reconstruct the road, money that is not in the county budget.

The county has limited funds for repair work.

Because Ruby Road's traffic volume rarely exceeds 150 vehicles a day, it is near the bottom of the list.

The road had become so bad in the past that neighbors formed the Ruby Road Working Group to complain to the county and try to get the road fixed.

It worked, sort of.

"My experience has been unless we raise hell and we cause trouble and make their lives rough, nothing gets done," said Rexanne Tucker, who has lived on Ruby Road since 1968. "That's sad, that's sad."

Arivaca residents will likely resume their criticism when the road gets bad enough, which could be soon.

"It's already deteriorating and it'll get worse when the monsoons come" said Ken Buchanan, the town's self appointed mayor. "It always does."

The county will then likely use scarce resources to patch the road again. It spends roughly $70,000 to $200,000 a year to patch and maintain the road but because of its low volume use, the road does not qualify for a full repair.

That would take money away from arterials and other failed roads which are also in bad need of repair.

No matter what, somebody's going to be unhappy.

So the county is looking elsewhere for funds, like the Department of Homeland Security, home to the U.S. Border Patrol.

The county and residents believe the Border Patrol is by far the biggest user of the road.

"At least, I'd say, 65 percent of our traffic is Border Patrol," Buchanan said. "Why aren't they paying for it."

Pima County asked the same question of Arizona Senators John McCain, Jeff Flake, and Congresswoman Martha McSally.

The question prompted a months-long study by the Government Accountability Office.

The results of the 27 page study said Border Patrol does not have a policy to help pay to maintain public roads nor does it have the legal ability to do so.

But it also said the Border Patrol could establish a policy which would allow it, in some cases, to pay for maintenance on public roads.

According to the report, that could happen in September. But that's still a big ***if***.

"We have met with them to see if there's some kind of funding we can utilize from their agency," Olivares said. "We have been told that's not possible."

And in a statement, Border Patrol seems to confirm that:

Mr. Foster –
Thank you for your inquiry.
On any public road, damage may occur to the road over time from a variety of causes. Absent specific authority or appropriated funds, U.S. Customs and Border Protection (CBP) does not have the ability to repair, improve, or reconstruct state, county, or local roads. Border Patrol maintains Government-owned vehicles with the understanding that vehicles driven in remote regions are subject to a certain amount of damage from road conditions and other factors.
Respectfully,
Public Information Office
Tucson Sector Border Patrol Agent

And now the residents of Arivaca wait for the monsoon knowing it will once again make Ruby Road near impassable, caught in what seems like a never-ending cycle.

"Let's try and get along here and they're not trying to get along," said Buchanan. "So we are stuck in between government agencies."

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MEMORANDUM

Date: April 10, 2018

To: Carmine DeBonis, Jr.
Deputy County Administrator
for Public Works

From: C.H. Huckelberry
County Administrator

Re: **New Opportunity to Revive Ruby Road and Sasabe Road Funding**

With the placement of The National Guard on the border, the impact to local roads both in Pima County, as well as Santa Cruz County, will be greatly increased. We have been generally unsuccessful in trying to have the Federal government assume appropriate responsibility regarding road maintenance and/or contribution to road repairs they use. Now would be an appropriate time to revive our efforts to determine how best to secure additional federal funding to reduce and/or eliminate the adverse impact of federal agencies, including the mobilized National Guard, to our public infrastructure, specifically, public highways. It may be appropriate to coordinate our efforts with Santa Cruz County as well as Cochise County.

Please review past correspondence that has been submitted to federal agencies and our congressional delegation on this subject, as well as those responses, to determine how best to reinitiate a consultation and request with both federal agencies, as well as the congressional delegation regarding funding for public road repair impacted heavily by border security activities.

CHH/lab

c: The Honorable Richard Elías, Chairman, Pima County Board of Supervisors
The Honorable Sharon Bronson, Member, Pima County Board of Supervisors
Michael Racy, President, Racy Associates, Inc.
Teresa Bravo, Program Manager, Economic Development Office

GAO Highlights

Highlights of GAO-18-11, a report to congressional requesters

October 2017

SOUTHWEST BORDER SECURITY

Actions Needed to Enhance CBP's Maintenance of Roads Used for Its Operations

Why GAO Did This Study

To secure the southwest border between ports of entry, Border Patrol uses approximately 5,200 miles of roads, most of which are owned by other entities, both private and public. CBP estimates spending $12.5 million in fiscal year 2016 to maintain and repair roads Border Patrol uses for its operations, including roads CBP does not own.

GAO was asked to review Border Patrol's use and maintenance of roads for its border security operations. This report examines the extent to which (1) CBP has processes and authorities to access and maintain roads for its security operations and (2) CBP's operations are affected by its use of public roads it cannot maintain, and options CBP could consider to address any needed maintenance. GAO selected three southwest border sectors to visit based on the sectors' total mileage of non-owned roads and number of apprehensions of illegal border crossers. GAO interviewed officials from Border Patrol, and from selected federal, state, local, tribal, and private and community organizations. The information collected from these entities is not generalizable, but provides valuable insights.

What GAO Recommends

GAO recommends that CBP develop policy and guidance for documenting arrangements with landowners, as needed, and share the arrangements with its sectors; document and communicate the process and criteria for prioritizing funding of non-owned operational roads; and assess the feasibility of options, including data needs, for addressing the maintenance of non-federal public roads. DHS concurred with the recommendations.

View GAO-18-11. For more information, contact Rebecca Gambler at (202) 512-8777 or gamblerr@gao.gov.

What GAO Found

U.S. Border Patrol, within the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP), generally has access to public roads and has certain processes and authorities to use other federal, state, local, tribal, and private owned roads for its operations. CBP may enter into arrangements or agreements to address maintenance of certain federal, state, local, and private roads, but CBP has not consistently documented these arrangements, or shared them with all relevant Border Patrol sector officials. This could hinder maintenance efforts and, therefore, Border Patrol's access to the roads. Six of the nine southwest Border Patrol sectors reported that they do not document all road maintenance arrangements and agreements. Developing a policy and guidance for documenting maintenance arrangements and agreements, as needed, could help all sectors more consistently work with landowners to address road maintenance. CBP has two categories for the roads it maintains: (1) roads that CBP owns and has a right to maintain (owned operational roads) and (2) roads that CBP does not own, but may maintain through a license or permit (non-owned operational roads). Border Patrol has established a process for prioritizing maintenance of owned operational roads, but it has not clearly documented the process and criteria for non-owned operational roads, or shared this information with sector officials. Moreover, no sector official GAO spoke with reported being aware of the process and criteria. By clearly documenting and communicating the process and criteria it uses to prioritize non-owned operational roads, Border Patrol could enable sectors to more adequately plan for and better anticipate funding to meet road maintenance needs.

Conditions on a Road in Arizona Used by Border Patrol

Source: U.S. Border Patrol. | GAO-18-11

Border Patrol sector officials reported negative effects from using public roads in poor condition that they cannot maintain, such as limited road access and poor relations with local governments and border communities that attribute the poor road conditions to Border Patrol's regular use. However, the full extent of these effects is unknown due to lack of data on Border Patrol's use of non-owned roads. While CBP officials discussed options for addressing maintenance of non-federal public roads, including a specific appropriation or a grant program, it has not assessed the feasibility of these or other options. Assessing the feasibility of options, including a review of data needed to show Border Patrol's reliance on non-owned roads, including public roads, could lead to a possible solution for enhancing Border Patrol's operations and its community relationships.

United States Government Accountability Office

Report to Congressional Requesters

October 2017

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GAO recommends that CBP develop policy and guidance for documenting arrangements with landowners, as needed, and share the arrangements with its sectors; document and communicate the process and criteria for prioritizing funding of non-owned operational roads; and assess the feasibility of options, including data needs, for addressing the maintenance of non-federal public roads. DHS concurred with the recommendations.

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Abbreviations

BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CBP	U.S. Customs and Border Protection
CTIMR	Comprehensive Tactical Infrastructure Maintenance and Repair
DAR	Defense Access Roads Program
DHS	Department of Homeland Security
DOD	Department of Defense
DOI	Department of the Interior
FHWA	Federal Highway Administration
FM&E	Facilities Management and Engineering Office
MOU	memorandum of understanding
OCC	Office of Chief Counsel
ORMD	Operational Requirements Management Division
SDDC	Surface Deployment and Distribution Command
TI	tactical infrastructure
TTP	Tribal Transportation Program
USDA	U.S. Department of Agriculture

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

October 4, 2017

Congressional Requesters

The U.S. Border Patrol (Border Patrol), within the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP), is responsible for securing U.S. borders between ports of entry to prevent acts of terrorism and the unlawful movement of people, illegal drugs, and other contraband across U.S. borders.[1] Border Patrol's 2012–2016 Strategic Plan, its most recent strategic plan, calls for rapid response—an immediate planning or action taken to mitigate emerging threats—as one of three core pillars of a risk-based approach for securing the border. Border Patrol agents must travel each day on roads from their respective stations to border areas to mitigate threats such as individuals trying to cross the border illegally. For example, CBP reported that on average, U.S. Border Patrol agents apprehended 1,140 individuals along the nation's borders on a typical day in fiscal year 2016, and encountered 12,842 criminal aliens throughout the fiscal year.[2]

To conduct its security operations along the southwest border, Border Patrol agents use roads owned by CBP, as well as those owned by other federal agencies, states, counties, localities, and private citizens. CBP classifies the roads it uses for its operations differently, depending on the extent of its possessory or ownership interest. Owned-operational roads are those that CBP owns, is leasing, or for which CBP has signed an agreement providing it with an irrevocable interest. Non-owned operational roads are those roads that CBP may maintain through a license or permit, though the landowner may revoke the license or permit at any time. As classified by CBP, both categories of roads may be owned by federal, state, local, and private entities. CBP estimates that it

[1]See 6 U.S.C. § 211(e) (establishing and listing duties of U.S. Border Patrol within CBP). Ports of entry are facilities that provide for the controlled entry into or departure from the United States. Specifically, a port of entry is any officially designated location (seaport, airport, or land border location) where DHS officers or employees are assigned to clear passengers and merchandise, collect duties, and enforce customs laws, and where DHS officers inspect persons entering or applying for admission into, or departing the United States pursuant to U.S. immigration law.

[2]CBP defines the term "criminal alien" as an alien who has been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the Border Patrol, and does not include conviction for conduct that is not a criminal offense under United States law. Border Patrol arrests of criminal aliens are a subset of total apprehensions.

uses approximately 5,200 miles of roads to conduct its operations, the majority of which are not owned by CBP, but by other entities such as other federal agencies and private landowners.[3] In particular, of the approximately 5,200 miles of roads used by Border Patrol to conduct its operations, 71 percent are considered non-owned operational. The remaining 29 percent CBP considers owned-operational. State and local public roads—roads under the jurisdiction of and maintained by a public authority and open to public travel—are not considered owned or non-owned operational roads, and therefore, are not included in the approximately 5,200 miles by CBP. Maintenance of these public roads is the responsibility of the state and local entities that have jurisdiction over them; however, Border Patrol may be the predominant user of certain of these public roads. CBP estimates spending approximately $12.5 million on maintenance and repair of owned and non-owned operational roads in fiscal year 2016.

Our prior work on private property damage[4] and on border fencing and the deployment of tactical infrastructure (TI)[5] highlighted some of the challenges Border Patrol faces in using private land and addressing maintenance and repair of non-owned operational roads along the southwest border. Specifically, in April 2015, we found that landowners may file an administrative tort claim to seek compensation for private road and land damage allegedly caused by the Border Patrol; however, a landowner may only be eligible for compensation if certain criteria are satisfied, including that the damage is caused by an agent acting within the scope of his or her employment. In February 2017 we reported that, according to Border Patrol sector officials, the time it may take to secure an agreement providing for road maintenance, and having to negotiate with multiple landowners where portions of a single road have different possessors, may hinder CBP's ability to address the maintenance of these roads in a timely manner. We also reported that, according to CBP

[3]The approximately 5,200 miles of roads accessed by Border Patrol agents does not include public roads—roads that are under the jurisdiction of and maintained by a public authority and open to public travel. 23 U.S.C. § 101(a)(22). CBP does not track the public roads accessed by Border Patrol agents for their operations.

[4]GAO, *Southwest Border: Issues Related to Private Property Damage*, GAO-15-399 (Washington, D.C.: Apr. 30, 2015).

[5]GAO, *Southwest Border Security: Additional Actions Needed to Better Assess Fencing's Contributions to Operations and Provide Guidance for Identifying Capability Gaps*, GAO-17-331 (Washington, D.C.: Feb. 16, 2017). Tactical infrastructure (TI) consists of fencing, gates, roads, bridges, lighting, and drainage infrastructure.

officials in one sector, maintenance prioritization of certain roads deemed critical to border security operations can result in the degradation of roads considered noncritical to border security operations, and that the use of degraded roads increases the wear and tear on patrol vehicles, and the cost of vehicle maintenance. In addition, we found that Border Patrol had not developed written guidance for its newly implemented Requirements Management Process, intended to facilitate planning for funding and deployment of TI assets, including roads. As a result, we recommended that Border Patrol develop and implement written guidance to include roles and responsibilities for its requirements process for identifying, funding, and deploying TI assets. CBP concurred with our recommendation and has actions underway to address it.

To better understand how Border Patrol's use and ability to maintain roads along the southwest border may affect its operations, as well as any processes and agreements in place to use and maintain roads owned by other federal, state, local, tribal, and private landowners, you requested that we review Border Patrol's use of roads to conduct its security operations, and the extent to which Border Patrol is addressing maintenance of these roads. This report examines the extent to which (1) CBP has authorities and processes, including landowner agreements, to facilitate its access to, and maintenance of, roads for its border security operations and (2) CBP's operations are affected by its use of public roads it cannot maintain, and the options that could be considered for addressing any needed maintenance of these roads. We also provide information in appendix I on selected federal agencies' authorities, policies, and procedures for addressing maintenance of the roads these agencies use for their operations but do not own.

To determine the authorities and processes CBP has for using and maintaining roads for its operations, we reviewed relevant legislation related to CBP's access to and ability to maintain roads owned by other federal agencies and private landowners, as well as prior Comptroller General Opinions on public road improvement.[6] We also analyzed CBP road improvement policy documents, such as the 2015 "New Owned and Non-Owned Operational Requirements in the Comprehensive Tactical Infrastructure Maintenance and Repair (CTIMR) Contracts" (Roads Policy Memo). In addition, we interviewed headquarters officials with CBP Office of Chief Counsel (OCC), Facilities Management and Engineering Office

[6]GAO- B-143536, Aug. 15, 1960 and B-141144, Nov. 18, 1959.

(FM&E), and Border Patrol's Operational Requirements Management Division (ORMD), as well as officials from each of Border Patrol's nine southwest border sectors, to determine CBP's authorities and policies for using and maintaining roads owned by other federal, state, local, tribal, and private entities. To determine the type and status of the arrangements Border Patrol has for addressing non-owned operational road maintenance, in January and February 2017 we visited three of the nine Border Patrol sectors where, in addition to interviewing Border Patrol officials, we interviewed officials from other federal agencies, the Texas and Arizona Departments of Transportation, and local and tribal governments, as well as selected private landowners along the southwest border.[7] The private landowners we selected were identified by Border Patrol and local agency officials, as well as by organizations representing landowners along the southwest border, as owners of roads Border Patrol uses for its operations. Information we obtained from the Texas and Arizona Departments of Transportation, local and tribal government officials, and private landowners cannot be generalized, but provided us with perspectives on CBP's authority and processes for addressing maintenance of public and private roads. We also reviewed a nonrepresentative sample of agreements that Border Patrol has with other federal, state, local, tribal, and private entities for use and maintenance of their roads along the southwest border. We selected the sectors we visited based on factors such as the sectors' total mileage of non-CBP owned roads and the number of apprehensions of illegal border crossers at each sector. We assessed CBP's efforts to document and communicate agreements, as well as its processes and criteria for prioritizing funding to address maintenance of the roads it uses for its operations, against criteria in *Standards for Internal Control in the Federal Government*.[8]

[7]We use the term arrangements in this report to denote both undocumented and documented agreements for road maintenance. The sectors we visited were the Laredo, Rio Grande Valley, and Tucson sectors. Federal agencies we met with at these sectors included the Bureau of Land Management, the U.S. Forest Service, the International Boundary and Water Commission, and the U.S. Fish and Wildlife Service. We also met with the Texas and Arizona State Departments of Transportation; Pima, Brooks, and Cochise Counties; the Wellton-Mohawk Water Irrigation District; the City of Nogales; and the Tohono O'odham Nation. In addition, we met with representatives of an organization representing private landowners along the southwest border, residents from two border communities, and nine private landowners in Texas and Arizona.

[8]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

To determine the effects, if any, of CBP's use of public roads, we interviewed headquarters officials with CBP FM&E and Border Patrol ORMD, as well as field officials from all nine Border Patrol southwest border sectors. At the three southwest border sectors we visited, we also interviewed federal, state, county, city, tribal, and private landowners, and observed the condition of some of the public roads Border Patrol uses but cannot maintain. To determine options, if any, that could be considered to address Border Patrol's maintenance of the public roads it is unable to maintain, we reviewed relevant legislation and interviewed CBP FM&E and OCC officials to determine the extent of CBP's authority and appropriation for addressing maintenance of such roads. During our interviews with these CBP officials, as well as with Border Patrol ORMD and southwest border sector officials, we obtained perspectives on actions CBP could take to address its inability to maintain public roads.[9] At the three sectors we visited along the southwest border, we also interviewed federal and local officials who identified available mechanisms, including sources of funding, they have used or that could be used to address maintenance of public roads Border Patrol uses.

We also interviewed CBP and Border Patrol officials responsible for maintaining road maintenance data systems such as the Enterprise Geospatial Information Services (eGIS) and Facility and Infrastructure Tracking Tool (FITT), to determine whether data were available for establishing the extent of Border Patrol's use of non-owned roads. Border Patrol sector officials also provided us examples of nonfederal public roads in poor condition that Border Patrol southwest border sectors use but are unable to maintain and information on how Border Patrol's operations are impacted by use of the roads. Information we obtained on the roads used by Border Patrol agents along the southwest border cannot be generalized, but provided us with insights into how Border Patrol agents' ability to patrol certain areas of the southwest border may be hindered by poor road conditions. We examined CBP and Border Patrol's ongoing and planned initiatives to collect vehicle and agent location data that could be used to establish the extent of Border Patrol's use of non-owned roads. We assessed the extent to which CBP has evaluated options for addressing maintenance of the roads it uses but is

[9]Public roads are roads that are under the jurisdiction of and maintained by a public authority, and open to public travel. 23 U.S.C. § 101(a)(22).

legally unable to maintain against leading project management practices identified by the Project Management Institute.[10]

To determine the authorities, appropriations, policies, and practices other federal agencies have for addressing maintenance of non-owned roads and their applicability to CBP described in appendix I, we interviewed officials from the Department of Defense, the Department of the Interior (DOI), and the U.S. Department of Agriculture. We identified and selected these agencies because, according to officials, they routinely use roads they do not own for conducting their operations.

We conducted this performance audit from September 2016 to October 2017 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.

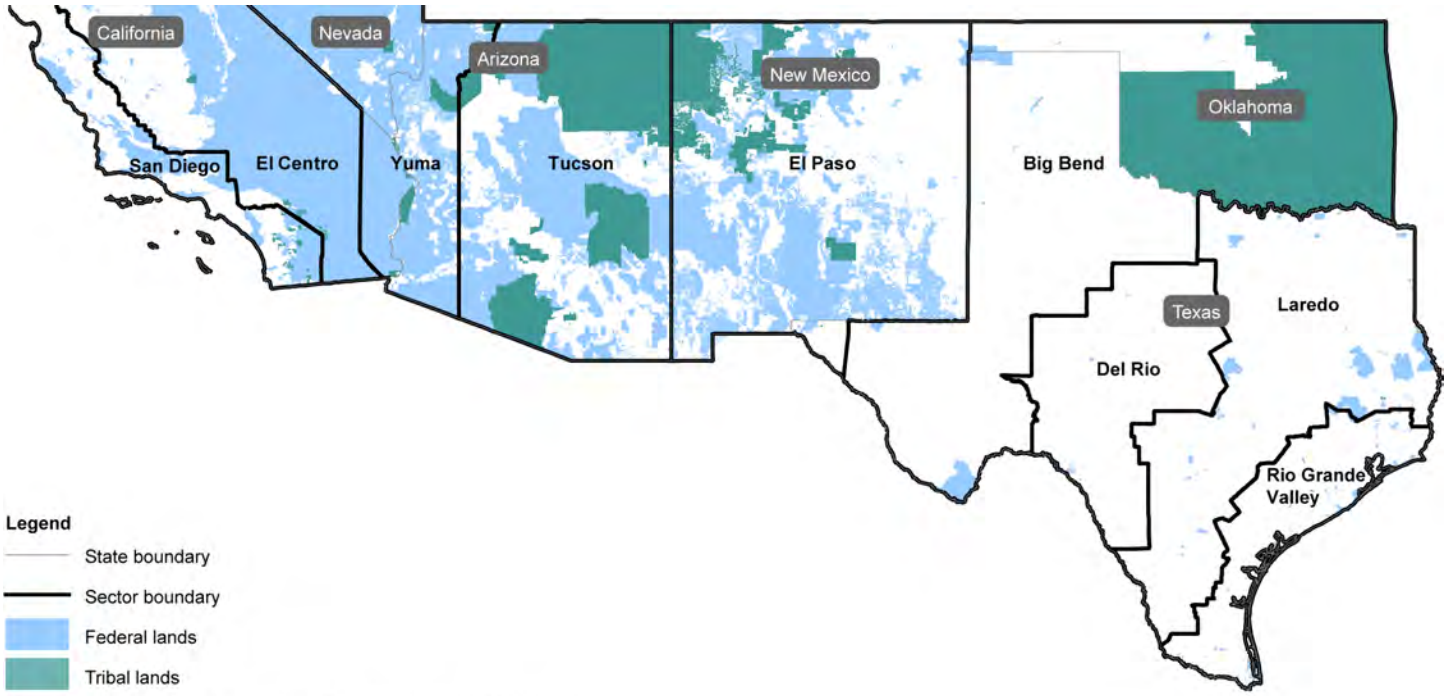
Background

CBP and Border Patrol Operations along the Southwest Border

Securing U.S. borders is the responsibility of DHS, in collaboration with other federal, state, local, and tribal entities. CBP, a component within DHS, is the lead agency for U.S. border security, and one of its top priorities is preventing, detecting, and apprehending illegal border crossers, and interdicting other illicit cross-border activity. The U.S. Border Patrol is the CBP component charged with ensuring security along border areas between ports of entry. To secure the nearly 2,000-mile southwest border, Border Patrol divides responsibility for border security operations geographically among nine sectors, as shown in figure 1. Within each sector, Border Patrol agents at stations are responsible for patrolling and responding to emerging threats within defined geographic areas, using CBP-owned roads and a network of roads owned by other federal, state, local, tribal, and private landowners. Agents are to identify and report any needed maintenance and repair requirements of the roads they use to patrol and respond to threats, according to CBP officials.

[10]Project Management Institute, Inc., *The Standard for Program Management*©, Third Edition, 2013.

Figure 1: Map of Southwest Border Lands with U.S. Border Patrol Sectors



Source: U.S. Customs and Border Protection; MapInfo (map). | GAO-18-11

Within CBP, the Office of Facilities and Asset Management and Border Patrol each have offices that oversee the maintenance and repair of roads and other TI that Border Patrol agents need to conduct operations. Office of Facilities and Asset Management's FM&E oversees the necessary environmental and real estate plans, maintenance and repair contracts, and funding distribution. Within Border Patrol, ORMD oversees operational planning by collecting and managing maintenance requirements identified by sectors. ORMD also collaborates with FM&E in determining the amount of funding and resources each sector needs to address identified TI maintenance needs. Within ORMD, the Director of TI and support staff oversee all TI requirements and programs across all Border Patrol sectors.

Southwest Border Road Ownership and Type

The area along the southwest border is composed of federal, state, local, tribal, and private lands. Federal and tribal lands make up 632 miles, or approximately 33 percent, of the nearly 2,000 total border miles. State, local, and private lands constitute the remaining 67 percent of the border.

Each of these entities, including CBP, owns and maintains roads that Border Patrol may use to patrol or to access TI along the border; however, Border Patrol's ability to use these roads depends on various factors, including its statutory authorities. Border Patrol may access public roads—i.e., roads under the jurisdiction of a public authority such as a federal, state, local, or tribal entity, and open to public travel—to the same extent as other users.[11] CBP may seek permission of the owner in order to use nonpublic roads (roads owned by a public entity but not open to the public) or private roads (roads owned by a private entity) located beyond 25 miles of the border.[12] In addition, Border Patrol generally makes arrangements with landowners in order to address maintenance of their roads.

As mentioned previously, owned operational roads are those roads that CBP owns, leases, or has an irrevocable interest in, and therefore has a right to maintain. Non-owned operational roads are roads that CBP may maintain through a license or permit, though the landowner may revoke the license or permit at any time.[13] Therefore, CBP is not obligated to maintain these non-owned operational roads; any work to maintain and repair these roads is based on Border Patrol's operational requirements. Certain authorities allow federal agencies to enter into agreements with other federal agencies for various goods and services.[14] Under such authorities, CBP may be able to use its appropriated funds to contribute to the maintenance of public roads owned by other federal agencies, but not to the maintenance of public roads owned by state and local entities.

[11]According to 23 U.S.C. § 101(a)(21), a public authority is a federal, state, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

[12]CBP's specific authority and responsibility for using and addressing maintenance of nonpublic and private roads is discussed later in this report.

[13]CBP defines "owned operational roads" as roads with irrevocable interests. According to CBP, "irrevocable" means that the land on which the road is located is either 100 percent securely held by the government, or the government is protected from arbitrary cancellation by the underlying landowner of the land-use agreement for its specified duration. Revocation would require demonstrable violation of the terms of the given real estate agreement. "Interest" means that the government has authorized rights to occupy and use the land consistent with the terms of the agreement. "Non-owned operational" roads are roads on nonfederal land that CBP obtains a non-permanent or revocable interest (license or permit) to maintain.

[14]See, e.g., 31 U.S.C. § 1535.

State and local public roads, which CBP is under no obligation to maintain regardless of use, are not considered owned or non-owned operational roads, and therefore, are not included in the approximately 5,200 miles of roads used by CBP.

Figure 2 shows an example of a CBP owned operational road providing direct access to CBP fencing, and figure 3 shows an example of a road owned by U.S. Fish and Wildlife Service and used by Border Patrol for patrolling.

Figure 2: U.S. Customs and Border Protection Owned Operational Road along Border Fencing in Rio Grande Valley Sector

Source: GAO. | GAO-18-11

Figure 3: U.S. Fish and Wildlife Service Road That U.S. Customs and Border Protection Uses for Patrolling the Southwest Border

Source: GAO. | GAO-18-11

CBP Road Maintenance

CBP received $25 million in fiscal year 2016 for necessary repairs to border fencing and border roads.[15] For fiscal year 2017, CBP received an additional appropriation for operations and support, of which $22.4 million

[15]See Explanatory Statement (161 Cong. Rec. H10161, H10166 (daily ed. Dec. 17, 2015)) accompanying the Department of Homeland Security Appropriations Act, 2016, Pub. L. No. 114-113, div. F, 129 Stat. 2242, 2493-2526 (2015).

is for border road maintenance.[16] CBP uses Comprehensive Tactical Infrastructure Maintenance and Repair (CTIMR) contracts to address maintenance of TI assets along the southwest border, including owned and non-owned operational roads. CTIMR contracts provide a mechanism for CBP to address both routine and urgent maintenance and repair of the roads Border Patrol uses for its operations by providing funds to contractors who perform the required maintenance. Routine maintenance and repair include work that is required due to normal wear and tear, deterioration due to age, and other damage not caused by severe weather events or suspected intentional sabotage. Urgent repair requirements are typically the result of severe weather events or suspected intentional damage.

For the purposes of maintenance requirements and funding distribution, CBP divides the nine southwest border sectors into four work areas, with each work area operating under a separate CTIMR contract. The four work areas consist of the following sector groupings: (1) San Diego and El Centro sectors; (2) Yuma and Tucson sectors; (3) El Paso and Big Bend sectors; and (4) Del Rio, Laredo, and Rio Grande Valley sectors. CBP's FM&E determines the contract amount for each work area over a 5-year contract period. Table 1 provides a breakdown of the cost incurred by CBP for road maintenance and repair by work area and sector for fiscal year 2016.

Table 1: Fiscal Year 2016 Road and Bridge Maintenance Expenses by U.S. Border Patrol Southwest Work Area

Work area	Fiscal year 2016 road and bridge expenses
Work Area 1 San Diego El Centro	$3,532,180
Work Area 2 Yuma Tucson	$5,377,427
Work Area 3 El Paso Big Bend	$1,497,937

[16]See Explanatory Statement (163 Cong. Rec. H3327, H3823 (daily ed. May 3, 2017)) accompanying the Department of Homeland Security Appropriations Act, 2017, Pub. L. No. 115-31, div. F, 131 Stat. 135.

Work area	Fiscal year 2016 road and bridge expenses
Work Area 4	$2,162,609
Del Rio	
Laredo	
Rio Grande Valley	
Total	**$12,570,153**

Source: U.S. Customs and Border Protection. | GAO-18-11

CBP Has Various Authorities and Arrangements for Using and Maintaining Roads, but Documentation and Communication of Its Processes and Criteria for Distributing Maintenance Funding Are Limited

CBP Has Authorities and Arrangements for Using and Maintaining Roads

Border Patrol generally has access to public roads to the same extent as other users, and has certain authorities to use other federal, state, local, tribal, and private owned roads. According to local, tribal, and Border Patrol sector officials, CBP uses and is sometimes the primary user of roads owned by states, counties, cities, and localities, but does not have a specific appropriation to engage in public improvements, including the maintenance and repair of such roads it uses for border security operations.

Public roads. Border Patrol has access to public roads—those under the jurisdiction of and maintained by a public authority (federal, state, local, or tribal entity) and open to public travel—to the same extent as other users

of such public routes.[17] While Border Patrol has authority to use such public roads for border security operations, CBP is statutorily prohibited from maintaining and repairing nonfederal (state, local, county, and city) public roads because performing such work without a specific appropriation could violate the Anti-Deficiency Act and 41 U.S.C. § 6303 which prohibits the U.S. government from making or authorizing an expenditure exceeding available appropriated funds.[18] To ensure access to TI in proximity to the border by way of lands that are owned by public entities but not open to public use, Border Patrol uses various different arrangements, including easements, special use permits, and multiple use agreements, to gain access to such property.[19] For example, Border Patrol obtained various easements from a city located at the border, granting it access to strategic locations to conduct surveillance of high illegal traffic areas, according to the city's public works director.

Other federal agency roads. CBP may obtain a special use permit or enter into interagency agreements with other federal agencies to address maintenance and repair of federal roads and land.[20] CBP may also enter into informal cooperative and undocumented arrangements with other

[17]See 23 U.S.C. § 101(a)(22), which defines a "public road" as any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

[18]Under the Anti-Deficiency Act (31 U.S.C. § 1341(a)), the U.S. government may not make or authorize an expenditure exceeding appropriated funds available, or involve itself in a contract or obligation for the payment of money before an appropriation is made unless otherwise authorized by law. Consistent with the Anti-Deficiency Act, 41 U.S.C. § 6303 contemplates the need for an appropriation before funds may be used specifically for public improvements. In particular, section 6303 provides that contracts related to public buildings or to make any public improvements are not to be made on terms requiring the federal government to pay more than the amount appropriated for the activity.

[19]For purposes of this report we use the term arrangements to include various types of formal and informal agreements that may be documented and undocumented. An easement is a non-possessory right to cross or otherwise use someone else's real property for a specified purpose.

[20]Authorities such as 31 U.S.C. § 1535 allow federal agencies to enter into agreements with other federal agencies for various goods and services. Under such authorities, CBP may be able to use its appropriated funds to contribute to the maintenance of public roads owned by other federal agencies, but not to the maintenance of public roads owned by state and local entities. According to 31 U.S.C. § 1535, the head of a federal agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if amounts are available, the order is in the U.S. government's best interest, the agency or unit to fill the order is able to provide or get by contract the ordered goods or services, and the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by commercial enterprise.

federal agencies to access certain roads the agencies use for conducting their operations but that are not open to the public (e.g., administrative roads). For example, Bureau of Land Management (BLM) officials in Tucson, Arizona, told us that Border Patrol uses BLM administrative roads that are open to other law enforcement agencies in the area, but not to the public.[21] According to these BLM officials, maintenance agreements or reimbursements are not needed from Border Patrol or the other agencies that use the roads. Further, Border Patrol has access to all federal lands, as necessary, under a January 2017 Executive Order that requires the Secretary of Homeland Security, the Secretary of the Interior, and other relevant agency heads to grant Border Patrol, as well as authorized state and local officers, access to such lands.[22]

Private roads. Border Patrol has statutory authority to, without a warrant, access private lands (i.e., privately owned or otherwise nonpublic roads and land), but not dwellings, within 25 miles of the international border to prevent illegal entry of foreign nationals.[23] According to CBP FM&E officials, no further real estate action is required to access these roads; however, this authority does not permit CBP to maintain and repair such private roads.[24] Access to private roads and land beyond 25 miles from the border generally requires a warrant or permission of the landowner, and all maintenance would be provided for in an arrangement with the landowner. CBP may seek to establish mutually beneficial relationships, including through various arrangements with private landowners, to use, and as appropriate, maintain and repair certain private roads based on Border Patrol's operational requirements, such as to enhance Border Patrol's ability to perform operations. These arrangements include, but

[21]BLM's mission is to sustain the health, diversity, and productivity of America's public lands for the multiple use and enjoyment of present and future generations.

[22]Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, § 12, 82 Fed. Reg. 8793, 8796 (Jan. 30, 2017). This order also requires the Secretaries of Homeland Security and the Interior, along with any other agency heads, as necessary, to take appropriate action to enable U.S. officers and employees, and authorized state and local officers, to perform such actions on federal lands as DHS deems necessary and appropriate to implement the order's provisions. See id. § 12(b).

[23]See 8 U.S.C. § 1357(a)(3). According to CBP, roads that are owned by a public entity, but not open to public travel, are treated as "private," similar to roads owned by a private person or entity.

[24]CBP may seek permits, i.e., written consent to address maintenance, from certain larger landowners based on their maintenance requirements. Such permits may be with states or municipalities, typically in relation to non-public, unimproved, or barely improved roads that run through lands owned by such states or municipalities.

are not limited to licenses and permits, which are written and revocable consent from landowners for CBP's specified use of their land.[25] CBP may seek to maintain and repair the privately owned roads leading to TI located in proximity to the border. To do so, CBP secures land rights to maintain and repair these access roads through fee interests, easements, and leases.[26]

Border Patrol leverages various mechanisms to ensure access to the privately owned roads it needs to conduct its operations on the southwest border. For example, Border Patrol officials told us that they cultivate and maintain good relations with private landowners to ensure access to roads.

CBP Does Not Consistently Document and Communicate Its Arrangements with Landowners

CBP Uses CTIMR Contracts to Address Road Maintenance

CBP addresses maintenance of roads, as well as all other TI it uses for its operations, through CTIMR contracts and agreements. CTIMR road maintenance involves a collaborative process that uses a prioritization scheme which, according to CBP's 2015 Roads Policy Memo, ensures that in an environment of limited funding, CBP would fund maintenance and repair of owned operational roads first, followed by non-owned operational roads, where permitted. According to CBP officials, this process entails the following three steps:

- Step 1: Border Patrol stations identify road maintenance requirements on an ongoing basis and provide those requirements to sector and headquarters leadership for approval.

[25]According to CBP, licenses are purely voluntary, revocable by the landowner, may be time-limited, and involve no payment to the landowner; and permits are utilized with certain landowners based on their requirements.

[26]Fee interest involves acquiring a broad right of land ownership, while an easement is a non-possessory property interest, and leasing involves obtaining certain land use rights for a particular term.

- Step 2: Once approved, sector road maintenance requirements are forwarded to FM&E for real estate and environmental clearance.
- Step 3: Environmentally cleared sector road maintenance requirements are prioritized and added to quarterly CTIMR maintenance work plans as the plans are developed.

According to CBP FM&E officials, in order for sectors' requested road maintenance to occur, three criteria must be met. First, CBP must obtain an agreement from the landowner (for non-owned operational roads) authorizing maintenance of the road. Second, the road must undergo an environmental analysis and obtain environmental clearance.[27] Third, appropriated funds must be available for the maintenance. If all three criteria are met, CBP places the road requirement in its Work Management System—a database CBP uses to track and oversee all TI maintenance and repair work for its work plans, which are prioritized and executed every 90 days. Sector officials are responsible for reviewing each work plan and prioritizing maintenance and repair that are critical to border security operations, and communicating any updates to CBP officials for execution. Road requirements that are not funded in a given period are pushed to the next work plan, according to CBP officials.

CBP Has Not Consistently Documented Arrangements with Landowners or Communicated Such Arrangements with Border Patrol Sectors

CBP enters into various arrangements with federal, state, and local agencies and with some private landowners to maintain the roads it uses for its operations; however, it has not consistently documented its arrangements with these landowners or shared the arrangements it has documented with Border Patrol sector officials. Officials of six of the nine southwest Border Patrol sectors we contacted indicated that they do not document all arrangements for private road maintenance, while officials of one sector said they were unsure if all such arrangements were documented.

Federal, state, and local agencies. CBP has documented arrangements with federal, state, and local agencies, including, but not limited to, interagency agreements and memorandums of understanding (MOU) with other federal agencies, and easements with state and local agencies. For example, CBP has an agreement with the U.S. Forest Service, through which it allocates $1.5 million to the U.S. Forest Service annually to maintain roads the Border Patrol Tucson sector uses in the Coronado

[27]An environmental analysis is an assessment of the environmental consequences (positive and negative) of a plan, policy, program, or project prior to implementation of the proposed action.

National Forest. Tucson sector officials said that providing the funding to the U.S. Forest Service to do the actual road maintenance was less expensive than paying a private contractor to do the maintenance. This process is also more efficient because U.S. Forest Service employees are more familiar with the roads and forest area, according to sector officials. CBP also entered into an MOU with the National Park Service in 2012 that authorizes CBP to maintain and repair certain roads that Border Patrol uses for its operations in the Organ Pipe Cactus National Monument in southern Arizona.

Although CBP has arrangements with some landowners to address road maintenance, it has not consistently documented arrangements with all such owners. Further, CBP has not shared documented arrangements with all relevant Border Patrol sector officials, including officials responsible for prioritizing sector road maintenance funding needs, which could hinder efforts to maintain roads. Officials of six of the nine southwest Border Patrol sectors we contacted indicated that they do not document all arrangements for private road maintenance while officials of one sector said they were unsure if all such arrangements were documented. Tucson sector officials told us that their sector works with other federal, state, local, tribal, and private landowners to address road maintenance; however, such maintenance is not always addressed through written arrangements. For example, the sector has documented agreements with the Arizona Department of Transportation for maintenance of 11 checkpoints Border Patrol has established on its roads.[28] Conversely, it does not have a written agreement with the Tohono O'odham Nation, a federally recognized tribe, whose reservation straddles the border. Rather, sector officials have had informal arrangements with the tribe and the Bureau of Indian Affairs (BIA) for several years on maintenance of several of the tribe's roads, including two frontage roads which BIA manages and Border Patrol uses routinely for its operations.[29]

[28]Because CBP does not have a specific appropriation to engage in public improvements, Border patrol may not expend funds for the maintenance of public roads, including those owned by a state agency. However, Border Patrol is responsible for maintaining border security checkpoints it establishes on state roads since Border Patrol would need to acquire a possessory interest such as through a lease or an easement in order to install the checkpoints.

[29]Tribal roads, as referred to in this report, are roads that are held and maintained by the tribe itself, or maintained for public use by BIA on behalf of the tribe.

Border Patrol sector officials cited various reasons for using and addressing non-owned operational road maintenance without documenting arrangements with the road owners. For instance, officials noted that maintaining roads can facilitate good relations with landowners thereby enabling Border Patrol's access to roads. Officials also explained that keeping roads in good working condition, even in the absence of a documented agreement, is mutually beneficial to both Border Patrol and landowners. For example, according to Yuma sector officials, the sector addresses maintenance of the Marine Corps roads it uses for its operations although it does not have a documented agreement for maintenance. Yuma sector officials said that CBP FM&E drafted an MOU between CBP and the Marine Corps in 2013 that would allow Border Patrol maintenance personnel (or personnel contracted by Border Patrol) to access border roads for maintenance; however, the Department of Navy, on behalf of the Marine Corps, has not yet signed the MOU. In the absence of a written agreement, a CBP employee at Yuma sector performs maintenance on Marine Corps roads, at Marine Corps' request, because according to officials, Border Patrol agents benefit from accessible roads.

In some instances, CBP has documented arrangements with federal agencies, but has not shared those arrangements with all relevant Border Patrol sector officials, particularly those responsible for planning for and prioritizing sector road maintenance needs. For example, road maintenance planning officials at Big Bend sector told us that they do not have a documented agreement with the Big Bend National Park in western Texas to address maintenance and do not contribute toward maintenance of any of the park's roads which Border Patrol uses routinely. They added that FM&E is working on a current project to determine how CBP and the National Park Service could share maintenance costs for their joint use of the park's roads—an agreement that could extend to other parks in other sectors. However, CBP later provided us with a copy of an agreement it entered into with Big Bend National Park in July 2016. The agreement was effective from October 2016 through September 2017; however, Big Bend sector officials were not aware of this agreement at the time of our March 2017 meeting with them. Similarly, Yuma sector officials said that Border Patrol also helps maintain a DOI-owned road the sector uses routinely for its operations without a written agreement, because it is mutually beneficial and helps maintain good relations with DOI. However, CBP officials later provided us with a copy of an agreement with BLM, a component of DOI, which addresses maintenance of the BLM roads in question. The agreement, which was effective from September 2016 through September 2017, was

executed in August 2016, 6 months prior to our March 2017 interview with Yuma officials; however, sector officials were not aware of the agreement at the time of our interview.

In addition to CBP not consistently sharing documented arrangements with relevant Border Patrol sector officials, we identified instances where written maintenance agreements between CBP and the federal landowners had expired, despite Border Patrol's continued need to access the roads covered by the expired agreements. For example, the U.S. International Boundary and Water Commission entered into a maintenance agreement with CBP in December 2005 for the resurfacing of approximately 100 miles of a levee road the Rio Grande Valley sector uses along the Rio Grande River. While this agreement expired in September 2015, the commission was allowing Rio Grande Valley sector officials to continue using the levee road at the time of our January 2017 visit to the sector, while a new MOU was being negotiated. International Boundary and Water Commission officials characterized the undocumented agreement Border Patrol was operating under as a verbal "gentleman's agreement." Similarly, El Centro sector officials told us that the sector does not have a documented agreement with BLM for use and maintenance of certain BLM roads and land. According to sector officials, agents work to maintain good relations with BLM even though Border Patrol can and does leverage its statutory authority and law enforcement mission to access BLM roads and land. CBP officials later provided us with a copy of an agreement with BLM that addresses maintenance of BLM roads in El Centro sector; however, the agreement had expired in December 2016, 3 months prior to our meeting with El Centro sector officials.

Private landowners. CBP has obtained licenses from some, but not all, of the private owners whose roads the agency maintains. Also, it has not consistently shared the documented road maintenance arrangements it has with private landowners with Border Patrol sector officials. For example, CBP obtained a revocable license in July 2015 from a private gravel company that allows the Laredo Border Patrol sector to maintain and repair roadways on the company's property for use in patrolling the border area. Laredo sector officials stated that sometimes they receive pushback from landowners regarding Border Patrol accessing their land, but in general, most landowners want Border Patrol on their property. Conversely, El Centro and El Paso sector officials reported that they do not have documented license agreements with private landowners regarding the maintenance of privately owned roads. In the El Centro sector, officials stated that they typically have verbal and not documented

agreements with private landowners for maintenance. These officials stated, however, that documenting agreements would provide a clearer understanding of how privately owned roads are to be maintained.

A number of factors contribute to the lack of documented road maintenance arrangements between Border Patrol and private landowners. First, some landowners choose not to pursue a license agreement with Border Patrol to address maintenance of their roads as a condition of access to the roads because they support Border Patrol's mission and need the security provided by the agency.[30] In these instances, landowners have no concerns about Border Patrol agents accessing their land without a documented agreement. For example, five private landowners we met with individually, as well as others we met with in three separate community group meetings, told us they did not have a documented license agreement with Border Patrol; but some of them nonetheless allow Border Patrol to continue using their roads without addressing maintenance. However, one private landowner we interviewed told us that regardless of whether a ranch owner wants Border Patrol agents on his or her property for the security they provide, the additional money the owner must spend to maintain his or her roads used by Border Patrol is a financial burden. Second, some landowners are not aware that Border Patrol can enter into arrangements with them to address maintenance of their roads. For example, two of the five landowners who lack documented license agreements with Border Patrol told us this. Third, some landowners are interested in maintenance agreements but have not received them. For example, three landowners told us they had requested an agreement to address maintenance of their roads; however, Border Patrol had not worked with them on such an agreement. Two of these landowners said they generally incur an additional maintenance cost due to Border Patrol's regular use and lack of maintenance of their roads. For example, on our site visit to the Tucson sector, one landowner told us that Border Patrol uses approximately 37 miles of road on his ranch without a written license agreement to maintain the roads, although he had requested one from Border Patrol. He estimated that he spends approximately $3,000 per mile annually to repair the roads that Border

[30]For this review, we interviewed nine private landowners, as well as representatives of organizations, communities, and associations representing private landowners in the southwest border. We also interviewed headquarter officials with CBP FM&E and OCC; Border Patrol ORMD; Department of Defense, DOI, and U.S. Department of Agriculture, which represent three other federal agencies we identified that use roads and land they do not own for conducting their operations; and Border Patrol officials at all nine southwest Border Patrol sectors.

Patrol predominantly uses. He, as well as two other landowners we interviewed, told us they have considered preventing Border Patrol from using their roads. Fourth, some private landowners do not want a documented maintenance agreement with Border Patrol. According to Border Patrol sector officials, some of these landowners would rather not have to be in compliance with any environmental regulations that may come with signing a formal license agreement with a federal agency and instead prefer a “handshake agreement.”

In addition to not consistently documenting arrangements, Border Patrol sectors were not consistently aware of the documented arrangements CBP has with private landowners. For example, Big Bend sector officials told us that CBP does not have a documented license agreement with any private landowner in their sector. According to sector officials, the sector consists predominantly of private land, a vast majority of which is located beyond 25 miles of the border and therefore outside the area for which Border Patrol does not need a warrant to access private land. As such, to prevent these owners from denying access to their roads, sector officials told us they try to maintain good relationships with the owners of the roads Border Patrol uses but does not maintain, by addressing damage agents cause to their roads. Big Bend sector officials added that they discuss and verbally agree with landowners on any required road maintenance, relying on the relationships agents have established with those landowners to come to agreement. However, CBP headquarters officials subsequently provided us copies of five license agreements, all executed in August 2016, that CBP has with private landowners in the Big Bend sector. CBP officials also told us that an additional two license agreements were in the process of being finalized. They added that Border Patrol’s ranch liaisons, who serve as Border Patrol’s conduits to landowners, are typically aware of these and other license agreements with landowners in their sectors, and are responsible for making other sector officials aware of the existence of the agreements.

We asked CBP FM&E and Border Patrol officials why arrangements for road maintenance are not consistently documented or shared with Border Patrol sectors. Officials from CBP FM&E, the office primarily responsible for managing documented road maintenance arrangements, including license agreements, said that agreements are documented based on operational need by Border Patrol and added that FM&E works with Border Patrol sectors to determine which roads need licensees. They also stated that all licenses and agreements are held in the FITT system and tracked in the eGIS. Officials from ORMD provided the following rationales regarding documenting and sharing agreements. First, ORMD

officials stated that license agreements for road maintenance with private landowners are managed on a case-by-case basis, depending on the needs of the landowners and the Border Patrol sector. The standard is that a road must have both real estate and environmental clearance prior to receiving maintenance and repair. Second, according to these officials, not every legacy road license agreement has been transitioned over to CBP's new system for documenting road maintenance, which may explain why neither the owner (especially of land that has been passed on from one generation to the next) nor sector officials know it exists and seek to renew it. In other instances, some historical use agreements have yet to be formally documented. According to ORMD officials, the operational impact to Border Patrol of undocumented agreements can be determined only on a case-by-case basis and will likely depend on the location of the road and the ability to use adjacent alternate roads. They added, however, that in general, the lack of documentation can slow Border Patrol's access to some roads. ORMD officials stated that in the absence of documented agreements, Border Patrol takes great effort in maintaining relationships with landowners to ensure continued access to the roads it needs. In cases where landowners are apprehensive about entering into formal license agreements with the government, Border Patrol's ranch liaisons continue to work with landowners to further engage the landowners about entering into a documented agreement.

Standards for Internal Control in the Federal Government requires that agencies clearly document and communicate all transactions and other significant events, and make the documentation readily available for examination.[31] According to these standards, the documentation may appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. Those standards also require that management internally communicate the necessary quality information throughout an agency, using established reporting lines to achieve the agency's objectives. Without documenting and communicating the arrangements it has with landowners, Border Patrol has no record of what was agreed to with owners in terms of maintenance of roads, which could hinder Border Patrol efforts to access and maintain certain roads. Developing a policy and related guidance for documenting arrangements with landowners, as needed, and ensuring that the documented agreements are shared with all relevant Border Patrol sector officials could help Border Patrol work with road and land owners more

[31]GAO-14-704G.

consistently to address road maintenance. Such a policy could also better provide opportunities to owners who want formalized arrangements, and enhance the sectors' ability to plan for road maintenance requirements.

Border Patrol Has Not Clearly Documented or Shared Its Processes and Criteria Used to Distribute Road Maintenance Funding to Its Sectors

Border Patrol uses any funding that remains after owned operational road requirements are addressed to maintain non-owned operational roads; however, Border Patrol has not clearly documented or shared the process and criteria it uses for prioritizing maintenance of the non-owned operational requirements with sector officials. After distributing CTIMR funds to address its owned operational road maintenance, there are thousands of miles of non-owned operational roads that do not receive funding for maintenance. CBP FM&E officials explained that there is not a dedicated budget for non-owned operational roads, and therefore, not sufficient funding to address all the roads in need of maintenance. Also, because CBP does not collect data on the frequency of its road use, CBP is limited in its ability to effectively dedicate funding for road maintenance. The funding to address maintenance and repair of non-owned operational roads is derived from two main sources. First, CBP has the option of redistributing excess funding from any unneeded owned operational road maintenance project, among the sectors. For example, if the roads in Tucson sector are not damaged as much as anticipated during the annual monsoon season, CBP can redistribute funds originally designated for Tucson sector for other road maintenance projects in other sectors within the same work areas. The redistribution of such funds is determined by Border Patrol's Director of TI. Second, officials said that if funding from an additional appropriation is made available, as was the case in fiscal year 2016, they can use it to address non-owned operational road maintenance.[32]

Border Patrol makes decisions on how to prioritize maintenance of non-owned operational roads; however, the process and criteria it uses for making such funding decisions are not clearly documented and are not shared with Border Patrol sector officials. During the course of our review, we requested that ORMD provide a description of its prioritization process both verbally and in writing. ORMD officials provided us with a written description that included the following six steps for prioritizing non-owned road maintenance:

[32]For details of the additional appropriation CBP received in fiscal year 2017, see Department of Homeland Security Appropriations Act, 2017, Pub. L. No. 115-31, div. F, tit. VI, 131 Stat. 135.

- Step 1: Review sectors' past year priorities utilizing a road requirements working group composed of representatives of all divisions of the three Border Patrol directorates.[33]
- Step 2: Receive and review planning guidance from Border Patrol senior leadership.
- Step 3: Identify current and emerging threats.
- Step 4: Review State of the Border Risk Methodology for updated risk levels.[34]
- Step 5: Draft priority lists, utilizing the road requirements working group.
- Step 6: Brief, adjust, and obtain concurrence for priority lists utilizing the road requirements working group and executive governance.

The document ORMD prepared for us also cites various criteria for making funding decisions about non-owned roads, including whether each proposed road requirement is considered a vulnerability. If it is considered a vulnerability, ORMD determines whether it is documented in the Capability Gap Analysis Process, and how the vulnerability ranks among other identified vulnerabilities within the station and sector where the road is located, and in the nation as a whole, to inform leadership.[35] Further, according to the document, ORMD officials determine the urgency of funding the road requirement and whether it can be funded given available resources.

ORMD officials identified various other factors that go into the decision-making process for prioritizing non-owned road maintenance. However, these factors were different from those criteria included in the document they prepared for us. For example, ORMD officials said that when

[33]The three operational directorates are Strategic Planning and Analysis, Law Enforcement Operations, and Program Management Office.

[34]According to Border Patrol, the State of the Border Risk Methodology provides a scientific and quantifiable means of assessing the relative risks at southwest border sectors. It is intended to inform decision-making by identifying areas where changes leading to greater risk are taking place, and quantifying those changes in a meaningful way to support decisions regarding the deployment of resources.

[35]Border Patrol's Capability Gap Analysis Process (CGAP) is the primary activity in step two of the Requirements Management Process. The CGAP is intended to identify the difference between a station's existing capabilities and the capabilities required to perform its mission-essential tasks. See GAO-17-331 for additional details on the Requirements Management Process.

prioritizing sectors' non-owned road maintenance, planners must first consider sectors' ranking on Border Patrol's annual investment prioritization list, which is based on intelligence, threat level, and other information pertaining to each sector. ORMD officials stated that this list serves as a starting point for the decision-making process to prioritize sectors' non-owned operational road maintenance requirements. Officials added that the investment prioritization list is intended to help them with the six-step maintenance prioritization process described above; however, not all factors they consider when making the decision as to which non-owned operational roads to maintain in each sector are documented. They explained that the majority of their personnel have been trained on the road maintenance planning process and are familiar with all factors that go into the decision-making process.

ORMD officials said that sectors' investment prioritization rankings are not shared with the sectors. They explained that they prefer to not share the list or sectors' ranking with the sectors because this information is intended to guide their decision-making, but is not the only factor they use in determining sectors that should receive remaining funding for non-owned operational road maintenance.

None of the nine sector officials we contacted reported that they were aware of the process and criteria ORMD uses to prioritize and fund maintenance of non-owned operational roads. Rio Grande Valley sector officials told us that funding of maintenance requirements for the Rio Grande Valley sector takes priority over funding of other sectors' non-owned operational road requirements. However, these officials stated that they were unsure why this was the case, primarily because Border Patrol had not shared the process and criteria it uses for non-owned operational road maintenance decision-making. *Standards for Internal Control in the Federal Government* requires that agencies clearly document all transactions and other significant events, and make the documentation readily available for examination.[36] According to these standards, the documentation may appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. Those standards also require that management internally communicate the necessary quality information throughout an agency, using established reporting lines to achieve the agency's objectives. By clearly documenting and communicating the process and criteria it uses for

[36]GAO-14-704G.

making decisions on funding non-owned operational requirements, ORMD could better ensure that sector officials are aware of the process and criteria, and can therefore better plan for and anticipate funding to meet their sector road maintenance needs. Moreover, documenting and communicating the process and criteria by which it makes non-owned operational road requirements funding decisions would ensure Border Patrol has a record of the process not dependent on the persons with current knowledge of the process being in the same positions.

Border Patrol Operations May Be Affected by CBP's Inability to Maintain Certain Public Roads That Are in Poor Condition, but CBP Has Not Assessed Maintenance Options

Border Patrol Officials Reported That Certain Public Roads in Poor Condition Affect Border Security Operations

Border Patrol sector officials we interviewed reported that poorly maintained public roads negatively affect their ability to conduct security operations. Officials from six of the nine southwest border sectors reported that poorly maintained public roads negatively affect their ability to respond to threats because of limited road access or increased response times, and cause additional wear and tear on vehicles. For example, El Paso sector officials said that a 14-mile stretch of a public, county road they use to access a forward operating base is severely rutted, limiting agents' ability to access the southernmost points of their patrol area.[37] In addition, officials from Laredo sector told us that a 40-mile county-owned road in the western part of the sector is in such poor condition agents cannot always use it. The alternative route agents take adds approximately 90 minutes to their patrol time. Laredo sector officials

[37]Border Patrol forward operating bases are permanent facilities in remote locations near the border, allowing Border Patrol to maintain a constant presence in areas that are far from a station.

also said that when agents do use roads like this one, it results in wear and tear on vehicles. Laredo sector officials reported that they had to contract for outside mechanics as a result of additional demands for vehicle repairs. Figure 4 documents the poor condition of the county road in Laredo sector.

Figure 4: Poor Conditions on a County Road in Laredo Sector, Texas

Source: U.S. Border Patrol. | GAO-18-11

The extent to which Border Patrol operations are negatively affected by the poor conditions of certain public roads is unknown because, according to CBP and Border Patrol officials, Border Patrol does not collect or maintain data on the extent of its use of any non-owned roads, including public roads. According to officials, Border Patrol does not collect such data because it does not make road maintenance decisions based on how frequently it uses a road, but rather, on how critical the

road is to its operations. Border Patrol officials said that they have assessed various ongoing or planned CBP data collection initiatives that Border Patrol could leverage to collect data that could identify how often it uses non-owned roads. For example, officials with CBP Enforcement Systems Division—the office responsible for integrating technology initiatives with operations in support of Border Patrol's mission—said that CBP's Blue Force initiative—a method, usually using Global Positioning System (GPS), of tracking the locations in real time of operational assets, including vehicles and agents, to better coordinate operations—would collect GPS tracking data.[38] However, Border Patrol officials stated the Blue Force initiative and other GPS tracking initiatives have not received all planned funding amounts.

As CBP and Border Patrol officials said they do not have data that identify the extent of Border Patrol's use of non-owned roads, we gathered examples from each of the nine southwest Border Patrol sectors of state, county, city, and tribal public roads in poor condition that CBP is unable to maintain and that sector officials said negatively affect their ability to conduct operations. Table 2 provides examples of the public roads sector officials identified, including a description of the roads, and how the road conditions negatively affect Border Patrol's operations.

Table 2: Public Roads in Poor Condition That Negatively Affect U.S. Border Patrol Operations According to Border Patrol Sector Officials

Border Patrol sector	Road owner[a]	Description of roads	Negative effect identified by Border Patrol
Big Bend	County	Approximately 47 total miles of caliche roads sometimes in poor condition from rain that provide access to the border and/or a Border Patrol station.[b]	The poor road conditions sometimes limit Border Patrol's access to the border or areas frequently used by aliens and narcotic smugglers.
Big Bend	State	Approximately 33 total miles of unmaintained, dirt state roads that provide access to patrol areas.	The poor road conditions limit Border Patrol's access to certain roads and patrol areas during inclement weather, increase Border Patrol's response time, and cause wear and tear on vehicles.

[38]Blue Force Tracking was originally implemented by the military in Iraq and Afghanistan to track combat assets in near real time. CBP proposals for Blue Force Tracking indicate benefits include operational coordination, increased officer safety, and efficient incident response by allowing commanders, managers, and field operators to see all assets in an area.

Border Patrol sector	Road owner[a]	Description of roads	Negative effect identified by Border Patrol
Del Rio	County	Approximately 30 miles of caliche county road that provides direct and quick access to the northern and western reaches of the sector's area of responsibility. Heavy rain washes out the road.	The poor road conditions increase response times and limit access to the roads. For example, agents are forced to detour 80 miles to reach the same endpoint when the roads cannot be accessed. The poor road conditions also cause wear and tear on Border Patrol vehicles.
Del Rio	County	Approximately 14 miles of caliche road that is degraded due to regular use and weather. Road has potholes and washouts.	The poor road conditions increase response times and sometimes limit Border Patrol's access to the road and the Rio Grande River. The poor road conditions also add to the wear and tear on Border Patrol vehicles.
Del Rio	County	Approximately 13.5 miles of caliche, gravel, and dirt roads that are soft and rutted, becoming inaccessible during rain.	The poor road conditions limit road access during rain, sometimes preventing Border Patrol's operations on local ranches and railroad tracks.
El Paso	County	Approximately 14 miles of dirt road that is severely rutted and grooved.	The poor road conditions increase response times when driving to and from a forward operating base located on this road and limit road access to southern parts of the patrol area. The poor road conditions also cause wear and tear on Border Patrol vehicles.
Laredo	County	Approximately 40 miles of unpaved road that is rutted and grooved.	The poor road conditions cause increased response times or limited road access. For example, the conditions force agents to detour 90 minutes to reach the same endpoint when the road is not passable. The poor road conditions also add to the wear and tear on Border Patrol vehicles.
Rio Grande Valley (RGV)	City	Approximately 0.6 total miles of unpaved city roads with ruts.	The poor road conditions cause increased response times or limited road access during periods of bad weather, limiting vantage points in a high-risk area.
RGV	City	Approximately 0.2 miles of unpaved city road with ruts from use during periods of bad weather.	The poor road conditions cause increased response times when responding to threats or limit road access during periods of bad weather.
RGV	City	Approximately 0.6 total miles of unpaved city roads that are bumpy.	The poor road conditions cause increased response times when responding to threats.
RGV	County	Approximately 5.5 total miles of unpaved roads with potholes and grooves.	The poor road conditions cause increased response times when responding to threats. The poor road conditions also add to the wear and tear on Border Patrol vehicles.
RGV	County	Approximately 6 total miles of roads with divots, erosion, potholes, ruts, or generally not maintained consistent with Border Patrol's needs. These roads provide access to patrol areas, Border Patrol fencing, the Rio Grande River, or a common route for circumventing a Border Patrol checkpoint.	The poor road conditions cause increased response times on some roads when responding to sensor traffic, or limit access to some roads during periods of bad weather, limiting patrolling and increasing the risk of smuggling. The poor conditions of some roads also add to the wear and tear on Border Patrol vehicles.

Border Patrol sector	Road owner[a]	Description of roads	Negative effect identified by Border Patrol
RGV	County	Approximately 84 total miles of roads with bumps or a general lack of maintenance, some of which are difficult to maneuver in the rain or provide access to the Rio Grande River and patrol areas.	The poor conditions on some roads cause increased response times and limited road access during bad weather when alien traffic increases.
Tucson	County	Approximately 26 miles of road that requires routine maintenance, especially during and after the rainy season.	The road conditions cause increased response times and add to wear and tear on Border Patrol vehicles.
Tucson	County	Approximately 5 miles of paved road that has continuous potholes and cratered sections of asphalt.	The road conditions cause increased response times and add to wear and tear on Border Patrol vehicles.
Tucson	Tribe	Approximately 14 miles of paved tribal road with cratered potholes.	The road conditions cause increased response times and add to wear and tear on Border Patrol vehicles.

Source: GAO analysis of U.S. Border Patrol data. | GAO-18-11

[a]For the purposes of this table, we consolidated information from Border Patrol sector officials on specific roads negatively affecting Border Patrol operations to the road owner. For example, the "description of roads" column for the "road owner" listed may include information about multiple roads in various conditions and locations all owned by the same entity. Each row represents a unique owner which for purposes of this table constitutes a state, county, city, or tribe.

[b]Caliche is a silt or sand of the semiarid areas of the southwestern United States, the consistency of which varies from soft rock to firm soil.

CBP Officials Reported That the Inability to Maintain Certain Public Roads That Are in Poor Condition May Be Impeding Border Patrol's Relations with Local Governments and Communities

CBP's inability to address the maintenance of certain public roads Border Patrol regularly uses can negatively affect Border Patrol's relations with local governments, according to CBP officials. Officials from two counties and one tribe we spoke with told us that in certain rural areas along the border, Border Patrol uses some public roads heavily or is the primary user, and its use creates more wear and tear on the roads than would ordinarily be caused by general public use. These officials said that their agencies are responsible for fully funding required maintenance of the roads they own; however, they may not address needed maintenance for two reasons. First, their agencies do not have sufficient funding because they do not have the necessary tax base to generate funds for extensive road maintenance. Second, with limited funding, agencies may prioritize roads the general public uses more frequently over rural roads used regularly by Border Patrol. These county officials and Border Patrol sector officials told us that CBP's inability to offer any maintenance assistance for public roads Border Patrol needs for operations makes collaboration with local governments challenging and hurts Border Patrol's credibility. For example, officials we met with in an Arizona county identified a 5-mile stretch of road within their county that Border Patrol uses frequently because it provides access to the border. County officials told us they

currently spend $23,000 more each year to maintain the 5-mile road than they would typically spend on a similar stretch of road as a result of the wear and tear they attribute to Border Patrol's use. Figure 5 shows potholes and deteriorating shoulders on the county road.

Figure 5: Poor Conditions on a County Road in Arizona

Source: GAO. | GAO-18-11

In addition, officials from the Tohono O'odham Nation told us they do not have sufficient BIA funding to maintain a 28-mile, major, public thoroughfare leading to a Border Patrol forward operating base and the border. Tucson sector officials said they are likely the primary user of the southern end of the road and may create heavy wear and tear. These officials reported that BIA would require approximately $14.5 million to repair the 28-mile road; however, BIA receives approximately $26 million

for road repairs annually to cover 29,000 miles of roads under its jurisdiction. Figure 6 shows the eroded condition of this tribal road. Officials from the Arizona county and tribe have requested Border Patrol's assistance in maintaining public roads. As of July 2017, however, Border Patrol had not provided such assistance.[39]

Figure 6: Eroded Conditions on a Tribal Road in Arizona

Source: U.S. Border Patrol. | GAO-18-11

Border Patrol sector officials also said relations between Border Patrol and local border communities can be negatively affected by poor road conditions, because the communities attribute the conditions to Border Patrol's use. These relations are important as Border Patrol relies on good relations with communities to access roads owned by private landowners in the community to conduct operations, according to Border

[39]According to CBP, Border Patrol is legally unable to expend appropriated funds in this particular manner as BIA has an appropriation for this specific function.

Patrol officials. Members of a community coalition in Arizona that meets regularly to discuss options for addressing maintenance of a poorly maintained public road that Border Patrol uses routinely told us that Border Patrol's use of the public road creates conditions that negatively affect the local community and damage relations with Border Patrol. Similar to the negative effects Border Patrol officials reported, members of this community coalition told us they experience slower response times by emergency response vehicles and damage to vehicles from poor road conditions, resulting in higher vehicle maintenance costs. In addition, these private landowners told us poor road conditions have negatively affected the local economy. For example, residents of a town we met with that is located near recreational amenities reported a decline in tourism revenue. They stated that, in their view, the poor condition of roads Border Patrol routinely uses has contributed to declines in tourism.

CBP Has Not Assessed Options for Addressing Maintenance of Nonfederal Public Roads in Poor Condition

CBP and Border Patrol officials have discussed two options that, if implemented, could offer possible mechanisms for addressing maintenance of nonfederal public roads. However, officials also discussed challenges each option would present to CBP, and CBP has not assessed these or other options for addressing maintenance of the state, county, city, and other local roads it uses for its operations.

First, CBP officials told us they have considered seeking a specific appropriation to maintain state and local (i.e., nonfederal) public roads through financial or labor assistance. However, CBP officials said that involvement in public road maintenance may raise liability considerations and potential conflicts with the agency's primary mission. For example, CBP officials indicated that if CBP maintained nonfederal public roads, it could be subject to negligence claims in relation to the repairs it conducts. Additionally, CBP would require additional resources to negotiate necessary contracts with public authorities to ensure they spend money appropriately and to oversee the network of their roads that could be necessary for CBP's operations, according to officials. In addition, the time and resources spent on road maintenance could divert Border Patrol from its primary mission of securing the borders, according to CBP officials.

Second, CBP and local officials we met with discussed two grant options that could be informative in considering options to address the maintenance of public roads Border Patrol uses routinely. While the specific grants discussed may not apply to CBP or road maintenance, the

officials provided them as examples of grants that promote cooperation between federal agencies and local governments.

- First, after securing necessary legal authorities, CBP could establish a grant program, which would allow CBP to provide funding to state and local entities for road maintenance. Officials suggested that such a program could also allow the public entities that own the roads to conduct the maintenance themselves, alleviating Border Patrol's liability and resources concerns. For example, Border Patrol officials discussed the success they have experienced using Operation Stonegarden to leverage state and local resources for border security while building relations with local law enforcement. Operation Stonegarden provides funds for joint CBP, Border Patrol, and federal, state, local, and tribal law enforcement agency efforts to secure U.S. borders. These officials offered that a similar program could enable CBP to provide funding to public entities to maintain certain roads.
- Second, CBP and local officials identified federal funding for road maintenance available to public agencies and executed through other federal agencies that CBP may be able to contribute to. For example, officials of a public water drainage district and town we met with said they had previously applied for a Federal Lands Access grant.[40] The Federal Lands Access Program supplements state and local resources for public roads, among other transportation related infrastructure, with an emphasis on high-use recreation sites and economic generators. The Federal Lands Access Program requires applicants to provide at least a 20 percent match of the project cost. Officials from the public water drainage district and town said another local public entity planned to help it with the match for this grant. If Border Patrol had an appropriation for non-owned road maintenance, it could potentially help public entities, like the water drainage district, meet the match for federal grants.

As of July 2017, CBP and Border Patrol have not assessed or implemented any of the options described above for two predominant reasons. First, CBP officials said the options each have accompanying challenges, in addition to the liability and management issues discussed above. For example, an appropriation to maintain public roads would not likely be sufficient to cover all road maintenance for state, local, and tribal

[40]The Federal Lands Access Program is established pursuant to 23 U.S.C. § 204 for the Secretary of Transportation or appropriate federal land management agency to improve transportation facilities that provide access to, are adjacent to, or are located within federal lands.

roads Border Patrol uses, according to CBP officials. They added that limited funding to maintain the roads would put CBP in a position to prioritize some public roads over others, which may further strain relations with some public entities. Second, as discussed above, CBP officials told us they do not currently have data that demonstrate the extent to which Border Patrol relies on all non-owned roads, including public roads, to conduct its operations. CBP officials also said they do not keep data on the condition of roads owned by public entities. Without data on CBP's use of non-owned roads, determining a maintenance solution that uses an appropriate amount of resources would be challenging.

Standards for program management call for program managers to assess programs on an ongoing basis.[41] To ensure continued success, program managers can use feasibility studies to determine whether implementing program changes could help mitigate any negative impacts. Assessing the feasibility of options to ensure adequate maintenance of nonfederal public roads, where necessary, including data needs for determining the extent of its reliance on non-owned roads for border security operations, could lead to a possible solution for enhancing Border Patrol's operations and its community relationships.

Conclusion

Border Patrol's access to roads plays a key role in its ability to secure the nation's land borders from terrorism and other threats. While Border Patrol has entered into maintenance arrangements with the federal, state, and private landowners whose roads it uses for its operations, CBP and Border Patrol officials told us they have not consistently documented these arrangements because the need for an agreement with a landowner is determined on a case-by-case basis. By not documenting the arrangements it has with landowners, Border Patrol has no record of what was agreed to with owners in terms of maintenance of roads, which could hinder Border Patrol efforts to access and maintain certain roads. Similarly, Border Patrol has not clearly documented or shared its process and criteria for determining which non-owned roads to maintain with its limited funding. By not clearly documenting and communicating the process and criteria it uses for making decisions on funding non-owned operational requirements, ORMD cannot reasonably ensure that sector officials are aware of the process and criteria, and therefore cannot

[41]Project Management Institute, Inc., *The Standard for Program Management*©, Third Edition, 2013.

ensure adequate planning for and anticipation of funding to meet sectors' road maintenance needs requirements.

In addition, Border Patrol generally has access to public roads and has certain authorities to use other nonpublic federal, tribal, and private owned roads; however, it does not have a specific appropriation for public improvements. Border Patrol agents reported experiencing negative effects to their operations, such as delayed response times, from using public roads that are generally in poor condition due to Border Patrol's use and inability to maintain the roads; however, CBP has not assessed options for maintaining these roads, partly because it does not collect data that indicates the extent of its reliance on all non-owned roads. Without assessing options, including data needs, that may exist for addressing maintenance of nonfederal public roads, CBP may be missing feasible opportunities for addressing maintenance of the roads, thereby foregoing an opportunity to enhance Border Patrol's ability to rapidly respond to threats at the border.

Recommendations for Executive Action

We are making the following three recommendations to CBP:

- The Commissioner of CBP should develop and implement a policy and related guidance for documenting arrangements with landowners, as needed, on Border Patrol's maintenance of roads it uses to conduct its operations, and share these documented arrangements with its sectors. (Recommendation 1)
- The Commissioner of CBP should clearly document the process and criteria for making decisions on funding non-owned operational requirements and communicate this process to Border Patrol sectors. (Recommendation 2)
- The Commissioner of CBP should assess the feasibility of options for addressing the maintenance of nonfederal public roads. This should include a review of data needed to determine the extent of its reliance on non-owned roads for border security operations. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to DHS, DOD, DOI, and USDA for review and comment. DHS agreed with our three recommendations. The department's response is reprinted in appendix II. DHS and DOI also provided technical comments that we incorporated, as appropriate. In response to our first recommendation that CBP develop and implement a policy and related guidance for documenting road maintenance

arrangements with landowners, and share these documented arrangements with its sectors, DHS concurred, stating that FM&E will issue updated guidance on addressing maintenance of assets on private land to Border Patrol and FM&E personnel located at the sectors. The updated guidance, according to DHS, will reference the agency's 2011 and 2015 policy and procedures for owned and non-owned road maintenance, as well as points of contact for additional information on landowner maintenance agreements. DHS also concurred with our second recommendation that CBP clearly document the process and criteria for making decisions on funding non-owned operational requirements and communicate this process to Border Patrol sectors. DHS stated that Border Patrol will outline the process and criteria for making these funding decisions and communicate the process to Border Patrol sectors. DHS concurred with our third recommendation that CBP assess the feasibility of options for addressing the maintenance of non-federal public roads, including a review of data needed to determine the extent of its reliance on non-owned roads. DHS stated that Border Patrol, in collaboration with CBP FM&E, will review data on the extent of Border Patrol's use of non-owned roads for border security operations and develop a strategy that outlines options and assesses the feasibility for maintaining roads, as appropriate. These actions, if implemented effectively, should address the intent of our three recommendations.

We are sending copies of this report to the appropriate congressional committees, the Secretaries of Homeland Security, Agriculture, Defense, and the Interior, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions, 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 significant contributions to this report are listed in appendix VI.

Rebecca Gambler
Director, Homeland Security and Justice

List of Requesters

The Honorable Ron Johnson
Chairman
The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Jeff Flake
United States Senate

The Honorable John McCain
United States Senate

Appendix I: Selected Federal Agencies' Programs for Addressing Maintenance of Roads the Agencies Use but Do Not Own

We reviewed relevant authorities, policies, and procedures of three selected departments that maintain roads owned by others (non-owned roads) for conducting their operations—the Department of Defense (DOD), the U.S. Department of Agriculture (USDA), and the Department of the Interior (DOI). DOD addresses maintenance of all non-owned roads through its Defense Access Roads (DAR) program. The U.S. Forest Service (Forest Service) is a USDA component we identified that addresses maintenance of non-owned roads. While DOI officials stated that DOI is not authorized to directly address maintenance of the non-owned roads it uses for its operations, the Bureau of Indian Affairs (BIA), a component of DOI, partners with public agencies to address maintenance of non-owned roads that provide access to or within tribal lands, through the Tribal Transportation Program.

We discuss the authorities, policies, and procedures utilized by the DAR program, the Forest Service, and BIA in more detail in the following sections. These authorities, policies, and procedures are specific to the respective programs, and therefore are not applicable to the U.S. Border Patrol (Border Patrol). In addition, U.S. Forest Service and BIA officials said that unlike the U.S. Forest Service and the BIA, Border Patrol is not a public road agency—a federal, state, local, or Indian government or instrumentality with jurisdiction over, and authority to finance, build, operate, or maintain, public roads.[1] Further, Border Patrol has various authorities including the ability to access private land, and therefore roads on such land, located within 25 miles of the border, without a warrant.[2] The information presented below is intended to illustrate how other selected federal departments and agencies address maintenance of non-owned roads.

[1]23 U.S.C. § 101(a)(21), (22).

[2]8 U.S.C. § 1357(a)(3).

Department of Defense: Defense Access Roads (DAR) Program

Background

DOD and the Department of Transportation are jointly responsible for administering the DAR program. Established in 1956, the DAR program authorizes the Secretary of Transportation to use funds appropriated for the Department of Defense to fully or partially fund public road improvements and maintenance that are certified as important to national defense.[3] The program provides a means for the military to pay its "fair share" of the cost of public road improvements and maintenance needed in response to sudden and unusual defense-generated traffic or road surface impacts, such as a significant increase in personnel at a military installation, or use of a road by an oversized or overweight military vehicle, and to help ensure adequate transportation capacity is in place when needed.[4] According to DOD officials, the DAR program is primarily used to fund road construction to provide installation access and alternate routes to reduce congestion caused by an installation and for the maintenance of roads to support transportation of specialized military equipment traveling on public roads.

Authority

Through the DAR program, DOD is authorized to address the construction and maintenance of certain defense access roads which are certified to the Secretary of Transportation as important to the national

[3]GAO, *Defense Infrastructure: High-Level Federal Interagency Coordination Is Warranted to Address Transportation Needs beyond the Scope of Defense Access Roads Program*, GAO-11-165 (Washington, D.C.: Jan. 26, 2011). See Pub. L. No. 85-767, § 1, 72 Stat. 885, 908-09 (1958) (codified, as amended, at 23 U.S.C. § 210). Funds are typically provided within DOD appropriations and transferred to the Federal Highway Administration (FHWA).

[4]The term "fair share" is used in DOD and FHWA regulations to describe potential DOD contributions under the DAR program, but is not defined. Army Regulation 55-80/OPNAVINST 11210.2/AFMAN 32-1017/MCO 11210.2D/DLAR 4500.19, *DOD Transportation Engineering Program* (Nov. 17, 2003). DOD does not have a systematic formula for determining its "fair share" of the cost of transportation improvement projects. According to a senior DOD official, the amount is negotiated on a case-by-case basis considering relevant facts such as (1) the availability of state and local funds, (2) the defense-related magnitude of the impact, and (3) whether improvements are planned beyond those required to address the defense-generated impact.

defense.[5] To implement its authorities, in 1978 DOD and the Federal Highway Administration (FHWA) together developed a set of DAR program eligibility criteria that specifies the types of roads DOD can improve.[6] These roads include (1) a replacement road; (2) a public road that creates new access to a military facility; (3) a road on which traffic has doubled as a result of the military's use; and (4) a rural county road that has limited carrying capacity and requires upgrade to sustain consistent movements of military equipment.[7] DOD officials said that they use public roads like everyone else in the general public—that is, DOD components use the roads while the public owners (for example, a state, county, or city) maintain the roads—and are not authorized to address maintenance of a public road unless the road is determined by the DAR program to be a defense access road. DOD officials said they were not aware of any instances involving DOD's use of private roads. If there is any such use, DOD officials stated that there would be an agreement in place for addressing maintenance of the private roads.

DAR projects are funded from two sources—Military Construction funds and Operation and Maintenance funds. The particular source used for a project depends on the project's work classification and dollar amount. Projects for new construction that exceed $1 million are submitted as line item requests in the President's budget for authorization and appropriation in the Military Construction program.[8] Maintenance and repair of existing roads under the DAR program is funded with Operation and Maintenance funds.[9] Minor military construction projects costing $1 million or less may also be funded with Operation and Maintenance

[5]23 U.S.C. § 210; 10 U.S.C. § 2661.

[6]The eligibility criteria are described in detail in the FHWA nonregulatory supplement to title 23 of the Code of Federal Regulations as adopted by DOD and applied to the DAR program in the DOD service regulation. The Secretary of Defense is the final certifying authority for eligibility determinations under the authorizing statute. See GAO-11-165, at 17 n.22.

[7]A replacement road is a new road or upgrade to a parallel road that replaces capacity lost when a public roadway is closed due to military necessity. A new access road is a public road that creates new access to a military facility. Doubling traffic is defined as a 100 percent increase at a particular location or turning movement (such as right or left turns) requiring a transportation upgrade. The fourth road type, a rural county road that has limited carrying capacity and requires upgrade to sustain consistent movements of military equipment, is referred to by DOD as a low-type road.

[8]See 10 U.S.C. §§ 2801, 2802.

[9]See 10 U.S.C. § 2811.

funds.[10] DOD officials said that because there is not a dedicated funding for the DAR program, it competes with every other military requirement (including on-base construction requirements). Ultimately, funding is based on a project's merit to meet a military mission.

Policies and Procedures

Under DAR program regulations, military installation commanders can initiate a request for assistance from DAR if there is a defense-related transportation need affecting the surrounding community. To initiate a DAR project, the local military base identifies the access or mobility requirement and submits a DAR needs report to the U.S. Army Military Surface Deployment and Distribution Command (SDDC). SDDC will then either conduct a DAR needs evaluation or request FHWA to make an evaluation of improvements that may be necessary, determine the scope of work to address the deficiencies, and develop a cost estimate.[11] According to a document DOD officials provided on the DAR program, SDDC will determine if the proposed work meets the DAR program qualification criteria and if so, certify the road as important to national defense, thereby making it eligible for DOD funds. The military service operating the base is then responsible for submitting the budget request for the project funds through its normal planning, programming, and budgeting process. Once programmed by the military service, if the work is classified as new construction and exceeds $1 million, the funds must be authorized and appropriated by Congress. After Congressional approval, the funds are transferred to FHWA and allocated to the agency administering the project (federal, state, county or other local transportation authority). A project memorandum of agreement (MOA) establishes specific roles and responsibilities for the officials involved in the DAR project. Upon completion, long-term maintenance of the improvement becomes the responsibility of the owning highway authority.

According to DOD officials, the most common DAR program maintenance projects involve maintenance and repair of rural county roads used by the Department of the Air Force to transport intercontinental ballistic missiles from their main base to remote locations. These roads are often gravel roads, but also include portions of paved roads. For operational reasons,

[10]See 10 U.S.C. § 2805.

[11]See Federal Highway Administration nonregulatory supplement to title 23 of the Code of Federal Regulations as adopted by DOD and applied to the DAR program in the DOD service regulation. Title 23 C.F.R. pt. 660E (appendix C).

missile equipment cannot be transported over roads that are rutted or washboarded; therefore, DOD is forced to maintain these roads to its standards, which are typically higher than the standards of the counties that own them, to ensure access and safety. DOD missile engineers coordinate with state and county transportation departments, as well as the FHWA, to execute the maintenance requirements. There are approximately 1,500 miles of gravel roads to be kept at missile transporter standards used by DOD. There is another 1,500 miles of paved roads used by DOD for the missile transporter mission; however, DOD does not generally maintain these roads, except in cases of an emergency (e.g., surface washout or extreme snow removal).

In support of the missile transport requirement, DOD has an MOA with each county and state it works with under the DAR program. These MOAs are general in nature, outlining mostly the roles and responsibilities of DOD, as well as those of the state or county. DOD officials explained that if paved roads fall into disrepair, DAR missile engineers are generally in close contact with state and local officials and have a very good relationship with them to ensure the state or county maintains the road. Typically, the state and local transportation officials adequately maintain paved roads, while DOD generally maintains the unpaved roads. If the responsible state and local agencies do not have the necessary funds to maintain paved roads, DOD will look into using alternate routes for transporting the missiles, or other alternatives, but would not generally provide funding for the maintenance of paved roads, according to DOD officials.

Department of Agriculture: U.S. Forest Service

Background

The mission of the U.S. Forest Service, a component of USDA, is to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet present and future needs. To accomplish this mission, the Forest Service manages and protects 154 national forests and 20 national grasslands in 43 states and Puerto Rico. The Forest Service uses a wide variety of roads to access national forest system lands. A large portion of these roads are owned and managed by the Forest Service; however, the agency also relies on roads which cross land

managed and owned by other federal, state, local, and private landowners authorized by various types of easements, road use permits, or road rental agreements, to conduct its operations.[12]

Authority

According to Forest Service officials, the Forest Service is a public road agency and therefore operates and maintains roads that are open to the public. In addition to these roads, Forest Service uses public roads like the general public—with the relevant public road agency bearing responsibility for maintenance of such roads. However, if traveling on a public road with a vehicle that is not standard for the particular road type, Forest Service would generally need to obtain a special-use permit as required by the relevant public road agency. Forest Service must also enter into agreements to use and maintain private roads. Conversely, if a road is located on an existing right of way that is owned by the Forest Service, and through private property, Forest Service does not need additional permission to access and maintain the road. Also, according to Forest Service officials, in the event of an emergency (fire, pursuit), Forest Service can access a private road without permission.

Forest Service addresses maintenance of the owned and non-owned roads it uses for its operations using allocated funding used for most road restoration, maintenance, and repair, as well as funding from the FHWA (funding to address maintenance of a smaller subset of roads). Forest Service can enter into agreements with other public agencies for use and maintenance of the agency's roads or land under various authorities.[13] Funds available for forest development roads and trails are to be used by the Secretary of Agriculture to cover costs of construction and maintenance of such roads and trails, including those on experimental

[12]See 36 C.F.R. § 251.51. According to Forest Service officials, other public road agencies issue licenses or other types of permissive agreements to authorize use of their roads when it is not in the public interest for the Forest Service to acquire an easement. Forest Service Manual 5460.3 – Policy (4) states that the officials should consider the use of temporary agreements, permits, licenses, or road rental agreements for road access across nonfederal property only when a documented travel analysis indicates perpetual and multiple-use access is not needed in the foreseeable future.

[13]See, e.g., Federal Land Policy and Management Act of 1976, Pub. L. No. 94-579, 90 Stat. 2743 (classified at 43 U.S.C. §§ 1701-1782); National Forest Roads and Trails Act, Pub. L. No. 88-657, 78 Stat. 1089 (1964) (classified at 16 U.S.C. §§ 532-38); Economy Act, 31 U.S.C. §§ 1535-36.

and other areas under Forest Service administration.[14] A set formula is used to allocate Roads, Capital Improvement, Maintenance (CMRD) funding to each of nine Forest Service regions, and then to each forest. While CMRD funds can be shifted from one region to another, as needed, officials said that there are restrictions on how funding from the Federal Highway Administration can be distributed and spent.[15] In the case of either funding source, each forest determines how to spend the funding it receives for road maintenance. The criteria used for making this road maintenance decision takes into account, among other things, other road construction and maintenance plans for the region where the forest is located, according to Forest Service officials.

Policies and Procedures

According to Forest Service officials, the agency predominantly maintains its own roads and expects other entities, such as counties, to maintain their own roads, regardless of how frequently Forest Service uses a particular road. Forest Service's policy is to enter into road maintenance agreements with public agencies where there is a sufficient reason and available funding to do so. Forest Service meets annually with public road agencies and landowners to discuss existing and new road use agreements and maintenance plans, as well as shared road maintenance responsibilities, activities, and scheduled maintenance events. According to Forest Service officials, as of July 2017, the agency had issued 5,854 Forest Road and Trail Act Easements to public road agencies and landowners nationwide.[16] These easements have clauses which direct the Forest Service and the grantees to enter into agreements to use and maintain each other's roads. Individual forests are responsible for forming any agreements they need for road maintenance. The specific terms of these agreements are economically driven, primarily based on beneficial need to the Forest Service and the availability of funding, according to Forest Service officials. Officials said that Forest Service will maintain a

[14]23 U.S.C. § 205. In connection with this authority, the Secretary may enter into contracts with a state or locality, and issue such regulations as deemed advisable. Id.

[15]Forest Service officials explained that while this funding can be shifted from one region to another, this is not common because of the high demand in each region for funding.

[16]According to the Forest Service Handbook 5409.17 (Chapter 60, Road Right of Way Construction and Use Agreements), road maintenance agreements between the Forest Service and public road agencies are common across the United States where National Forest System lands are located. An example is where a timber company or public road authority is requesting to maintain a specific road to a higher standard than determined by the Forest Service.

public road if it enables needed access. Officials said they can execute MOUs with entities, such as counties, to share road maintenance costs. Forest Service also partners with other federal agencies on use of federal highways. The roads Forest Service typically uses are public-use and multi-use roads. According to Forest Service officials, there are not many instances in which Forest Service needs to access private roads. In instances where it does, Forest Service's policy is to obtain a perpetual, motorized, public use easement; however, most private owners are hesitant to grant ownership interest. Officials said that they use one-time agreements on a small subset of roads to address wear and tear in specific instances and based upon the Forest Service commensurate road use. For example, officials said if Forest Service acquires land, but has not yet acquired the roads leading to the property, Forest Service will enter into a short-term agreement to maintain the roads until it acquires ownership of the roads. All agreements are made on a case-by-case basis, according to officials, but the focus for Forest Service is always on the needs of the agency.

According to Forest Service officials, maintenance agreements are rare because most of the roads the Forest Service needs are already maintained at the level it needs them to be. There are not many examples of Forest Service needing the roads to be maintained at a higher standard than they already are. Forest Service officials also told us that the agency prioritizes maintenance of the roads it owns over maintenance of roads that are owned by others. Given the large network of roads under Forest Service's jurisdiction, there is rarely excess funding available to contribute to the maintenance of roads owned by local government agencies, officials said. To compensate for its limited funding, officials added that Forest Service has helped local government agencies address maintenance of their roads by providing a funding match to help qualify these agencies for federal road maintenance grants. However, they said that they do this only on a case-by-case basis, and only when Forest Service and the local government agencies' priorities align.

Forest Service officials said that a lot of collaboration occurs between the Forest Service and other federal, state, and local agencies in order to finance road improvements and maintenance. Most of its collaboration is with states and counties. Forest Service collaborates with FHWA because the latter grants the necessary easements to states for forest highways

which the Forest Service uses.[17] Because counties get FHWA funds as well to maintain forest highways along with county road intersections, Forest Service works with counties on these roads to meet forest needs.[18]

Department of the Interior: Bureau of Indian Affairs

Background

DOI's Bureau of Indian Affairs (BIA) is responsible for the administration and management of approximately 56 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. BIA provides services, including transportation services, directly or through contracts, cooperative agreements, and grants, to approximately 1.9 million American Indians and Alaska Natives from the 567 federally recognized tribes. One of BIA's mechanisms for addressing maintenance of non-tribal and non-BIA owned public roads is the Tribal Transportation Program (TTP). Through the TTP, the Secretaries of Transportation and the Interior pay the costs of eligible transportation projects involving tribal transportation facilities, and other appropriate public road facilities, among other activities.[19] Public roads whose maintenance is addressed through the TTP include roads owned by states, cities, counties, and other federal

[17]According to Forest Service Handbook 2709.12 Chapter 21, the Forest Service may authorize the Department of Transportation to convey a right to control access on other highways under conditions that ensure adequate protection and utilization of the resources of National Forest System lands. This is typically for public roads designated as forest highways.

[18]According to the Forest Service Manual 2731.03, the Forest Service can consent to the grant of rights-of-way under the Highway Act to states and counties for highway purposes only.

[19]23 U.S.C. § 202(a)(1). In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21 Law) replaced the existing Indian Reservation Roads (IRR) program with the Tribal Transportation Program (TTP). See Pub. L. No. 112-141, 126 Stat. 405; see also 25 C.F.R. pt. 170 (section 170.1 states that "[t]his part provides rules and references to the statutory funding formula for the Department of the Interior (DOI), in cooperation with the Department of Transportation (DOT), to implement the Tribal Transportation Program (TTP)."). For background, see Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59, 119 Stat. 1144 (2005) (codified, as amended, in various sections of Title 23, U.S. Code).

agencies.[20] The TTP is jointly administered by the BIA Division of Transportation and the FHWA Federal Lands Highway Office.

Authority

According to BIA officials, BIA and tribal governments are public authorities and are authorized to enter into agreements with other public agencies to maintain non-owned roads that meet the definition of transportation facilities that are eligible for assistance under the TTP.[21] The responsibility to maintain roads owned by another public authority belongs to such authority with jurisdiction over the route (unless otherwise provided for in an agreement or other usage permit). According to BIA officials, a tribe or BIA may use TTP funds to maintain roads owned by others, but only in accordance with an agreement allowing the tribe or BIA to carry out maintenance activities on the roads and provided the public authority that owns the road cannot or will not use its funds to maintain its own road.

Policies and Procedures

BIA is organized into 12 regions, each of which has a TTP component that provides engineering, construction, and road maintenance services for highways, roads, bridges, trails, or transit systems that are located on or provide access to tribal land and appear on the National Tribal Transportation Facility Inventory.[22] The 12 regions can enter into agreements with state and local governments to provide funding to maintain public roads the state and local governments own and that provide access to tribal lands when tribes have not assumed responsibility for administering the TTP. BIA enters into and administers these agreements for those tribes which do not have an agreement with BIA for transportation funding, known as "direct service tribes."[23] Tribes that have such an agreement with BIA, or FHWA, are responsible for administering the TTP and would enter into and administer agreements with state and local governments for maintenance of the roads they own

[20]To be eligible for TTP funding, the public road must be documented in the National Tribal Transportation Facility Inventory, and approved for funding by the tribal government and the BIA region that are impacted by the road.

[21]23 U.S.C. § 202(b)(1)(A).

[22]23 U.S.C. § 202(b)(1).

[23]Direct service tribes are tribes for which the Bureau of Indian Affairs provides direct services, such as law enforcement services, and that do not operate certain programs themselves. See 25 U.S.C. §§ 5321, 2802(c).

that provide access to tribal lands.[24] According to BIA officials, of the approximately 160,000 miles of roads that are eligible for TTP funding, BIA owns approximately 29,000 miles. The amount of funding distributed via the TTP is determined by a statutory formula based on several factors including historic funding, miles of roads in the National Tribal Transportation Facility Inventory in 2004 and 2012, population, and a supplemental takedown designed to assist certain tribes with small shares of funding relative to their fiscal year 2011 funding base. Prior to 2012, BIA allocated funding based on a regulatory formula that included needs data continuously updated by tribes. TTP funding can be used as the funding match state and local agencies need to qualify for federal transportation improvement grants, depending on the transportation needs of tribal governments. According to 23 U.S.C § 202(f), TTP funding is not intended to replace the funding state and local governments receive for planning, design, construction, and maintenance for their public roads.

[24]In addition to direct service by BIA, tribes can obtain responsibility for administering the TTP through four different mechanisms: (1) government-to-government agreements between BIA and the Indian tribe; (2) self-determination contracts between BIA and the tribe; (3) self-governance compacts between DOI and the tribe; and (4) program agreements between FHWA and the tribe.

Appendix II: Comments from the Department of Homeland Security

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

Homeland Security

September 15, 2017

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

Re: Management's Response to Draft Report GAO-18-11, "SOUTHWEST BORDER SECURITY: Actions Needed to Enhance CBP's Maintenance of Roads Used For Its Operations"

Dear Ms. Gambler:

Thank you for the opportunity to review and comment on this draft report. The U.S. 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.

DHS is pleased to note GAO's recognition that the "Border Patrol's access to roads plays a key role in its ability to secure the Nation's land borders from terrorism and other threats." The U.S. Border Patrol (Border Patrol) relies on border roads located on federal, state, local, and private properties to ensure an efficient response to operations. Various methods, such as license agreements and Memorandum of Agreements, are used to maintain strong relationships and ensure consistent access with the various land partners. This allows the Border Patrol access to areas that are critical to respond and resolve border security concerns.

The Border Patrol continues to work with internal and external partners to devise better ways to maintain the increased miles of patrol roads, state, and local roads that have fallen into disrepair. Agent safety is a concern because the Border Patrol relies on rural state and local roads, which receive little to no repair.

The draft report contained three recommendations with which the Department concurs. Attached find our detailed response to each recommendation.

Again, thank you for the opportunity to review and comment on this draft report. Technical comments were previously provided under separate cover. 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: DHS Management Response to Recommendations Contained in GAO-18-11

GAO recommended that the Commissioner of Customs and Border Protection:

Recommendation 1: Develop and implement a policy and related guidance for documenting arrangements with landowners, as needed, on Border Patrol's maintenance of roads it uses to conduct its operations and share these agreements with its sectors.

Response: Concur. CBP's Office of Facilities Management and Engineering (FM&E) will issue updated guidance to both the FM&E personnel located in the Border Patrol sectors and to Border Patrol Sector personnel in regards to maintenance of assets on private land. The updated guidance will reference the "Customer Service Procedure for Maintenance & Repair License Agreements" signed in July 2011, and the "Operational vs. Non-Operational Roads Policy" signed in January 2015. The guidance will also discuss points of contact for additional information on landowner agreements. Border Patrol will continue to use its Ranch Liaison program to coordinate access issues with land owners along the Southwest Border. Estimated Completion Date (ECD): December 29, 2017.

Recommendation 2: Clearly document the process and criteria for making decisions on funding non-owned operational requirements and communicate this process to Border Patrol sectors.

Response: Concur. The Border Patrol will use the Capability Gap Analysis Process to validate its access and mobility requirements on a national level. As this information is collected through stations and sectors, the national priorities will be created through requirements planning completed at the station level. Border Patrol will outline the process and criteria for making decisions on funding non-owned operational requirements and communicate this process to Border Patrol Sectors. ECD: March 30, 2018.

Recommendation 3: Assess the feasibility of options for addressing the maintenance of non-federal public roads. This should include a review of data needed to determine the extent of its reliance on non-owned roads for border security operations.

Response: Concur. CBP's U.S. Border Patrol and Office of FM&E will collaborate to review data on the extent of Border Patrol's use of non-owned roads for border security operations and will develop a strategy that outlines options and assesses the feasibility for maintening roads, as appropriate. ECD: September 28, 2018.

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Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Rebecca Gambler, (202) 512-8777 or gamblerr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Meg Ullengren (Assistant Director), Edith Sohna, and Colleen Corcoran made key contributions to this report. Also contributing to the report were David Alexander, Eric Hauswirth, Terence Lam, John Mingus, Sasan J. “Jon” Najmi, Claire Peachey, and Adam Vogt.

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