

United States Senate
WASHINGTON, DC 20510

September 29, 2023

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write today to express our concerns regarding the U.S. Department of Homeland Security (DHS) and U.S. Customs and Border Protection's (CBP) continued reliance on soft-sided temporary processing facilities (SSFs) along the southwest border. Prior examinations by the U.S. Government Accountability Office (GAO) and DHS Office of the Inspector General (DHS IG) have highlighted areas of waste, fraud, and abuse within DHS and CBP's operation of SSFs. Pursuant to our Subcommittees' jurisdiction over Federal contracting, border management, and government operations, we request that you examine costs, contracting actions, funding for the Joint Processing Centers (JPCs) and strategic planning efforts related to DHS and CBP's deployment of SSFs, and eventual deployment of JPCs, along the southwest border.

As you are aware, in March 2020, GAO examined CBP's management of a SSF in the El Paso Border Patrol Sector and found that "CBP detained far fewer individuals than the facility's capacity while spending millions of dollars on food services not needed." Specifically, this examination found that this facility held an average of 1 percent of its total capacity per day while spending an additional \$5.3 million on excess food costs during the audit window.¹ More recently, in two published reports following unannounced inspections of SSFs, the DHS IG found that CBP faced issues managing its staffing levels and in complying with the *National Standards on Transport, Escort, Detention, and Search* (TEDS) at SSFs in the Rio Grande Valley Border Patrol Sector and at SSFs in the Yuma and Tucson Border Patrol Sectors.²

During its preparations for the termination of the Title 42 Order, DHS informed the public that it stood up 10 SSFs between January 2021 and December 2022 in order to increase CBP's processing capacity.³ DHS also indicated in that announcement that it planned to set up

¹ GAO-20-321R, *Border Security: U.S. Customs and Border Protection's Management of a Temporary Facility in Texas Raised Concerns about Resources Used*, U.S. GOV'T ACCOUNTABILITY OFF. (Mar. 11, 2020), <https://www.gao.gov/assets/gao-20-321r.pdf>.

² DHS OIG-23-28, *Results of Unannounced Inspections of CBP Holding Facilities in the Rio Grande Valley Areas*, HOMELAND SEC. OFF. OF INSPECTOR GEN. (May 24, 2023), <https://www.oig.dhs.gov/sites/default/files/assets/2023-06/OIG-23-29-Jun23.pdf>.

³ *Update on Southwest Border Security and Preparedness Ahead of Court Ordered Lifting of Title 42*, U.S. DEP'T OF HOMELAND SEC., https://www.dhs.gov/sites/default/files/2022-12/22_1213_plcy_update-sw-border-security-preparedness.pdf (last visited Aug. 16, 2023).

additional SSFs. DHS spent over \$664 million on SSFs in FY2022,⁴ and it spent over \$991 million on SSFs in FY2023.⁵ Given the concerns GAO and the DHS IG have previously raised around CBP's management of SSFs, we are concerned that CBP's management of and continued reliance on SSFs may function as a source of waste, fraud, and abuse of taxpayer resources. Additionally, we are concerned that SSFs repeatedly fail to meet CBP's own standards, jeopardizing the health and safety of asylum seekers and agents alike. Lastly, in light of the fact that Congress provided DHS \$180 million in Fiscal Year 2022 to build at least two permanent facilities, with at least one goal to phase out the use of SSFs, we are concerned that DHS is not adequately planning to onboard permanent facilities and phase out temporary facilities.

While DHS and CBP have reported some information on SSF management through its Southwest Border Expenditure Plans, most examinations of SSFs have focused on specific facilities rather than broader trends regarding DHS and CBP's management of SSFs and the relevant contracting actions. Accordingly, we request that GAO comprehensively examine the DHS and CBP's management of SSFs, including the costs, contracting actions, and strategic planning efforts associated with SSFs. More specifically, we ask that GAO assess the following:

1. How CBP determined its requirements for SSFs and JPCs, including capacity and locations, and how CBP plans to assess its future needs for SSFs in light of the recent funding for JPCs.
2. The total actual and projected fiscal year and monthly costs for operating each SSF, including wrap-around services and any additional costs which may not be included in CBP's definition of wrap-around services since the inception of the facilities.
3. The total projected fiscal year costs to operate a JPC, including all a detailed list of requirements across components.
4. The extent to which CBP relies on contracts for SSFs and other services to support its short-term apprehension needs on the southwest border, including a detailed articulation of projected reliance on vendors for the JPCs.
5. The acquisition strategy and contracting procedures CBP used for SSFs and JPCs.
6. The steps CBP has taken to provide oversight of contractors' performance on SSFs, and challenges, if any, overseeing contractor performance.
7. The processes and procedures CBP uses to ensure that goods and services delivered under contracts for SSFs are aligned with applicable terms and conditions.

⁴ *Fiscal Year 2022 Expenditure Plan: Southwest Border (SWB)*, U.S. DEP'T OF HOMELAND SEC. (Apr. 15, 2022), <https://www.dhs.gov/sites/default/files/2022-06/DMO%20-%20OCFO%20-%20Fiscal%20Year%202022%20Expenditure%20Plan%20-%20Southwest%20Border%20%28SWB%29.pdf>.

⁵ *Fiscal Year 2023 Expenditure Plan: Border Management*, U.S. DEP'T OF HOMELAND SEC. (Mar. 27, 2023), <https://www.dhs.gov/sites/default/files/2023-06/OCFO%20-%20Section%20546%20Border%20Management%20FY%202023%20Spend%20Plan%20%281%29.pdf>.

8. Whether CBP and/or DHS have engaged in strategic planning efforts related to their continued use of and reliance on SSFs, particularly in light of DHS's initial posture that SSFs were a temporary border management measure and in light of future JPCs.
9. Whether DHS is adequately planning to reduce reliance on SSFs as JPCs come online.
10. The extent to which DHS has engaged in strategic planning relating to the creation of the JPCs and any associated projections to reduce reliance on SSFs as JPCs are constructed.
11. Detailed summary of DHS consultation of components and non-DHS entities in developing the requirements for the JPCs.

Thank you for your attention to this matter. If you have any additional questions, please do not hesitate to contact our offices. We look forward to your prompt response.

Sincerely,



James Lankford
Ranking Member
Subcommittee on Government Operations
and Border Management
Committee on Homeland Security and
Governmental Affairs



Chris Murphy
Chair
Subcommittee on Homeland Security
Committee on Appropriations