

section 251 of this title takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security have improved, with respect to each function transferred, the following:

- (i) Operations.
- (ii) Management, including accountability and communication.
- (iii) Financial administration.
- (iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) Report on fees

Not later than 1 year after November 25, 2002, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds.

(Pub. L. 107–296, title IV, § 477, Nov. 25, 2002, 116 Stat. 2209.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (a), (b), and (c)(1), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of this title.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

The Immigration and Nationality Act, referred to in subsec. (c)(2)(F), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§ 1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

Parts D and E of this subchapter, referred to in subsec. (d)(1)(A), (B), was in the original “subtitles D and E”, meaning subtitles D (§§ 441–446) and E (§§ 451–462) of title IV of Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2192, 2195, which enacted parts D and E of this subchapter, amended sections 1356 and 1573 of Title 8, Aliens and Nationality, and enacted provisions set out as a note under section 271 of this title. For complete classification of subtitles D and E to the Code, see Tables.

CHANGE OF NAME

Bureau of Border Security, referred to in text, changed to Bureau of Immigration and Customs Enforcement by Reorganization Plan Modification for the Department of Homeland Security, eff. Mar. 1, 2003, H. Doc. No. 108–32, 108th Congress, 1st Session, set out as a note under section 542 of this title.

§ 298. Immigration functions

(a) Annual report

(1) In general

One year after November 25, 2002, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this part has had on immigration functions.

(2) Matter included

The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department.

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) Sense of Congress regarding immigration services

It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this part take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

(Pub. L. 107–296, title IV, § 478, Nov. 25, 2002, 116 Stat. 2211.)

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by

Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

PART G—U.S. CUSTOMS AND BORDER
PROTECTION PUBLIC PRIVATE PARTNERSHIPS

**§ 301. Fee agreements for certain services at
ports of entry**

(a) In general

Notwithstanding section 58c(e) of title 19 and section 1451 of title 19, the Commissioner of U.S. Customs and Border Protection, upon the request of any entity, may enter into a fee agreement with such entity under which—

(1) U.S. Customs and Border Protection shall provide services described in subsection (b) at a United States port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide such services;

(2) such entity shall remit to U.S. Customs and Border Protection a fee imposed under subsection (h) in an amount equal to the full costs that are incurred or will be incurred in providing such services; and

(3) if space is provided by such entity, each facility at which U.S. Customs and Border Protection services are performed shall be maintained and equipped by such entity, without cost to the Federal Government, in accordance with U.S. Customs and Border Protection specifications.

(b) Services described

The services described in this subsection are any activities of any employee or Office of Field Operations contractor of U.S. Customs and Border Protection (except employees of the U.S. Border Patrol, as established under section 211(e) of this title) pertaining to, or in support of, customs, agricultural processing, border security, or immigration inspection-related matters at a port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide services.

(c) Modification of prior agreements

The Commissioner of U.S. Customs and Border Protection, at the request of an entity who has previously entered into an agreement with U.S. Customs and Border Protection for the reimbursement of fees in effect on December 16, 2016, may modify such agreement to implement any provisions of this section.

(d) Limitations

(1) Impacts of services

The Commissioner of U.S. Customs and Border Protection—

(A) may enter into fee agreements under this section only for services that—

(i) will increase or enhance the operational capacity of U.S. Customs and Border Protection based on available staffing and workload; and

(ii) will not shift the cost of services funded in any appropriations Act, or provided from any account in the Treasury of the United States derived by the collection of fees, to entities under this chapter; and

(B) may not enter into a fee agreement under this section if such agreement would

unduly and permanently impact services funded in any appropriations Act, or provided from any account in the Treasury of the United States, derived by the collection of fees.

(2) Number

There shall be no limit to the number of fee agreements that the Commissioner of U.S. Customs and Border Protection may enter into under this section.

(e) Air ports of entry

(1) Fee agreement

Except as otherwise provided in this subsection, a fee agreement for U.S. Customs and Border Protection services at an air port of entry may only provide for the payment of overtime costs of U.S. Customs and Border Protection officers and salaries and expenses of U.S. Customs and Border Protection employees to support U.S. Customs and Border Protection officers in performing services described in subsection (b).

(2) Small airports

Notwithstanding paragraph (1), U.S. Customs and Border Protection may receive reimbursement in addition to overtime costs if the fee agreement is for services at an air port of entry that has fewer than 100,000 arriving international passengers annually.

(3) Covered services

In addition to costs described in paragraph (1), a fee agreement for U.S. Customs and Border Protection services at an air port of entry referred to in paragraph (2) may provide for the reimbursement of—

(A) salaries and expenses of not more than five full-time equivalent U.S. Customs and Border Protection Officers beyond the number of such officers assigned to the port of entry on the date on which the fee agreement was signed;

(B) salaries and expenses of employees of U.S. Customs and Border Protection, other than the officers referred to in subparagraph (A), to support U.S. Customs and Border Protection officers in performing law enforcement functions; and

(C) other costs incurred by U.S. Customs and Border Protection relating to services described in subparagraph (B), such as temporary placement or permanent relocation of employees, including incentive pay for relocation, as appropriate.

(f) Port of entry size

The Commissioner of U.S. Customs and Border Protection shall ensure that each fee agreement proposal is given equal consideration regardless of the size of the port of entry.

(g) Denied application

(1) In general

If the Commissioner of U.S. Customs and Border Protection denies a proposal for a fee agreement under this section, the Commissioner shall provide the entity submitting such proposal with the reason for the denial unless—