



Department of Homeland Security Office of Inspector General

Use of American Recovery and Reinvestment Act Funds by U.S. Customs and Border Protection for Construction of Land Ports of Entry



American Recovery and Reinvestment Act of 2009

Office of Inspector General

U.S. Department of Homeland Security
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**Homeland
Security**

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Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities for programs, grants and projects administered by the department under the *American Recovery and Reinvestment Act of 2009* (Recovery Act).

This report presents information on Recovery Act funds used by U.S. Customs and Border Protection to modernize land ports of entry. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Anne L. Richards".

Anne L. Richards
Assistant Inspector General for Audits

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
GAO	Government Accountability Office
GSA	General Services Administration
LPOE	land port of entry
OFO	Office of Field Operations
OIG	Office of Inspector General
PMRS	Program Management and Reporting System
SRA	Strategic Resource Assessment

OIG

*Department of Homeland Security
Office of Inspector General*

Executive Summary

As part of our oversight responsibility under the *American Recovery and Reinvestment Act of 2009*, we initiated an audit to determine the efficacy of Customs and Border Protection's administration of the act's funds for land ports of entry. We subsequently received a letter from Senator Byron L. Dorgan expressing concerns about the cost of the ports being built on the northern border. As a result, we revised our objective to determine whether the agency's approach to altering and constructing land ports of entry on the northern border with these funds was reasonable.

The *American Recovery and Reinvestment Act* included \$420 million for management and construction of Customs and Border Protection-owned land ports of entry. The agency owns 43 land ports of entry, 39 on the northern border and 4 on the southern border. Agency-owned ports are on average more than 40 years old; have significant deficiencies; and are usually small, rural, and have low traffic volumes. The agency is using most of the funds to build 30 new northern border ports and 3 new southern border ports.

Customs and Border Protection developed reasonable plans for spending funds under the constraints of the act, including the use of three standard port designs ranging in size from approximately 4,300 to 10,000 square feet (including unfinished storage space). However, the agency included some features in the designs that are not supported by operational requirements and did not fully justify the basis for the size of the port design selected for certain locations. Further, the agency is building three new ports and repairing one port at locations that its field offices recommended be closed. Our report contains two recommendations that the agency reevaluate its design selections for five ports and modernization approach for five ports that it ranked high for potential closure and determine whether they should be repaired, rebuilt, or closed. The agency did not agree with the recommendations.

Background

A land port of entry (port) is a facility that provides controlled entry to and exit from the United States for people and materials. It consists of land, buildings, roadways, and parking lots. There are 163 ports: 122 on the northern U.S.-Canadian border and 41 on the southern U.S.-Mexican border.¹ The National Park Service owns 1 port, the General Services Administration (GSA) owns or leases 119, and U.S. Customs and Border Protection (CBP) owns 43. Of the 43 CBP-owned ports, 39 are on the northern border and 4 are on the southern border.

Most GSA-owned or leased ports are large, urban, and have high traffic volumes. Most CBP-owned ports are small, rural, and have low traffic volumes. For example, CBP-owned ports on the northern border processed only 0.92% of all land border traffic entering the United States in 2009. Figure 1 shows the CBP northern border port in Morgan, MT.

Figure 1. Port in Morgan, MT



(OIG photograph)

CBP's primary mission at the ports is to prevent terrorists and terrorist weapons from entering the country. CBP also enforces trade laws, immigration policy, and agricultural laws and regulations at the ports. Port officers process people, inspect vehicles and cargo, and detain those who break the law.

¹ This represents the number of ports as of February 17, 2009, the date that the *American Recovery and Reinvestment Act* was enacted. As of April 2011, there are 167 ports: 122 on the northern U.S.- Canadian border and 45 on the southern U.S.-Mexican border.

Recovery Act

In November 2008, in anticipation of the economic stimulus bill, the Department of Homeland Security provided to Congress two 5-year options for port modernization that identified ports in order of priority. The first option suggested \$1.36 billion in the first year and \$600 million in each of the next 4 years. The second option suggested \$600 million per year for 5 years. In each option, only GSA-owned ports were targeted for funding in the first year.

The *American Recovery and Reinvestment Act of 2009* (Recovery Act) was enacted on February 17, 2009. The Recovery Act appropriated \$300 million to GSA's Federal Buildings Fund "for border stations and land ports of entry" and \$420 million for "planning, management, design, alteration, and construction of U.S. Customs and Border Protection owned land ports of entry." Among the Recovery Act's stated purposes are the creation and preservation of jobs, promotion of economic development, and investment in infrastructure. Regarding infrastructure development, the Recovery Act said that federal agencies shall give preference to activities that "can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated no later than 120 days after the date of the enactment of this Act."

The Recovery Act also required that CBP obligate the funds by September 30, 2010, and that the Secretary of the Department of Homeland Security submit to the Committees on Appropriations for the Senate and House of Representatives a plan for the expenditure of the funds. Guidance from the Office of Management and Budget (M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*) required the submission of program-specific plans by May 15, 2009.

Spending Plans

The May 15, 2009, program-specific spending plan said that CBP would use \$374 million to construct new facilities at 23 existing CBP-owned ports and \$25 million to repair and alter a minimum of 10 additional ports. The plan also included \$21 million for a program management and reporting system (PMRS). On April 12, 2010, CBP submitted a revised plan that increased the number of reconstruction projects to 33 at a cost of \$388,849,880.

Funding for the 10 additional projects became available when CBP learned that the costs of the initial 23 port projects were lower than estimated. Table 1 lists the 33 reconstruction projects (30 on the northern border and 3 on the southern border) and costs for project management, repairs and alterations, and the PMRS included in the revised plan. Our review of the reconstruction projects was limited to the 30 projects on the northern border.

Table 1. Project Modernization Costs from April 2010 Revised Spend Plan		
No.	Location	Cost
<i>Northern Border</i>		
1	Hamlin, ME	\$14,111,025
2	Scobey, MT	6,595,988
3	Wild Horse, MT	7,973,883
4	Del Bonita, MT	9,890,514
5	Morgan, MT	7,544,151
6	Whitetail, MT	8,485,000
7	Walhalla, ND	6,598,167
8	Neche, ND	7,030,269
9	Noonan, ND	7,957,940
10	Antler, ND	6,643,442
11	Hansboro, ND	6,929,000
12	Carbury, ND	7,004,000
13	Westhope, ND	6,936,000
14	Sherwood, ND	6,770,000
15	Pittsburg, NH	7,419,000
16	Cannon Corners, NY	7,802,106
17	Churubusco, NY	6,881,786
18	Morses Line, VT	7,187,760
19	Pinnacle Road, VT	7,236,000
20	Boundary, WA	13,974,012
21	Frontier, WA	10,460,755
22	Easton, ME	8,378,461
23	Bridgewater, ME	10,087,024
24	Forest City, ME	8,000,000
25	Pine Creek MN	8,254,590
26	Whitlash, MT	7,674,628
27	Maida, ND	6,974,301
28	Sarles, ND	7,279,618
29	Hannah, ND	7,855,252
30	Nighthawk, WA	7,889,520
<i>Southern Border</i>		
31	Antelope Wells, NM	9,654,947
32	Los Ebanos, TX	9,974,632
33	Amistad Dam, TX	8,933,464
	Subtotal	<u>272,387,235</u>

	<i>Project Management*</i>	116,462,645
	Subtotal	388,849,880
	<i>Repairs and Alterations</i>	10,150,120
	<i>PMRS</i>	21,000,000
	Total	420,000,000

* Includes costs for contingencies, program support, land acquisition, environmental remediation, moving services, and voice and data services.

Port Conditions

CBP-owned ports are on average more than 40 years old and were built with configurations and layouts to support pre-9/11 operations. The average size of the 30 northern border ports that are being replaced is approximately 2,700 square feet (gross square feet of main building, secondary inspection area, and garage areas). To assess the capacity, functionality, and condition of ports, CBP conducted Strategic Resource Assessments (SRAs) of all ports in 2004–2006. The SRAs compare facility modernization needs in four categories: mission and operations, security and life safety, space and site deficiency, and personnel and workload growth.

The SRAs identified deficiencies such as inadequate traffic control infrastructure, perimeter fencing, lighting, fire and life safety systems, and emergency power; no inspection booths or holding cells; limited or no inspection technologies; and inadequate separation between staff, the public, and violators. CBP’s *Land Ports of Entry Modernization: Promoting Security, Travel and Trade*, dated October 2008, stated that the SRAs identified a need for \$6 billion to modernize its ports. For the 30 CBP-owned northern border ports that are being reconstructed with Recovery Act funds, the SRAs recommended that 18 be rebuilt, 8 be repaired or altered, 2 undergo a feasibility study to help decide whether they should be rebuilt or renovated, and 2 be closed.

Port Activities

Northern border ports have significant variances in their levels of activity. For example, the 30 CBP-owned ports being rebuilt with Recovery Act funds processed only about 2% of all land border traffic entering the northern border of the United States in 2009. Table 2 compares selected activities at these 30 CBP-owned ports and all 122 northern border ports.

Table 2. Selected Activities at the 30 CBP-Owned Ports Being Upgraded With Recovery Act Funds (RA Ports) Compared With All 122 Northern Ports (North Ports)

Activity	RA Ports	North Ports
Average Vehicle Traffic Per Day (1/1/08–6/30/10)	61	735
Identifications of Individuals on the Terrorist Watch List (1/1/08–6/30/10)	4	1,263
Arrests (1/1/08–6/30/10)	95	11,042
Pounds of Marijuana, Cocaine, Ecstasy, Heroin, and Methamphetamines Seized (1/1/09–6/30/10)	0.3	11,200

Prior Reviews

The following prior reviews are relevant to CBP’s use of Recovery Act funds for port facility improvements:

- Our *Review of the U.S. Customs and Border Protection Expenditure Plans for the American Recovery and Reinvestment Act of 2009* (Report No. OIG-10-05), issued October 22, 2009. The report concluded that “CBP’s expenditure plan for the construction of CBP-owned land ports of entry is generally practical, thorough, and comprehensive.” The review also determined that CBP followed its own criteria for prioritizing projects but did not evaluate the original process CBP used to establish its criteria or any underlying assumptions. The report did not present any recommendations on the construction of the ports.
- The department’s *30-Day Review of Spending by the U.S. Customs and Border Protection under the American Recovery and Reinvestment Act for Construction of Land Ports of Entry*, issued October 23, 2009. The review determined that “CBP’s overall plan to use Recovery Act funds for construction of its own ports was based on a set of practical, thoughtful, and thorough criteria that allows CBP to meet the goals of the Recovery Act while simultaneously addressing CBP’s pressing recapitalization needs.”

The report presented four recommendations:

1. CBP should be allowed to proceed with its current plans for construction for port facilities.
2. CBP should continue to invest in additional port of entry facilities as it experiences lower-than-expected costs owing to current market forces for labor and materials.

-
3. The department should develop guidelines and practices regarding value engineering.²
 4. The department should conduct periodic studies to determine whether any ports should be closed.

Since the report's issuance, CBP has proceeded with its plans for port construction and renovation. Although the department has not studied ports to determine whether any should be closed, CBP's Planning, Program Analysis, and Evaluation Office completed a ranking of the top 50 (out of 163) ports for potential closure. The catalyst for the ranking was a recommendation from the CBP's Seattle Field Office that three ports be closed instead of modernized with Recovery Act funds.

Results of Review

CBP developed reasonable plans for spending Recovery Act funds under the constraints of the Recovery Act. The plans provided for completing actions necessary to meet the environmental, historic, and cultural preservation requirements; land acquisitions; project designs; internal fund obligations and contract awards; and construction at multiple locations throughout the United States. However, features in standard port designs contributed to CBP building ports that are larger than necessary to meet operational requirements, and CBP did not fully support the basis for its decision regarding the port size required at different locations. CBP is also building three new ports and repairing one port at locations that its field offices recommended be closed instead of improved with Recovery Act funds.

Port Size

CBP is using standard designs for building the new Recovery Act-funded ports. Designs are for three different-sized ports: Small, Micro A, and Micro B. However, operational requirements do not support certain components of the designs, principally outbound inspection facilities and fitness rooms. We estimated that including the outbound inspection features in the seven small ports being built on the northern border could increase costs by \$6.4 million.

² GSA's *Value Engineering Program Guide for Design and Construction* defines value engineering as "an organized effort directed at analyzing the functions of systems, equipment, facilities, services and supplies for the purpose of achieving the essential functions at the lowest life cycle cost consistent with the required performance, reliability, quality and safety."

Port Designs

The prototype for the initial small port is based on the *U.S. Land Port of Entry Design Guide Supplement* developed by GSA Public Buildings Service Design Programs Center and Border Station Center in 2006. The small port prototype includes the following basic components:

- Inspection booths for primary screening of travelers and vehicles
- Lane systems to protect officers and booths and to allow officers to scan incoming traffic with modern inspection technologies
- Canopy systems to provide shelter and protect electrical wiring
- Interior processing centers for screening individuals
- Secure holding areas for detainees
- Buildings for detailed vehicle inspections, and buildings to provide weather protection and security for nonintrusive inspections

This design was first used when GSA built seven new small ports in 2003 and 2004. CBP and GSA revised the small port prototype after a series of design process meetings in early 2009. These meetings also resulted in two reduced-sized small port designs: the Micro Port and Micro-Micro Port, which CBP renamed Micro A and Micro B port designs, respectively, in 2010. Table 3 compares the square footage of each design.³

Description	Square Feet per Design		
	Small	Micro A	Micro B
First Floor	3,750	3,540	2,650
Canopy*	2,175	865	865
Garage	780	780	780
Second Floor**	3,450	3,540	0
Total Footprint	10,155	8,725	4,295
Utility Yard	1,215	780	645

* The areas covered by the canopies are the components of the ports that cover inbound and outbound vehicle lanes in small ports and inbound lanes in Micro A and B ports. These components are like drive-through garages that are heated and have roll-down doors at the entrance and exit.
 **The Small and Micro A ports' second floor includes 1,750 and 2,090 square feet, respectively, of unusable storage space.

³ The information on port design is from *CBP Field Operations Facilities Program Office Issue Paper – Land Port of Entry Prototype Size Descriptions (Small, Micro-A and Micro-B)*.

Small Ports

Small port features include a public area; officer work area; enforcement area including two cells with toilets and sinks, alien waiting area, interview room, search area, and secure storage; local area network and mechanical rooms; staff services area including restroom, fitness room with shower, and break room with pantry; garage; optional relief officer quarters; and inbound and outbound inspection areas. Figure 2 shows a small port under construction at Wild Horse, MT.

Figure 2. Small Port in Wild Horse, MT



(CBP Photograph)

Micro A ports

Micro A ports have the same overall footprint as the small ports, with similar interior features but different layouts and with one major difference: Micro A ports do not have an outbound inspection booth and canopy area. Figure 3 shows a Micro A port under construction in Scobey, MT.

Figure 3. Micro A Port in Scobey, MT



(CBP Photograph)

Micro B ports

Micro B ports are smaller, single-story structures with downsized rooms. The main differences in components from the Micro A port is that the enforcement area consists of only an interview room and two holding rooms, with one doubling as a search area. Also, it does not have officer relief quarters. According to CBP, this port type occupies minimal space, reducing the effect on the surrounding community while still meeting the mission requirements of CBP. Figure 4 shows an artist's rendering of a Micro B port

Figure 4. Artist's Rendering of a Micro B Port



According to CBP, it is building 7 Small, 16 Micro A, and 7 Micro B ports on the northern border.

Outbound Inspections

The outbound inspection area is unique to the Small port design. The inclusion of the outbound inspection booth and canopy area requires that inbound and outbound traffic be separated and that traffic be routed to inspection areas at opposite sides of the port. To separate inbound and outbound traffic, the Small port design requires additional lanes and road construction. Other outbound inspection features consist of a separate 970-square-foot canopy and a 120-square-foot inspection booth. Documentation provided by CBP regarding outbound inspections, including the CBP Draft *Operational Requirements Document for Land Ports of Entry, vol. 1*, did not specify a requirement for establishing an outbound inspection facility/booth at northern ports.

CBP also gave us the *U.S. Customs and Border Protection, Office of Field Operations Cargo and Conveyance Security Outbound*

Enforcement Division, Strategic Plan FY 2010–2014. In March 2009, CBP’s Office of Field Operations reestablished the Outbound Enforcement Division after a dramatic increase in narcotics-related violence in Mexico. According to the plan, the Outbound Enforcement Division was reestablished not only to increase outbound enforcement activities along the southwest border, but also to address dual-use commodity, currency, and counter-proliferation violations in all environments, across all modes of travel.

CBP did not provide information to indicate that the Outbound Enforcement Division had identified a need for outbound operation facilities at the northern border. The division’s focus is on the southern border, based on its immediate goal to “obstruct the illegal flow of firearms and currency being smuggled from the United States to the Mexican Drug Trafficking Organizations....” Furthermore, its goals for fiscal years 2010 through 2014 provide for increasing staff and enforcement activity along the southwest border by 5% each year. The goals do not refer to the northern border.

Finally, the fact that CBP is building 22 of the 30 new ports without outbound inspection booths and canopies (i.e., Micro A and Micro B ports) indicates that outbound features are not a required port component on the northern border.

Estimated costs of outbound features

CBP estimated that it cost \$528,819 for the outbound inspection feature at Wild Horse, MT: \$485,319 for the outbound canopy and booth and \$43,500 for the outbound road construction. We believe that CBP’s estimate is low. We reviewed the independent government estimate for the Micro A port at Wild Horse and contrasted it with the cost estimate for the Micro A port at Maida, ND. On the basis of this analysis, we estimated increased costs of \$912,621 at Wild Horse for the outbound canopy, booth, and road construction. For the seven Small ports being built, therefore, the increased costs for outbound features could be \$6.4 million. Given that on average, a Small port costs approximately \$3.70 million more than a Micro A port, the increased costs for the outbound features may be even higher. (See Appendixes C and D for calculations of average port costs.)

Fitness Rooms

All three port designs contain fitness rooms with shower facilities. The size of the fitness rooms ranges from approximately 150 to 224 square feet. There is no operational requirement for fitness rooms, nor is there a CBP fitness requirement for incumbent CBP officers. However, CBP officials told us that a fitness requirement is forthcoming.

Enforcement Areas

All three port designs provide areas for enforcement. The designs for the 23 Small and Micro A ports include enforcement space for two holding rooms with toilets and sinks, an alien waiting area, an interview room, a search room, and storage areas. According to the *CBP Security Policy and Procedures Handbook, HB400-02B*, dated August 13, 2009, these features are required for new and renovated buildings. However, CBP is installing seven Micro B ports that have smaller enforcement areas than required by its handbook. The enforcement area for the Micro B port contains an interview room and two holding rooms, with one holding room also serving as a search area. CBP officials said that they will seek a waiver of the security requirements for the Micro B port design.

The 30 CBP-owned ports being rebuilt average one to two arrests per year. The low level of arrests at northern border ports appears to justify the smaller enforcement area in the Micro B port design, as well as in the designs for the Small and Micro A ports.

In summary, we believe that Small and Micro A ports have features that are desirable, but may not be required or necessary for port operations. The department's *30-Day Review* came to a similar conclusion. The *30-Day Review* noted that the Small and Micro A port designs include first and second floors; three restrooms (one for the public and two for officers, including a second floor restroom); two storage facilities; a separate physical-fitness room for the officers; and some square footage to be unused growth space. The *30-Day Report* also said that while these features do not appear "lavish or clearly excessive," it is possible "that more refined analysis could show some of these elements to be above the absolute minimum requirements for CBP to accomplish its mission."

Port Design Selection

There was inadequate support for CBP’s determination of whether to install Small, Micro A, or Micro B port designs at the 30 northern border locations. According to the *U.S. Customs and Border Protection Design Standard for U.S. Land Ports of Entry*, March 2010, the impact of traffic type (commercial and privately owned vehicles) and volume is critical because “it influences the size and programmatic requirements of a Port.”

CBP provided data in September 2010 that included the fiscal year 2005 annual inbound traffic flows per port, which CBP officials said was the primary factor in selecting the port designs for each site. The traffic patterns indicate that, generally, Micro B ports were installed at locations with fewer than 25 vehicles per day, Micro A ports at locations with between 25 and 50 vehicles per day, and Small ports at locations with 100 or more vehicles per day. Table 4 shows the port locations, average daily inbound traffic in 2005 and 2009, and type of port design.

Location	Average Daily Inbound Traffic		Port Design
	2005	2009	
Whitlash, MT	3	2	Micro B
Whitetail, MT	4	3	Micro A
Forest City, ME	8	7	Micro B
Easton, ME	n/a	8	Micro B
Hannah, ND	13	5	Micro B
Nighthawk, WA	15	28	Micro B
Morgan, MT	16	19	Micro A
Scobey, MT	17	13	Micro A
Pinecreek, MN	18	15	Micro B
Sarles, ND	23	15	Micro B
Carbury, ND	27	33	Micro A
Pinnacle Rd., VT	31	22	Micro A
Pittsburg, NH	31	16	Micro A
Hansboro, ND	32	26	Micro A
Cannon Cnrs., NY	35	31	Micro A
Antler, ND	36	31	Micro A
Churubusco, NY	37	34	Micro A
Westhope, ND	37	48	Micro A
Del Bonita, MT	38	50	Micro A
Wild Horse, MT	39	48	Small
Sherwood, ND	43	69	Micro A
Morses Line, VT	44	40	Micro A
Maida, ND	47	32	Micro A

Noonan, ND	106	104	Small
Frontier, WA	157	155	Small
Walhalla, ND	160	133	Small
Neché, ND	165	158	Small
Boundary, WA	186	179	Small
Bridgewater, ME	209	165	Micro A
Hamlin, ME	451	231	Small
n/a = not available			

However, CBP did not provide information to justify why those different traffic thresholds merited the different-sized ports or why the Micro B port could not be used for most of the locations. At our exit conference, CBP officials said that staffing and commercial activities also influenced the selection of port designs. The variances in staffing levels among these ports, with minor exceptions, are not significant. Regarding commercial activities, CBP advised that only four northern border ports have commercial design features (Bridgewater, ME; Easton, ME; Pittsburg, NH; and Frontier, WA).

Conclusion

CBP’s main strategy for modernizing ports on the northern border calls for rebuilding 30 of them. The designs for the 30 ports currently consist of 7 Small, 16 Micro A, and 7 Micro B ports. The Small and Micro A designs include features that are not supported by operational requirements. In addition, it appears that the Micro B design has the features necessary to meet most operational requirements on the northern border at most if not all locations. As of March 3, 2011, CBP’s planned construction start dates for two Small ports—Boundary, WA and Hamlin, ME—are February and March 2011, respectively. Planned construction start dates for three Micro A ports—Del Bonita, MT; Cannon Corners, NY; and Bridgewater, ME—are February, March, and May 2011, respectively. Consequently, CBP should reevaluate its design decisions on these ports and determine whether the designs can be reduced in size.

Recommendation

Recommendation #1: Reevaluate the designs selected for the ports at Boundary, WA; Bridgewater, ME; Cannon Corners, NY; Del Bonita, MT; and Hamlin, ME, and determine whether the designs for these ports should be downsized.

Management Comments and OIG Analysis

CBP nonconcurred: CBP did not reevaluate the designs for the five ports. CBP said that the designs reflect its “operational needs while minimizing building size,” that the *30-Day Report* termed the design “appropriate to the staffing and other needs of these LPOE [land port of entry],” and that it “used the lessons learned to develop a smaller design for the lowest-volume ports.” CBP also stated, “these specific construction projects were already under way when the OIG team visited the sites.”

OIG analysis: Our recommendation covered five ports using one Small and four Micro A designs. For Small ports, CBP does not have an operational requirement for the design to have outbound inspection facilities, and it has no operational requirement for any ports to have fitness rooms. The *30-Day Report* was issued a year and a half ago and did not include the Micro B design in its analysis. The report did point out, however, that the Small and Micro A port designs, “while reasonable,” have features such as three restrooms, two firearm storage facilities, and some unused space for future growth, that could be above absolute minimum requirements.” Applying lessons learned to develop two port designs that are progressively smaller (Micro A and Micro B) than the Small port prototype design is commendable. In that regard, information provided by CBP shows that it has used the smaller Micro B port design for ports with staffing and traffic patterns similar to the five ports covered by this recommendation, which used larger designs.

CBP’s comment that construction was under way when OIG visited these five projects is not accurate. We visited only one (Del Bonita, MT) of the five projects. Additionally, we went to see Del Bonita in August 2010, whereas the forecasted start date for construction at Del Bonita was February 2011.

We limited our recommendation to only five ports because when we briefed CBP officials on our findings and recommendations at a November 24, 2010, exit conference, CBP-provided schedules indicating that construction of the ports had not started at these five locations. The planned start dates were between February and May 2011. The point of our recommendation was for CBP to see if it could reduce costs by using one of its smaller standard designs or by eliminating certain features from the designs without compromising its operational requirements. CBP chose not to do so.

We understand that this recommendation may have been overtaken by events. However, we have classified this recommendation as unresolved because there still appears to be an opportunity for CBP to analyze project

designs, schedules, and activities and determine whether port designs may be changed to reduce costs.

Port Closures

CBP plans to build new ports at three locations and to repair a port that its field offices⁴ recommended for closure owing to low traffic volume. Recovery Act work has also been affected by Canada's announcement that it plans to close three ports across the border from three U.S. ports and by CBP's decision to initiate closure proceedings at Morses Line, VT.

Seattle Field Office Recommendation

In November 2009, the Seattle Field Office recommended that the ports at Hannah, ND; Whitlash, MT; Pinecreek, MN; and Ambrose, ND (a GSA-owned port that did not receive Recovery Act funds) should be studied for closure; stating in part that the ports have experienced—

a dramatic decrease in the volume of traffic over the past five years. The reduction in the hours of operation at each POE [port of entry] has been successful in an overall cost savings to the agency. Hannah, Pinecreek and Whitlash have been identified as candidates for new facilities under the ARRA [*American Recovery and Reinvestment Act*], at an estimated cost of \$10 to \$12 million per site. While the construction of three new multimillion-dollar facilities is in the spirit of economic stimulation, it is not in the best interest of CBP. Given the continuing decline in traffic volumes at these locations, a \$30–36 million investment is hereby contended as being fiscally irresponsible. A recommendation to review these four ports for closure is argued to be both reasonable, and supported by the President and Secretary Napolitano's call for resource efficiency.

The Seattle Field Office submitted its recommendation to the Planning, Program Analysis and Evaluation Office of CBP's Office of Field Operations (OFO). The Planning, Program Analysis and Evaluation Office agreed with the recommendation and forwarded it to the Deputy Assistant Commissioner for the

⁴ CBP has three field offices whose responsibilities include CBP-owned northern border ports: Seattle, Boston, and Buffalo. Field offices issue guidance to their regional ports and ensure the dissemination and implementation of core CBP guidelines. These offices also provide for mission support functions within their regions, such as resource management, equal employment opportunity, labor, employee relations, and other human resources management functions.

OFO. The Executive Director of the Planning, Program Analysis and Evaluation Office told us the then Deputy Assistant Commissioner requested a more systematic evaluation of all ports before making a determination on port closures. CBP provided no further information on the disposition of the recommendation.

Table 5 presents estimated new port costs, average vehicles per day, and miles to closest port for Hannah, Pinecreek, and Whitlash.

Table 5. Hannah, Whitlash, and Pinecreek Data			
Port	Estimated Costs*	Average Vehicles Per Day, 2009	Miles to Closest Port
Hannah, ND	\$7,411,170	5	16
Pinecreek, MN	7,346,532	15	12
Whitlash, MT	7,772,343	2	55
	<u>\$22,530,045</u>		
*See Appendix D.			

Boston Field Office Recommendation

In June 2009, the Boston Field Office recommended that the port at Monticello, ME, be closed, stating that a workload analysis indicated that maintaining operations in Monticello “no longer makes fiscal or operational sense.” The report said that the port averages 5.13 vehicles per day. Closure of operations at Monticello would allow traffic to be diverted 9 miles to the port of Bridgewater or 13 miles to the port of Houlton. The population of Monticello is approximately 765.

The Boston Field Office submitted its recommendation to the Planning, Program Analysis and Evaluation Office, which agreed with the recommendation and forwarded it to the Deputy Assistant Commissioner for the OFO. CBP provided no further information on the disposition of the Boston Field Office recommendation. In its April 2010 revised spending plan, CBP estimated costs for Monticello port repairs and alterations at \$1.75 million. Subsequently, CBP advised that it identified Monticello for closure and will perform only emergent repairs at a cost of about \$200,000.

Canadian Closures

On July 20, 2010, the Canada Border Services Agency announced its decision to close three Canadian ports directly across the border

from three U.S. ports: Big Beaver, Saskatchewan–Whitetail, MT; Franklin Centre, Quebec–Churubusco, NY; and Jamieson’s Line, Quebec–Jamieson Line, NY. Whitetail and Churubusco are CBP-owned ports that are being modernized with Recovery Act funds.

Because of Canada’s actions, CBP has suspended construction on both projects and has started its formal evaluation process for the closure of Whitetail. CBP has not announced a determination on the status of Churubusco. Table 6 shows new port costs, average vehicles per day, and miles to closest port for Whitetail and Churubusco.

Table 6. Whitetail and Churubusco Data

Ports	Estimated Costs*	Average Vehicles Per Day, 2009	Miles to Closest Port
Whitetail, MT	\$10,436,953	3	40
Churubusco, NY	8,744,412	34	16
	<u>\$19,181,365</u>		

*See Appendix D.

Morses Line, VT, Port Closure

On May 23, 2010, Senator Patrick Leahy requested that Secretary Napolitano close the port at Morses Line, VT, because it is “not a critical link in the chain of our nation’s security or commerce” and because it “threatens a multi-generational operational dairy farm” In a June 24, 2010, response to the senator, Secretary Napolitano said that the department decided to begin the process of closing Morses Line based on “internal analyses and significant consultation with the local community and congressional delegation.” CBP had obligated \$4,919,000 for a new port at Morses Line and reported expenditures of \$171,149 when it terminated the construction contract.

CBP Port Closure Rankings

OFO’s Planning, Program Analysis and Evaluation Office performed an evaluation to identify ports for potential closure. The evaluation considered volume of commercial and private vehicles, consumption entries,⁵ operating hours, distance to nearest

⁵ CBP defines consumption entry as a type of entry used when goods are imported for use in the United States and are going directly into commerce of the United States without any time or use restrictions placed on them.

port, change in emergency medical services location, and size of the community.⁶ The evaluation also weighted those factors, giving the most weight (.50) to traffic volume. The evaluation developed a comparative ranking of the 50 highest rated ports for closure. Table 7 shows the 8 ports that ranked in the top 15 for closure and are receiving Recovery Act funds.

Table 7. Eight Ports Ranked in the Top 15 for Closure, Average Daily Traffic, Type of Recovery Act Project, and Estimated Project Costs

Port	Closure Ranking	Avg. Daily Traffic (2009)	Project Type	Estimated Project Cost *
Monticello, ME	1	4	Repairs	\$200,000
Easton, ME	2	8	Micro-B	7,949,511
Hannah, ND	4	5	Micro-B	7,411,170
Whitlash, MT	5	2	Micro-B	7,772,343
Whitetail, MT	6	3	Micro-A	10,436,953
Pine Creek, MN	7	15	Micro-B	7,346,532
Forest City, ME	12	7	Micro-B	7,860,924
Nighthawk, WA	15	28	Micro-B	9,825,186
Total				\$58,802,619

*The repair costs at Monticello were identified by CBP. See Appendix D for remaining estimates.

The initial May 2009 spending plan targeted 16 northern border ports for repairs and alterations, including the ports listed in Table 7, at costs ranging from \$1,005,000 to \$1,755,000 each. Repairs and alterations included installing camera systems, fencing, lighting, and emergency power; replacing water and sewer systems; fixing roads; expanding or adding inspection booths and canopies; and upgrading interior building features. For the seven ports, total repair and alteration costs were estimated at \$10,615,000. CBP plans to build new ports instead of completing repairs and alterations at Easton, Hannah, Forest City, Nighthawk, Pinecreek, and Whitlash because the funds became available. Building additional new ports as opposed to fixing older ports gives CBP more state-of-the-art facilities and provides greater economic stimulus. However, locations where ports could have

⁶ These factors are similar to those delineated in Secretary Napolitano’s March 10, 2010, response to questions from Senator Leahy concerning Morses Line. In answering the question “What criteria should DHS consider when assessing whether to close a port?” the Secretary wrote, “factors would include the current volume of traffic (both commercial and private), whether the traffic has been growing or decreasing, the hours of operation, the distance to an alternative crossing point, the impact on community access to emergency services, and the assessment of the condition of the port facility and its ability to fully support the current mission.”

been upgraded for about \$10,615,000 will now receive new ports for an estimated cost of \$48,165,666.⁷

Conclusion

CBP is currently modernizing ports at locations it has identified as having a high potential for closure. Specifically, 6 ports that are ranked in the top 15 for closure in CBP's internal assessment, including 3 that field offices also recommended for closure, are receiving Recovery Act funds. CBP has initiated closure proceedings at one port (Whitetail, MT) because of Canada's decision to close its port on the opposite side of the border. CBP has also identified Monticello, ME, for closure. The remaining six ports (Easton, ME; Forest City, ME; Hannah, ND; Pinecreek, MN; Nighthawk, WA; and Whitlash, MT) were targeted in CBP's initial spending plan for repairs and alterations, demonstrating that upgrading ports is a viable alternative to building new ones. CBP has reported construction start dates of March 2011 for Pinecreek, MN; April 2011 for Hannah, ND; Nighthawk, WA; and Whitlash, MT; and May 2011 for Easton, ME and Forest City, ME. Given these conditions, CBP should reevaluate its strategy and determine whether these ports should be repaired and altered, rebuilt, or closed.

Recommendation

Recommendation #2: Reevaluate the modernization approach for the ports at Easton, ME; Forest City, ME; Hannah, ND; Pinecreek, MN; Nighthawk, WA; and Whitlash, MT, and determine whether these ports should be repaired, rebuilt, or closed.

Management Comments and OIG Analysis

CBP nonconcurred: CBP said that its "decision to rebuild five LPOEs complies fully with the intent of the American Recovery and Reinvestment Act-upgrade CBP-owned facilities to meet the requirements of the post-9/11 security environment and to put Americans back to work." CBP also stated its "repairs and alterations will not enable the six sites to comply with operational requirements, and CBP has not received guidance to close small ports." In addition, CBP said that "construction provides the only viable option for providing CBP personnel the facilities necessary to perform their mission safely and efficiently." CBP added that the *30-Day Report* "found no evidence that CBP's modernization list or

⁷ According to CBP, repair and alteration would not have fully satisfied operational needs.

its ‘backup’ list of LPOEs were based upon extraneous criteria or an inappropriate decision-making methodology.” Last, the response said that our recommendation “does not apply to Monticello because CBP has identified it for closure and will only make repairs necessary to ensure safe operations.”

OIG Analysis: The main issue here is not whether these ports need upgrading, whether the replacement ports exceed operational requirements, or whether the projects stimulate the economy. The issue is whether CBP should invest millions of dollars building new ports where they may not be needed.

CBP stated, “construction provides the only viable option for providing CBP personnel the facilities necessary to perform their mission safely and efficiently.” We understand that CBP determined that repairs and alterations were an inferior alternative after it determined there was enough money to replace facilities. We are not convinced, however, that that position is the most cost-efficient alternative, given that CBP officials have also rated these ports high for potential closure. The *30-Day Report* recognized that closing ports could save construction costs but cautioned “considerations involved in closing a port are considerably more complicated than the straight dollar savings associated with forgone construction.” However, the report also said that “where port facilities are less than, for example, 20 miles apart, those adverse impacts may not outweigh the continuing cost to the taxpayers of maintaining a particular port facility;” and recommended that the department conduct studies to determine whether any ports should be closed.

CBP had evaluated and ranked ports for potential closure and, while guidance may be lacking, CBP has starting closing ports. Specifically, CBP began the process of closing Moses Line based on “internal analyses and significant consultation with the local community and congressional delegation”; identified Monticello for closure; and started closure proceedings at Whitetail and suspended construction at Churubusco because Canada is closing its ports on the opposite side of the border. CBP has demonstrated, therefore, that lack of guidance has not prevented it from taking action to close ports.

As with our first recommendation, we limited this recommendation to ports where it appeared there was still an opportunity to make changes. Since CBP professionals identified ports that could be closed and recommended closing certain ports in lieu of rebuilding them with Recovery Act funds, we believe that further review of whether and how these ports should be upgraded is merited. Consequently, we have

classified this recommendation as unresolved and request that CBP reconsider an evaluation of these ports.

We modified this recommendation to eliminate the port at Monticello, ME, based on clarification from CBP that it had identified Monticello for closure.

Appendix A

Purpose, Scope, and Methodology

We audited U.S. Customs and Border Protection's use of Recovery Act funds to support the modernization of land ports of entry program. The objective of the audit was to determine whether the CBP approach to altering and constructing the land ports of entry on the northern border with Recovery Act funds was reasonable.

To meet our objective, we examined applicable laws, policies, procedures, and CBP internal directives and data used for the land ports of entry modernization program. We interviewed CBP officials responsible for prioritizing the ports to be modernized, for estimating construction costs, and for operating the ports. We also interviewed officials responsible for the development of the GSA 2006 Land Ports of Entry Design Standard and contractor personnel assisting CBP with the modernization program. We evaluated CBP criteria and specific operating requirements to support the designs used at all ports. We reviewed existing and proposed technology capabilities used at all CBP-owned northern ports. We visited and interviewed key officials at the CBP Seattle OFO. Further, in August 2010 we visited 17 ports in Montana, North Dakota, and Washington under the jurisdiction of the Seattle OFO. We inspected the sites and interviewed 27 OFO officers between July and December 2010.

We conducted this performance audit pursuant to the *Inspector General Act of 1978*, as amended, and according to 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 upon our audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based upon our audit objectives.

Appendix B
Management Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



**U.S. Customs and
Border Protection**

April 4, 2011

MEMORANDUM FOR: CHARLES K. EDWARDS
ACTING INSPECTOR GENERAL
DEPARTMENT OF HOMELAND SECURITY

FROM: *for* Assistant Commissioner *Shif*
Office of Internal Affairs
U.S. Customs and Border Protection

SUBJECT: Response to the Office of Inspector General Draft Report
Entitled, "Use of American Recovery and Reinvestment Act
Funds by U.S. Customs and Border Protection for Construction
of Land Ports of Entry"

Thank you for the opportunity to review and comment on the draft report entitled, "Use of American Recovery and Reinvestment Act Funds by U.S. Customs and Border Protection for Construction of Land Ports of Entry." The OIG conducted its review to determine the efficacy of U.S. Customs and Border Protection's (CBP's) administration of the Recovery Act's funds for land ports of entry (LPOEs). Additionally, the OIG received a letter from Senator Byron L. Dorgan expressing concerns about the cost of the ports being built on the northern border. As a result, the OIG revised its objective to determine whether the agency's approach to altering and constructing land ports of entry on the northern border with these funds was reasonable.

U.S. Customs and Border Protection reviewed the OIG's draft report and CBP has no general comments. CBP has included technical and sensitivity comments for the OIG's consideration as an attachment to this memorandum.

The draft report contains two recommendations. CBP has reviewed the recommendations and does not concur with the recommendations made by the OIG. CBP's responses to the recommendations are outlined below:

Recommendation 1: Reevaluate the designs selected for the ports at Boundary, WA; Bridgewater, ME; Cannons Corner, NY; Del Bonita, MT; and Hamlin, ME, and determine whether the designs for these ports should be downsized.

CBP Response: CBP non-concurs with the recommendation to reevaluate the designs selected for the five ports. The designs reflect CBP's operational needs while minimizing building size. A review team consisting of senior officials from the Department of Homeland Security, the Transportation Security Administration, the Department of State, and the Executive Office

Appendix B

Management Comments to the Draft Report

2

of the President examined the design and termed it “appropriate to the staffing and other needs of these LPOE” and “a reasonable and prudent approach to allocating construction resources promptly.” Moreover, CBP offices continued to review the design once the first units began construction and used the lessons learned to develop a smaller design for the lowest-volume ports. Additionally, it should also be noted that these specific construction projects were already underway when the OIG team visited the sites.

Recommendation 2: Reevaluate the modernization approach for the ports at Easton, ME; Forest City, ME; Hannah, ND; Monticello, ME; Pinecreek, MN; Nighthawk, WA; and Whitlash, MT; and determine whether these ports should be repaired, rebuilt, or closed.

CBP Response: CBP non-concurs with the recommendation to reevaluate the decision to rebuild the facilities at Easton, Forest City, Hannah, Pinecreek, Nighthawk and Whitlash. The decision to rebuild six LPOEs complies fully with the intent of the American Recovery and Reinvestment Act-upgrade CBP-owned facilities to meet the requirements of the post-9/11 security environment and to put Americans back to work. Moreover, repairs and alterations will not enable the six sites to comply with operational requirements, and CBP has not received guidance to close small ports. Construction provides the only viable option for providing CBP personnel the facilities necessary to perform their mission safely and efficiently. A review team consisting of senior officials from the Department of Homeland Security, the Transportation Security Administration, the Department of State, and the Executive Office of the President confirmed this decision, stating it “found no evidence that CBP’s modernization list or its “backup” list of LPOEs were based upon extraneous criteria or an inappropriate decision-making methodology.” The recommendation does not apply to Monticello because CBP has identified it for closure and will make only those repairs necessary to ensure safe operations.

If you have any questions, please have a member of your staff contact Patty Quintana, Audit Liaison, Office of Internal Affairs at (202) 344-1038.

Attachment

Appendix C
Average Costs of Small, Micro A, and Micro B Ports

Using our calculation of the average cost of ports, based on Customs and Border Protection's April 11, 2011, weekly report of project obligations, outlays, and related activities (Appendix D), we computed the average cost of ports and the difference in the average cost of a Small and Micro A port as follows:

PORT		AVERAGE COST
S M A L L	Hamlin, ME	\$11,361,746
	Wild Horse, MT	11,525,888
	Walhalla, ND	9,201,281
	Neche, ND	9,905,420
	Noonan, ND	11,567,906
	Boundary, WA	14,873,158
	Frontier, WA	18,787,587
	Total	87,222,986
	Average Cost	12,460,427
M I C R O A	Scobey, MT	\$10,056,780
	Del Bonita, MT	7,420,932
	Bridgewater, ME	8,828,394
	Morgan, MT	10,985,729
	Whitetail, MT	10,436,953
	Antler, ND	9,637,089
	Hansboro, ND	9,623,505
	Carbury, ND	9,068,735
	Westhope, ND	8,931,631
	Sherwood, ND	8,702,158
	Pittsburg, NH	9,311,740
	Cannon Corners, NY	9,067,598
	Churubusco, NY	8,744,412
	Morses Line, VT	191,831
	Pinnacle Road, VT	9,169,257
	Maida, ND	9,990,598
	Total	140,167,342
Average Cost	8,760,459	
M I C R O B	Easton, ME	\$7,949,511
	Forest City, ME	7,860,924
	Pine Creek MN	7,346,532
	Whitlash, MT	7,772,343
	Sarles, ND	7,447,287
	Hannah, ND	7,411,170
	Nighthawk, WA	9,825,186
	Total	55,612,953
	Average Cost	7,944,708
Difference between average cost of a Small (\$12,460,427) and Micro A (\$8,760,459) port		\$3,699,968

Appendix D
Estimated Cost of Port Projects as of April 11, 2011

PORT LOCATION	ESTIMATED COST¹	PORT LOCATION	ESTIMATED COST¹
Hamlin, ME	\$11,361,746	Forest City, ME	\$7,860,924
Scobey, MT	10,056,780	Pine Creek MN	7,346,532
Wild Horse, MT	11,525,888	Whitlash, MT	7,772,343
Del Bonita, MT	7,420,932	Maida, ND	9,990,598
Morgan, MT	10,985,729	Sarles, ND	7,447,287
Whitetail, MT	10,436,953	Hannah, ND	7,411,170
Walhalla, ND	9,201,281	Nighthawk, WA	9,825,186
Neche, ND	9,905,420		
Noonan, ND	11,567,906	Subtotal Northern	\$283,003,281
Antler, ND	9,637,089		
Hansboro, ND	9,623,505	<i>Southern Border</i>	
Carbury, ND	9,068,735	Antelope Wells, NM	12,487,663
Westhope, ND	8,931,631	Los Ebanos, TX	8,510,828
Sherwood, ND	8,702,158	Amistad Dam, TX	9,930,841
Pittsburg, NH	9,311,740		
Cannons Corner, NY	9,067,598	Subtotal Southern	\$30,929,332
Churubusco, NY	8,744,412		
Morses Line, VT	191,831	Subtotal All Ports	\$313,932,613
Pinnacle Road, VT	9,169,257		
Boundary, WA	14,873,158	Repairs/Alterations	11,443,353
Frontier, WA	18,787,587	GSA-funded Projects	18,000,000
Easton, ME	7,949,511	Reporting System	19,751,494
Bridgewater, ME	8,828,394		
		Subtotal	\$363,127,460
Antelope Wells, NM Forward Operating Base			3,000,000
		Subtotal	\$366,127,460
Expired Funding			\$52,706,393 ²
		Total	\$418,833,853

¹ CBP reported to the department that it had obligated \$366,127,460 for land ports of entry as of April 11, 2011, including costs reprogrammed to GSA, earmarked for a program management and reporting system, and reserved for contingencies. The report included information on the cost of construction for each port; costs of repairs; costs of support activities performed for CBP by the Army Corps of Engineers, GSA, and other contractors; and CBP program management costs. We estimated the costs of each port based on the reported direct construction costs, plus costs we allocated to each project for its proportionate share of allocable support activities. For example, we allocated contractor support for Recovery Act financial reporting to each port modernization project. In contrast, we allocated the cost of contract modifications for sustainability components for design/build projects constructed for CBP by GSA only to those GSA modernization projects that had sustainability components incorporated into their construction plans.

² The April 11, 2011, CBP weekly status report also reported \$52,706,393 of expired funding. Expired funding is an unobligated amount in an expired account.

Appendix E
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Appendix F
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