

FEB 17 2017



U.S. Customs and
Border Protection

MEMORANDUM FOR THE DEPUTY SECRETARY

FROM:

Kevin K. McAleenan
Acting Commissioner

A handwritten signature in black ink, appearing to read "K. McAleenan", written over the printed name.

SUBJECT:

Request for Approval: Executive Order Hiring Surge Plan

Upon the release of the Executive Order on Border Security and Immigration Enforcement Improvements, U.S. Customs and Border Protection (CBP) conducted a thorough analysis of the authorities, resources, and changes needed to meet the staffing provisions directed within the order. The purpose of this plan is to clearly articulate where CBP is today, what our hiring projections are, and how additional funds and authorities can be directed effectively toward achieving the Executive Order hiring mandate.

In addition, during Fiscal Year (FY) 2016, the U.S. Border Patrol (USBP) conducted a comprehensive analysis of staffing allocations, capabilities, capability gaps, and requirements. The analysis, which considered direct and indirect hours as well as law enforcement program management and law enforcement duties, showed an additional 5,000 Border Patrol Agents (BPA) to be an appropriate increase based on current operations. CBP is working to enhance and update its analytical staffing model, the Personnel Requirements Determination, to account for the Border Patrol Agent Pay Reform Act of 2014 (BPAPRA), as amended¹, and potential increased use of contractors. Accordingly, an adjustment of the total Border Patrol Agent requirement in future budget years is likely.

As of January 2017, CBP's workforce included 19,627 BPAs. Given the new staffing target of 26,370 agents, this represents a gap of 6,743. However, in order to close this gap, CBP must also account for attrition. With a projected annualized attrition rate of 6 percent (approximately 1,380 losses per year), CBP must hire about 2,729 BPAs per year to achieve full BPA staffing in 5 years.

From FY 2013 to FY 2016, CBP achieved a gross average of 523 annual BPA hires, while also experiencing an average of 904 losses per year. Despite aggressive

¹ Pub. L. No. 114-13

recruitment efforts and hiring process improvements, CBP hired a total of 485 BPAs, approximately 40 new hires per month, in calendar year 2016.

CBP must compete with Federal, state, and local law enforcement organizations for applicants, as well as with our partner agencies in the Department of Homeland Security (DHS). Since FY 2014, 490 BPAs have departed CBP for U.S. Immigration and Customs Enforcement (ICE), with a quarter of those leaving within the first quarter of FY 2017 (101 BPAs). ICE's concurrent requirement to hire 10,000 law enforcement personnel will greatly hinder CBP's efforts to hire, since ICE holds the recruitment advantage in several key areas, including:

- **Lack of Polygraph Mandate:** Unlike CBP, ICE does not require a polygraph examination, which has been identified as both a significant deterrent and point of failure for CBP law enforcement applicants.
- **Desirable Duty Locations:** CBP's mission requires BPAs to be assigned to geographically remote or hard-to-fill locations, which are often a great distance from amenities and services such as medical care, childcare, schools, and employment options for spouses. ICE is hiring in major metropolitan areas.
- **Higher Compensation:** As of January 2016, all BPAs are covered under BPAPRA. ICE Deportation Officers are covered under Administratively Uncontrollable Overtime (AUO). While both BPAPRA and AUO offer up to a 25 percent supplement to an agent's salary, individuals under AUO are also covered by the Fair Labor Standards Act, and can earn more annually as a result.

CBP also needs to be able to reduce attrition and increase the overall number of applicants, which, in light of ICE's simultaneous hiring efforts, would require significant enhancements to recruitment and retention efforts. The equation to reach full BPA staffing also calls for a 25 percent increase in BPA applicants (from the current annual average of 60,000 to 75,000) and a 10 percent decrease in attrition (from 5.5 percent to 5 percent). At a minimum, pay parity with ICE will be essential, as will enhanced mobility for CBP personnel.

CBP therefore requires additional resources to implement policies that will increase the number of applicants who apply to BPA positions, while decreasing the attrition of our current workforce. CBP has identified the authorities and funding gaps below for your consideration. In order for these funding and authorities to make the most significant impact, CBP would need to receive them within the next six months.

AUTHORITIES

CBP requests the authorities from the below entities in order to meet the provisions of the President's Executive Order. By obtaining these authorities, CBP will be able to swiftly execute any agreed-upon process improvements, which could expedite the Agency's ability to achieve the staffing targets and assist in recruiting and retaining qualified personnel. Therefore, CBP requests the delegation of the following authorities:

OPM

- Direct hire authority;
- Authority to regulate CBP polygraph program (currently regulated under E.O. 137654);
- Authority to set pay;
- Authority to establish and approve qualification standards;
- Authority to establish and approve classification standards;
- Authority to determine the type and level of background investigation needed for CBP positions, to include what alternative requirements are acceptable in lieu of the background investigation requirements; this would also include the ability to identify who can conduct the investigation and the authority to determine who would conduct a background investigation;
- Authority to set special salary rates; and
- Return to a two-year probationary period.

DoD

- Support is needed from the Department of Defense (DoD) to provide Joint Personnel Adjudication System (JPAS) access to CBP for the purposes of streamlining the polygraph and suitability reciprocity processes within the federal government;
- Insert CBP recruiters at military recruitment offices for veterans and transitioning soldiers; and
- Based on the authorities that Office of Personnel Management (OPM) will delegate to CBP, as stated above, require DoD to work with CBP on a guaranteed placement program for frontline occupations for qualified veteran and transitioning soldiers.

FBI

- CBP requests that the FBI delegates to CBP the ability to conduct National Agency Checks, or permissible alternative, to streamline the suitability process.

DHS

- CBP is requesting delegated authority to establish social media accounts specifically for hiring and recruiting, and

- As a matter of policy, CBP is requesting that the Chief Security Officer requires all departments to share polygraph results for the purposes of facilitating the onboarding of personnel between component agencies.

POLYGRAPH EXAMINATION REQUIREMENT

STATUTORY CHANGES

Recently, Congress passed the National Defense Authorization Act (NDAA), which provided authority for CBP to waive the polygraph for any veteran who has a current/active Top Secret (TS) clearance and is able to access sensitive compartmented information (SCI), a current Single Scope Background Investigation, and was not granted any previous waivers to obtain the clearance. CBP will pursue Congressional or Executive Order avenues to expand the waiver authority for some or all of the following categories of applicants, applicable to those with at least two years in service:

- State and Local Law Enforcement Officers (in good standing) who have successfully completed a polygraph administered by state/local authorities;
- Federal Law Enforcement Officers (in good standing, has a current/in-scope Tier 4 or Tier 5 background investigation); and
- Transitioning Members of the military, veterans, or members of the Reserves/National Guard (veteran or nonveteran), who meet specific criteria (has a current or previously held a Secret, TS, TS/SCI or is eligible to hold a TS/SCI clearance, has a current/in-scope Tier 4 or Tier 5 background investigation, received or is eligible to receive a honorable military discharge, and was not granted any other waivers to obtain clearance).

PILOT

CBP is looking to pilot an alternative polygraph examination for a six-month period. The National Center for Credibility Assessment (NCCA) has offered an option to utilize a counterintelligence format with additional questions related to corruption, the Test for Espionage, Sabotage, and Corruption (TES-C). The TES-C would provide added capacity for our onboard examiners as it is shorter in duration and would require no immediate resources. Should an applicant test inconclusive to the corruption-related questions on the TES-C format, the examiner could conduct the standard LEPET suitability test that we use currently. All applicants would remain subject to a Tier 5 (formerly SSBI) investigation.

Further research and analyses are being conducted by CBP to determine whether any additional requests for funding and authorities are required to hire the additional 5,000 BPAs and accounting for high attrition levels. CBP remains fully committed to staffing the frontline in accordance with the expanding complexity and demands of its mission and maintaining its high standards.

FUNDING

CBP has determined that the costs of executing this hiring plan and recruiting, hiring, supporting and retaining the agents necessary to implement the Executive Order is \$328 million in Fiscal Year 2017 and \$1.884 billion in Fiscal Year 2018. The required funding not only includes hiring costs, but also accounts for requirements related to agent salaries and benefits, facilities, training, IT, and associated air support. Detailed costs are shown in an attachment to this memo. The duty locations of the agents are also attached.

CONCLUSION

Although external factors make it difficult to precisely predict the impact these changes will have on the BPA rate of hire, CBP optimistically projects an increase from a baseline of 485 BPA hires annually (~40 per month) to 917 BPA hires annually (~76 per month). This assumes an increase in the yield rates for the BPA entrance exam phase, the polygraph phase, and fitness test.

CBP will continue to examine its frontline hiring process and related staffing challenges to ensure the Agency is positioned to meet staffing requirements. Although we do not expect to see the impact of the aforementioned process improvements this fiscal year, CBP anticipates that with the requested funding and authorities we will be able to make significant strides toward achieving our hiring goals.

PRELIMINARY STAFFING DISTRIBUTION COAS

Region	Sector	Acronym	Authorized Staffing			Current Staffing			COA 1: +5K Agents Southwest Border Only			COA 2: Threat & Need Based		
			Agents	Support	Total	Agents	Support	Total	In Agents	New Total	Regional Priority	National Priority	Increase In Agents	New Total
Southwest Border	Rio Grande Valley	RGV	3201	243	3444	3147	222	3369	1000	4201	1	1	800	4001
	Laredo	LRT	3852	148	2000	1653	120	1773	700	2552	2	4	700	2552
	Del Rio	DRT	1642	131	1773	1422	120	1542	500	2142	5	8	200	1842
	Big Bend	BBT	640	54	694	509	37	546	400	1040	4	6	100	740
	El Paso	EPT	2415	191	2606	2236	183	2419	700	3115	3	5	200	2615
	Tucson	TCA	4075	303	4378	3819	274	4093	300	4375	9	17	200	4275
	Yuma	YUM	792	61	853	824	78	902	600	1392	8	16	450	1242
	El Centro	ELC	1120	91	1211	916	76	992	400	1520	7	14	200	1320
	San Diego	SDC	2484	201	2685	2305	165	2470	400	2884	6	10	500	2984
									5000					
Northern Border	Houlton	HLT	212	35	247	183	35	218			2	7	150	362
	Swanton	SWB	313	43	356	294	44	338			1	2	225	538
	Buffalo	BUN	288	42	330	283	41	324			3	11	100	388
	Detroit	DTM	417	50	467	411	48	459			4	12	125	542
	Grand Forks	GFN	201	35	236	181	34	215			6	15	75	276
	Havre	HVM	217	35	252	179	30	209			8	20	75	292
	Spokane	SPW	247	36	283	233	35	268			7	19	125	372
	Blaine	BLW	317	43	360	292	36	328			5	13	100	417
Central Border	Ramey, Puerto Rico	RMY	41	12	53	36	16	52			2	9	175	216
	Miami	MIP	99	23	122	106	24	130			1	3	225	324
	New Orleans	NLL	51	12	63	66	18	84			3	18	100	151
Special Ops Group			146	15	161	118	17	135					75	221
	National HQ		255	155	410	236	138	374					100	355
CP Offices			288											288
			57											57
Totals			21370	1959	22984	19449	1791	21240					5000	26370