

(A) the number of U.S. Customs and Border Protection officers, by port, assigned from domestic ports of entry to preclearance operations; and

(B) the number of the positions at domestic ports of entry vacated by U.S. Customs and Border Protection officers described in subparagraph (A) that have been filled by other hired, trained, and equipped U.S. Customs and Border Protection officers.

(2) Submission

If the Commissioner has not filled the positions of U.S. Customs and Border Protection officers that were reassigned to preclearance operations and determines that U.S. Customs and Border Protection processing times at domestic ports of entry from which U.S. Customs and Border Protection officers were reassigned to preclearance operations have significantly increased, the Commissioner, not later than 60 days after making such a determination, shall submit to the appropriate congressional committees an implementation plan for reducing processing times at the domestic ports of entry with such increased processing times.

(3) Suspension

If the Commissioner does not submit the implementation plan described in paragraph (2) to the appropriate congressional committees before the deadline set forth in such paragraph, the Commissioner may not commence preclearance operations at an additional port of entry in any country until such implementation plan is submitted.

(f) Classified report

The report required under subsection (c)(5) may be submitted in classified form if the Secretary determines that such form is appropriate.

(Pub. L. 114–125, title VIII, §814, Feb. 24, 2016, 130 Stat. 218.)

§ 4434. Lost and stolen passports

The Secretary may not enter into an agreement with the government of a foreign country to establish or maintain U.S. Customs and Border Protection preclearance operations at an airport in such country unless the Secretary certifies to the appropriate congressional committees that such government—

(1) routinely submits information about lost and stolen passports of its citizens and nationals to INTERPOL's Stolen and Lost Travel Document database; or

(2) makes such information available to the United States Government through another comparable means of reporting.

(Pub. L. 114–125, title VIII, §816, Feb. 24, 2016, 130 Stat. 220.)

§ 4435. Recovery of initial U.S. Customs and Border Protection preclearance operations costs

(a) Cost sharing agreements with relevant airport authorities

The Commissioner may enter into a cost sharing agreement with airport authorities in foreign countries at which preclearance operations are to be established or maintained if—

(1) an executive agreement to establish or maintain such preclearance operations pursuant to the authorities under section 1629 of this title and section 1103(a)(7) of title 8 has been signed, but has not yet entered into force; and

(2) U.S. Customs and Border Protection has incurred, or expects to incur, initial preclearance operations costs in order to establish or maintain preclearance operations under the agreement described in paragraph (1).

(b) Contents of cost sharing agreements

(1) In general

Notwithstanding section 58c(e) of this title and section 1356(g) of title 8, any cost sharing agreement with an airport authority authorized under subsection (a) may provide for the airport authority's payment to U.S. Customs and Border Protection of its initial preclearance operations costs.

(2) Timing of payments

The airport authority's payment to U.S. Customs and Border Protection for its initial preclearance operations costs may be made in advance of the incurrence of the costs or on a reimbursable basis.

(c) Account

(1) In general

All amounts collected pursuant to any cost sharing agreement authorized under subsection (a)—

(A) shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection;

(B) shall remain available, until expended, for the purposes for which such appropriation, account, or fund is authorized to be used; and

(C) may be collected and shall be available only to the extent provided in appropriations Acts.

(2) Return of unused funds

Any advances or reimbursements not used by U.S. Customs and Border Protection may be returned to the relevant airport authority.

(3) Rule of construction

Nothing in this subsection may be construed to preclude the use of appropriated funds from sources other than the payments collected under this subchapter to pay initial preclearance operation costs.

(d) Defined term

(1) In general

In this section, the term “initial preclearance operations costs” means the costs incurred, or expected to be incurred, by U.S. Customs and Border Protection to establish or maintain preclearance operations at an airport in a foreign country, including costs relating to—

(A) hiring, training, and equipping new U.S. Customs and Border Protection officers who will be stationed at United States domestic ports of entry or other U.S. Customs

and Border Protection facilities to backfill U.S. Customs and Border Protection officers to be stationed at an airport in a foreign country to conduct preclearance operations; and

(B) visits to the airport authority conducted by U.S. Customs and Border Protection personnel necessary to prepare for the establishment or maintenance of preclearance operations at such airport, including the compensation, travel expenses, and allowances payable to such personnel attributable to such visits.

(2) Exception

The costs described in paragraph (1)(A) shall not include the salaries and benefits of new U.S. Customs and Border Protection officers once such officers are permanently stationed at a domestic United States port of entry or other domestic U.S. Customs and Border Protection facility after being hired, trained, and equipped.

(e) Rule of construction

Except as otherwise provided in this section, nothing in this section may be construed as affecting the responsibilities, duties, or authorities of U.S. Customs and Border Protection.

(Pub. L. 114–125, title VIII, §817, Feb. 24, 2016, 130 Stat. 220.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(3), was in the original “this subtitle”, meaning subtitle B (§§811–819) of title VIII of Pub. L. 114–125, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Short Title note set out under section 4301 of this title and Tables.

§ 4436. Application to new and existing preclearance operations

Except for sections 814(d) [19 U.S.C. 4433(d)], 815, 817 [19 U.S.C. 4435], and 818, this subchapter shall only apply to the establishment of preclearance operations in a foreign country in which no preclearance operations have been established as of February 24, 2016.

(Pub. L. 114–125, title VIII, §819, Feb. 24, 2016, 130 Stat. 222.)

REFERENCES IN TEXT

Sections 815 and 818, referred to in text, are sections 815 and 818 of Pub. L. 114–125. Section 815 amended section 44901 of Title 49, Transportation. Section 818 amended section 8311 of Title 7, Agriculture, and section 1356 of Title 8, Aliens and Nationality.

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle B (§§811–819) of title VIII of Pub. L. 114–125, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Short Title note set out under section 4301 of this title and Tables.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 4451. Report on certain U.S. Customs and Border Protection agreements

(a) In general

Not later than one year after entering into an agreement under a program specified in sub-

section (b), and annually thereafter until the termination of the program, the Commissioner shall submit to the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Ways and Means and the Committee on Homeland Security of the House of Representatives a report that includes the following:

(1) A description of the development of the program, including an identification of the authority under which the program operates.

(2) A description of the type of entity with which U.S. Customs and Border Protection entered into the agreement and the amount that entity reimbursed U.S. Customs and Border Protection under the agreement.

(3) An identification of the type of port of entry to which the agreement relates and an assessment of how the agreement provides economic benefits and security benefits (if applicable) at the port of entry.

(4) A description of the services provided by U.S. Customs and Border Protection under the agreement during the year preceding the submission of the report.

(5) The amount of fees collected under the agreement during that year.

(6) The total operating expenses of the program during that year.

(7) A detailed accounting of how the fees collected under the agreement have been spent during that year.

(8) A summary of any complaints or criticism received by U.S. Customs and Border Protection during that year regarding the agreement.

(9) An assessment of the compliance of the entity described in paragraph (2) with the terms of the agreement.

(10) Recommendations with respect to how activities conducted pursuant to the agreement could function more effectively or better produce economic benefits and security benefits (if applicable).

(11) A summary of the benefits to and challenges faced by U.S. Customs and Border Protection and the entity described in paragraph (2) under the agreement.

(12) If the entity described in paragraph (2) is an operator of an airport—

(A) a detailed account of the revenue collected by U.S. Customs and Border Protection at the airport from—

(i) fees collected under the agreement; and

(ii) fees collected from sources other than under the agreement, including fees paid by passengers and air carriers; and

(B) an assessment of the revenue described in subparagraph (A) compared with the operating costs of U.S. Customs and Border Protection at the airport.

(b) Program specified

A program specified in this subsection is—

(1) the program for entering into reimbursable fee agreements for the provision of U.S. Customs and Border Protection services established by section 560 of the Department of Homeland Security Appropriations Act, 2013 (division D of Public Law 113–6; 127 Stat. 378);