

**CBP Did Not Adequately
Oversee FY 2019
Appropriated
Humanitarian Funding**





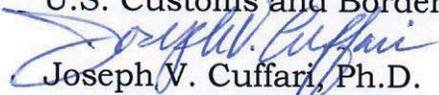
OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 28, 2020

MEMORANDUM FOR: Mark A. Morgan
Senior Official Performing the Duties of the
Commissioner
U.S. Customs and Border Protection

FROM: 
Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *CBP Did Not Adequately Oversee FY 2019 Appropriated
Humanitarian Funding*

For your action is our final report, *CBP Did Not Adequately Oversee FY 2019 Appropriated Humanitarian Funding*. We incorporated the formal comments provided by your office.

The report identifies four recommendations aimed at enhancing oversight of appropriated funds in accordance with expressed congressional intent. Your office concurred with all four recommendations.

Based on information provided in your response to the draft report, we consider recommendations 3 and 4 open and unresolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of the recommendation. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Based on information provided in your response to the draft report, we consider recommendations 1 and 2 open and resolved. Once your office has fully implemented the recommendations, please submit a formal closeout letter to us within 30 days so that we may close the recommendations. The memorandum should be accompanied by evidence of completion of agreed-upon corrective actions and of the disposition of any monetary amounts.

Please send your response or closure request to
OIGAuditsFollowup@oig.dhs.gov.



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Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please call me with any questions, or your staff may contact Sondra McCauley, Assistant Inspector General for Audits, at (202) 981-6000.

Attachment



DHS OIG HIGHLIGHTS

CBP Did Not Adequately Oversee FY 2019 Appropriated Humanitarian Funding

September 28, 2020

Why We Did This Review

In FY 2019, CBP received \$192.7 million for humanitarian expenses to address the needs of migrants in its custody. We conducted this review to determine whether CBP adequately planned and is deploying FY 2019 appropriated funds quickly and effectively to address humanitarian needs on the southwest border.

What We Recommend

We made four recommendations to CBP to improve its consumables reimbursement process and medical contract oversight.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

U.S. Customs and Border Protection (CBP) quickly deployed funding for consumables and medical services to address the needs of people in its custody along the southwest border, but did not adequately plan to ensure it used fiscal year 2019 funds effectively.

Specifically, U.S. Border Patrol's process did not adequately ensure taxpayer funds were used to purchase items required to meet migrants' basic needs. For example, Border Patrol approved purchases of items such as toner cartridges, fingerprint pads, and restraints, which were not necessities. This occurred because neither Border Patrol nor CBP had guidance or defined criteria for reimbursing consumables. As a result, CBP cannot be certain that all the funds it reimbursed to Border Patrol sectors met Congress' intent of funding consumables to meet migrants' basic needs.

Additionally, CBP relied on a single contracting officer's representative, rather than onsite personnel, to oversee its medical contract because it did not include onsite monitoring when expanding the contract across multiple sectors. Therefore, CBP cannot properly account for funds provided by Congress for its medical contract to care for migrants.

CBP Response

CBP concurred with all four recommendations.



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Background

Each year, hundreds of thousands of people enter or attempt to enter the United States unlawfully through the southwest border with Mexico. According to U.S. Customs and Border Protection (CBP), in fiscal year 2019, agents and officers apprehended or turned away 527,112 family units¹ and 80,634 unaccompanied children at the southwest border. These attempted unlawful entries into the United States demonstrate a surge of migrants representing a 177 percent increase from FY 2018, when CBP apprehended or turned away 161,113 family units and 58,660 unaccompanied children.

The Department of Homeland Security has primary responsibility for securing U.S. borders from illegal activity and regulating travel and legal trade. Within DHS, CBP's U.S. Border Patrol (Border Patrol) employs about 16,648 individuals to enforce immigration laws and safeguard approximately 6,000 miles of U.S. border, including 2,000 miles divided into nine geographic sectors on the southwest border. Border Patrol agents apprehend individuals who enter the United States unlawfully.

In February 2019, Congress appropriated to CBP more than \$12 billion to fund its Operations and Support.² Congress provided \$192.7 million to address the needs of apprehended migrants at the border with the ability to spend the appropriated funds through the end of FY 2020.³ Specifically, Congress instructed CBP to use the funds as follows: \$40.2 million for increased consumable commodities (consumables), such as food, infant formula, and diapers; \$128 million for contract medical professionals; and \$24.5 million for increased transportation between CBP facilities.⁴ CBP provided all of the consumables funding to Border Patrol for execution, and used a single contract for all of its medical contract spending. Table 1 lists the appropriated funds Congress provided CBP for migrant needs.

¹ A family unit represents the number of individuals (either a child younger than 18 years, parent, or legal guardian) apprehended with a family member by U.S. Border Patrol or deemed inadmissible with a family member by the Office of Field Operations. See <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019> (defining "Family Unit").

² Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, div. A, title II, 133 Stat. 13 (Feb. 15, 2019).

³ See H.R. Rep. No. 116-9 at 475 (2019) (funding allocated to medical and humanitarian needs in response to recent deaths of migrants in CBP custody).

⁴ See *id.* at 475-6.



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Table 1. Breakdown of FY 2019 Appropriated Funds

Funding Category	Total Appropriated by Congress in February 2019	Obligated FY 2019	Projected to be Spent in FY 2020
Consumables	\$40,200,000	\$26,800,000	\$13,400,000
Medical Contract	\$128,000,000	\$49,300,000	\$78,700,000
Transportation	\$24,500,000	\$24,500,000	\$0
Total	\$192,700,000	\$100,600,000	\$92,100,000

Source: Office of Inspector General (OIG) analysis based on *Consolidated Appropriations Act, 2019* and interviews conducted with CBP officials

On July 1, 2019, Congress appropriated an additional \$1 billion to CBP for necessary expenses caused by the significant rise in the number of migrants at the southwest border and related activities, as shown in Appendix B. Congress specified that \$147 million of the additional supplemental funding also be designated for medical contracts, consumables, and transportation costs.⁵

Process for Reimbursing Sector Consumable Purchases

To ensure that sectors could provide necessities to migrants in their facilities, Border Patrol’s budget office developed a process to reimburse sector operating accounts from the specific consumables appropriation. Border Patrol’s budget office required sectors to provide records from the financial management system of record in the form of journal vouchers,⁶ to be reimbursed for eligible consumables purchased using government purchase cards. The budget office requested financial management records to verify that sectors charged expenses to humanitarian project codes⁷ as well as purchase card and procurement records to determine whether expenses were for approved items. Budget analysts at Border Patrol Headquarters (HQ analysts) then determined whether to reimburse the operating accounts from the consumables appropriation account or to request additional explanation of the purchases considered not reimbursable. See figure 1 for an overview of the reimbursement process.

⁵ Emergency Supplemental Appropriations For Humanitarian Assistance and Security at the Southern Border Act, 2019, Pub. L. No. 116-26, title III, 133 Stat. 1020 (July 1, 2019).

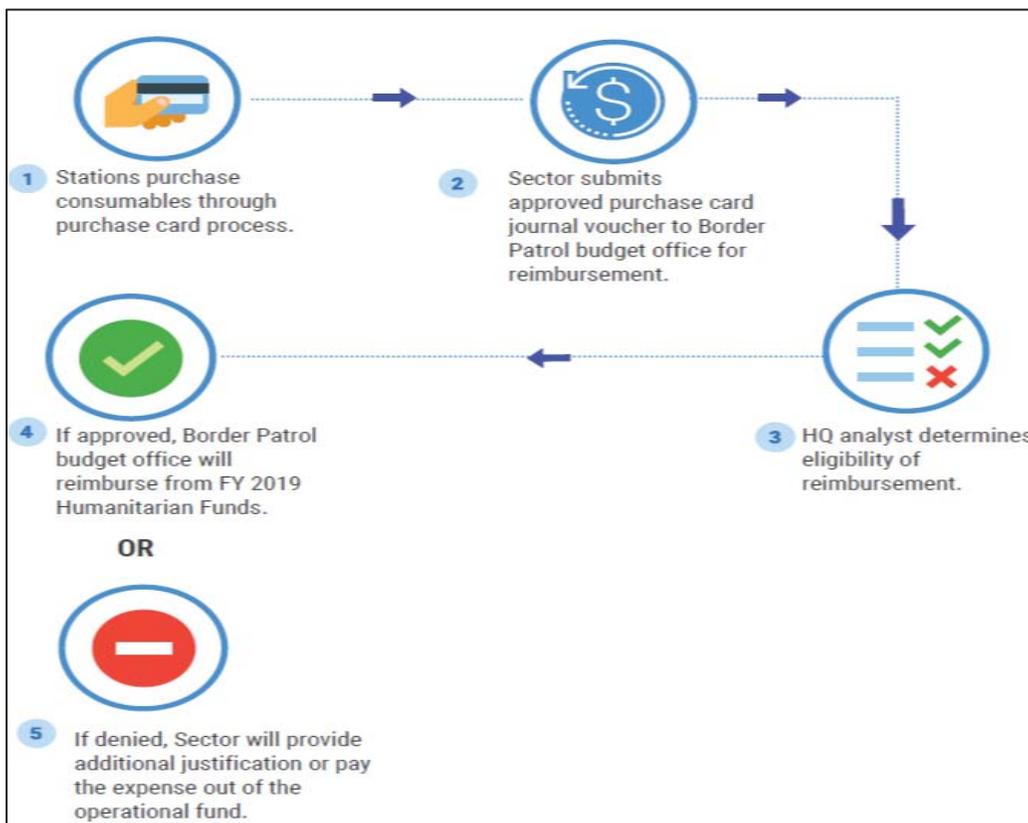
⁶ In this report, journal vouchers describe documentation the analysts used to support Border Patrol transferring money from accounts to reimburse sectors for approved operating expenses.

⁷ CBP used project codes to group expenditures by category, e.g., Detention and Removal, FY19 Honduran Migrant Surge, Zero Tolerance Initiative, and others.



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Figure 1. Border Patrol Consumables Reimbursement Process



Source: OIG analysis of Border Patrol processes

Medical Contract

With the increased number of migrants crossing into the United States, CBP saw a corresponding increase in medical emergencies on the southwest border. Border Patrol also reported an increase in the number of apprehended individuals requiring medical attention. From December 2015 through July 2018, CBP contracted medical services for two Border Patrol stations and its processing center located in the Rio Grande Valley (RGV) Sector to provide health interviews, medical evaluations, screening, triage, and limited treatment for low complexity medical complaints by detainees. In August 2018, CBP began expanding its existing medical contract to additional facilities⁸ outside of RGV in order to deploy contracted medical personnel to the border.

We limited the scope of our review to \$168.2 million of the \$192.7 million appropriated in FY 2019 for medical contracts and consumables. We did not review the \$24.5 million appropriated for transportation due to an ongoing

⁸ The medical contract is in effect at various facilities, including Office of Field Operations ports of entry, Border Patrol stations, centralized processing centers, and temporary soft-sided tents across multiple sectors.



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audit on this topic.⁹ We conducted this review to determine whether CBP adequately planned and deployed FY 2019 appropriated funds quickly and effectively to address humanitarian needs on the southwest border.

Results of Review

CBP Did Not Adequately Oversee Humanitarian Funds

CBP quickly deployed FY 2019 funding for consumables and medical services to address the needs of people in its custody along the southwest border. However, CBP did not adequately plan to ensure these funds were used effectively. Specifically, Border Patrol did not establish a sound process to reimburse consumables and did not validate that all reimbursements met congressional intent. This occurred because Border Patrol did not provide sectors or analysts with formal guidance and CBP did not define eligible consumables. As a result, CBP cannot be certain that all the funds it reimbursed to Border Patrol sectors met Congress' intent of funding consumables.

In addition, CBP did not adequately oversee its medical contract through onsite monitoring of medical professionals or inventory supply. Border Patrol's reliance on a single contracting officer's representative for oversight purposes occurred because CBP did not include local, onsite monitoring in its contract requirements when it expanded its medical contract to multiple locations. Therefore, CBP cannot properly account for funds provided by Congress for its medical contract to care for migrants.

Border Patrol Did Not Establish an Adequate Process to Reimburse Consumables

Border Patrol used an inadequate process to reimburse its sectors for operational purchases. Border Patrol's budget office used journal vouchers to document support for reimbursing sectors for consumables. However, analysts approved journal vouchers for reimbursements although the support from the financial management system's project code report and the purchase card and procurement report did not always match the final reimbursement. In its *Standards for Internal Control in the Federal Government*, the Government Accountability Office (GAO) recommends management design controls to ensure transactions are completely and accurately recorded. Instead, Border Patrol's budget office emailed informal instructions to "review and vet" the sector-prepared support.

⁹ As of September 2020, the OIG had an ongoing project, "Southern Border Detainee Transportation and Support." Please see www.oig.dhs.gov for our ongoing projects list.
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HQ analysts approved journal vouchers for which expenses from the project code report and purchase card and procurement report did not match, as well as vouchers that were missing support. Specifically, our analysis for the first three quarters of FY 2019 showed that 13 of 30 spreadsheets of journal vouchers, or 43 percent, contained project code reports that did not support reimbursements or include explanations.

To illustrate, in one journal voucher, Border Patrol's "summary reimbursement" showed that analysts reimbursed one sector \$86,888 in purchases. However, the sector did not provide a project code report to support the purpose of the reimbursement. As a result, we could not validate that the purpose was a humanitarian need. Additionally, the sector provided purchase card and procurement data totaling \$73,692 with no support for the remaining balance. Therefore, we could not validate whether the remaining balance was for eligible items, as shown in table 2. In other journal vouchers, the project code report and the purchase card and procurement report did not match. While some journal vouchers were missing one report or data in required tabs, still others contained multiple reports with no explanations.

Border Patrol requested two reports from its financial management system to support reimbursements:

- Project code reports to verify expenses were for eligible humanitarian purposes (to care for migrants)
- Purchase card and procurement reports to validate that the items purchased were eligible items



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Table 2. Examples of Journal Voucher Issues

Journal Voucher Examples	Summary Reimbursement Total	Project Code Report Total	Purchase Card and Procurement Report Total	Description of Other Issues/Notes
Example A	\$86,888.44	No data included	\$73,962.46	Reimbursed leg restraints, transport restraints, fingerprint pads, and office supplies. Purchase and procurement report based on adding subtotals on three different item description tabs
Example B	\$10,213.63	\$10,841.21	\$31,373.06	Items included in purchase card and procurement report elements, and shipping and handling. Purchase and procurement report based on adding subtotals on 2 different
Example C	\$323,182.36	\$2,726,876.94	\$1,449,070.54	Items included in purchase card and procurement report included temporary chain link fence and toners
Example D	\$795.06	\$795.06	\$795.06	Reimbursed \$500 worth of gift cards
Example E	\$185,276.84	\$184,609.20	\$184,609.20	Analyst included a tab noting CBP did not reimburse roaster ovens or an inmate housing detention cost

Source: OIG analysis of Border Patrol journal voucher

CBP Did Not Verify That All Reimbursements Met Congressional Intent

Congress appropriated funds to CBP to spend on consumables for basic humanitarian care. An explanatory statement to the *Consolidated Appropriations Act, 2019* specifically called for increased funding for consumables “such as food, infant formula, and diapers.”¹⁰

HQ analysts approved reimbursements for items with descriptions that did not appear to be for migrants’ basic needs or have valid humanitarian purposes. Border Patrol’s budget office informally instructed analysts that eligible purchases should have “valid humanitarian purpose.” However, analysts approved items such as fingerprint pads, toner cartridges, restraints, transport restraints, “flex cuffs,” and \$500 worth of gift cards without any supporting explanation or details. HQ analysts also approved purchases with incomplete or missing item descriptions. These incomplete or missing description details made it difficult, and in some cases impossible, for HQ analysts reviewing

¹⁰ See H.R. Rep. No. 116-9 at 476 (2019). See also e.g., *In re U.S. Customs and Border Protection- Obligations of Amounts Appropriated in the 2019 Emergency Supplemental*, File No. B-331888 at 3-4 (GAO June 11, 2020) (defining “consumable”).



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reimbursement requests to determine whether purchases were for authorized consumables. For example, some spreadsheets we reviewed listed Mylar blankets, t-shirts, and disposable toothbrushes in the purchase details, while other spreadsheets had blank spaces or listed items such as migration equipment/supplies, environmental elements, and detainee supplies without defining the specific items purchased, as shown in table 3.

Table 3. Excerpts of Journal Voucher Spreadsheets

PO Item Short Text	Expenditures
FINGERPRINT PADS	\$ 456
LEXMARK 512 TONER	\$ 2,125
YUS CPC RESTRAINT SUPPLIES	\$ 9,935
FENCING SUPPLIES	\$ 5,438
YUS PS TRANSPORT CHAINS	\$ 4,965
DET-MYLAR BLANKET	\$ 700
T-SHIRTS MEN/WOMAN	\$ 324
DISPOSABLE TOOTH BRUSHES	\$ 286
MIGRATION EQUIPMENT/SUPPLIES	\$ 9,995
SAN LUIS DETENTION	\$ 1,981
PLUMBING SERVICES	\$ 105
CRRB-ROUND BAR	\$ 1,787
DET- ENVIRONMENTAL ELEMENTS	\$ 1,896
DETAINEE SUPPLIES	\$ 481

Source: DHS OIG-extracted excerpts from Border Patrol sector FY 2019 journal voucher submission

No Formal Guidance or Definition to Reimburse Consumables

HQ analysts approved reimbursements without sufficient support because Border Patrol did not provide sectors or analysts formal guidance and did not define consumables eligible for reimbursement. Federal law requires that appropriations be applied only for the purpose Congress has provided.¹¹ However, Border Patrol’s budget office did not establish a policy or standard operating procedure for analysts to follow when reviewing journal vouchers to validate that each transaction met the purpose of a humanitarian need and was an eligible item according to congressional intent. The budget office also did not establish when or how analysts should seek clarification.

Although Border Patrol’s budget office emailed informal instructions, the instructions were not specific. Border Patrol budget officials emailed HQ analysts and advised them to “review and vet” the spreadsheets. The

¹¹ 31 U.S.C § 1301(a) (The Anti-Deficiency Act); see also *id* at § 1341(a)(1)(A) (limiting expenditures and obligations to those authorized by congressional appropriation).
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instructions stated that eligible purchases should have “valid humanitarian purpose” and use one of six frequently cited project codes. However, the email instructions did not specify how HQ analysts should resolve or elevate errors and concerns, or the need to:

1. reconcile support from project code reports and purchase card and procurement reports;
2. ensure those reports both support the total reimbursement; and
3. request information about missing or incomplete descriptions.

Additionally, HQ analysts did not consistently apply the informal instructions and instead approved reimbursements for journal vouchers where project code reports and purchase card and procurement reports did not match or support the reimbursements, and approved journal vouchers that contained missing or vague item descriptions. For example, one analyst described making reimbursements based only on the frequently used project codes without reviewing the item description tabs. Another analyst described making reimbursements based on project codes and periodic reviews of item descriptions.

Items that did not have a valid humanitarian purpose were approved for reimbursement because CBP did not formally define consumables eligible for reimbursement. In its examples of consumables, Congress expressly included food, infant formula, and diapers as eligible items.¹² (Figure 2 shows examples of such items purchased at the El Paso, Texas Border Patrol station.) However, CBP and Border Patrol officials offered general descriptions of items considered eligible consumables. For example, according to one CBP official, funds were used to purchase meals and items to make the migrants’ “stay more tolerable.” A Border Patrol official explained that Border Patrol typically considered disposable products such as clothing and toiletries to be eligible consumables. CBP never formalized or specified such items in guidance to Border Patrol sectors or to HQ budget analysts to help them evaluate a wide variety of items. Following our review, a Border Patrol official explained that fingerprint pads and toner were considered eligible expenses because officers could use them to process migrants. Although such an expense would not appear to directly affect a migrant’s basic needs, the official contended it met congressional intent because the supplies allowed migrants to be processed out of CBP facilities, which officials said were not suitable for long-term detention.

¹² See H.R. Rep. No. 116-9 at 476 (2019).
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Figure 2. Consumables at El Paso, Texas Border Patrol Station

Source: OIG photos taken on September 4, 2019. Left to right: (1) non-perishable food items and (2) diapers and infant formula

Border Patrol’s oversight through both policy and supervisory review was also limited due to the volume of transactions and the need to reimburse sectors quickly. As migrant apprehensions heightened in April 2019, sectors submitted reimbursement requests for purchases from October 2018 through March 2019. (See Appendix B.) According to a senior Border Patrol HQ official, providing the level of oversight needed to ensure each individual transaction aligned with congressional intent for consumables would have been “too burdensome” for Border Patrol sectors and HQ analysts at a time when apprehension levels more than doubled compared to the previous year. Regardless of migrant apprehension levels, without additional guidance and defined criteria CBP will not be able to account for future reimbursements of this type or ensure they comply with the statute.

CBP Did Not Have Adequate Financial Oversight of the Medical Services Contract

CBP did not have personnel on site to monitor and validate time and materials claimed by contracted medical professionals or inventory medical supplies. Instead, CBP relied on a single Border Patrol contracting officer’s representative (COR) in RGV to review medical contract invoices, including for locations outside of RGV. Office of Management and Budget *Policy Letter 93-1* states that government policy requires agencies to obtain and use contracted services in ways that ensure the Government retains inherently governmental decision-making authority and that the Government oversees contractors in a manner designed to prevent fraud, waste, and abuse.¹³ When CBP modified its medical contract to expand to multiple locations beginning in 2018, it did not modify the contract to increase local financial oversight until September 2019. Even

¹³ See e.g., Office of Management and Budget, “Policy Letter 93-1” at § 6(b) & (e) (May 18, 1994).



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with the modification, CBP’s financial oversight from 2018 to September 2020 was not sufficient to ensure that CBP accurately reimbursed its medical contractor for services provided.

When CBP’s medical contract began in 2015, the COR in the RGV sector locally supervised the contract. Following the expansion to 15 facilities outside the RGV sector in 2018–2019, as shown in table 4, the COR’s oversight was limited to comparing contractor-proposed work schedules to the contractor’s timesheets for discrepancies. The oversight did not include onsite validation by a Government employee that contractor staff worked the time claimed or purchased the materials submitted to the COR for payment.

Table 4. CBP Medical Contract Locations by Year as of August 2019

Location	2015	2016	2017	2018	2019
RGV (COR is located)	1	3	4	4	11
Outside RGV	-	-	-	3	15
Total	1	3	4	7	26

Source: OIG analysis of Border Patrol documentation

Border Patrol’s limited financial oversight of hours billed by contracted medical professionals and inventory purchases occurred because CBP did not include local, onsite monitoring in its contract requirements from 2018 to September 2019, when it began expanding the medical contract to multiple locations. In March 2019, CBP initiated a plan for regional oversight and designated local Government employees, referred to as task order monitors, to oversee and report on contractor performance at each location. Although CBP stated that task order monitors began providing quarterly surveillance reports to the COR in the first quarter of FY 2020, CBP had not demonstrated that its surveillance methodology validates that all invoices are for time worked and the task order monitors check the quantity and reasonableness of purchased inventory. In June 2020, CBP began taking steps to recompute its medical contract, because the current contract is due to expire on September 29, 2020. Until CBP modifies its existing contract and incorporates adequate oversight in its future contract, the COR cannot effectively oversee contracted medical professionals at all locations, particularly those outside of RGV. Without local oversight, CBP cannot properly account for funds provided by Congress for its medical contract to care for migrants or achieve the oversight required by OMB Policy Letter 93-1.



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Conclusion

Although CBP quickly provided funding for consumables and medical services to address the humanitarian needs of the influx of migrants arriving at the southwest border, it did not do so using adequate controls or oversight. This prevented CBP from ensuring that it applied FY 2019 funds effectively and in accordance with expressed congressional intent. Without additional controls and oversight, CBP may not be able to safeguard and properly dedicate remaining unobligated funds that Congress provided for consumables and medical services. This may also result in expenditures that are not for the purpose Congress intended.

Recommendations

Recommendation 1: We recommend the Finance Director for Border Patrol Mission Readiness Operations Directorate formalize its process for sectors requesting reimbursements from HQ accounts. At a minimum, the procedures should include:

- documentation needed to support the request;
- steps analysts should take to review and validate transactions; and
- an escalation process for analysts to elevate questions or concerns.

Recommendation 2: We recommend the CBP Director of the Office of Finance establish a formal definition of “consumables,” other than those Congress specifically enumerated, eligible for reimbursement.

Recommendation 3: We recommend the Chief of Border Patrol Law Enforcement Operations Directorate modify its oversight plan to require that Government personnel at locations receiving medical services:

- validate actual time worked against contractor-billed time, and
- review inventory quantity and cost reasonableness.

Recommendation 4: We recommend the CBP Head of the Contracting Activity for the Office of Acquisition, in conjunction with Border Patrol Law Enforcement Operations Directorate, ensure proper monitoring and oversight commensurate with the contract scope in its future medical contract.

Management Comments and OIG Analysis

CBP management provided written comments addressing the recommendations we provided in a draft of this report. Appendix A contains CBP management comments in their entirety. We also received technical comments on the draft report and revised the report as appropriate.



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CBP expressed concern that our report contains inaccurate representations of insufficient oversight of its medical services contract despite CBP providing documentation to support its expanded oversight mechanisms. We acknowledge the significant number of documents CBP provided in support of its oversight, as well as its plans to increase oversight due to contract expansion. However, our conclusion that CBP should strengthen its financial oversight of its medical services contract is accurate. Although it began expanding its contract in 2018, CBP did not expand its oversight concurrently.

CBP's Comments to Recommendation 1: Concur. CBP acknowledged the need to have strong journal voucher controls and indicated it completed drafting an internal operation procedure to formalize its process, including defining roles and responsibilities for submission and review of journal vouchers, specifying required supporting documentation, outlining analyst review and validation, and developing an escalation process. Estimated completion date (ECD): February 26, 2021.

OIG Analysis of CBP's Comments: CBP's proposed actions are responsive to the recommendation. It will be considered resolved and remain open until CBP provides documentation of its finalized internal operation procedure for journal vouchers.

CBP's Comments to Recommendation 2: Concur. CBP stated it provided a fund code to ensure it used the funds to address the needs of people in its custody. For its emergency supplemental appropriation, it also established guidance, including a dictionary definition that applies to all consumable-related funds. CBP requested closure of the recommendation.

OIG Analysis of CBP's Comments: CBP's actions are responsive to the intent of the recommendation. However, the document CBP provided states that it is applicable only to funds related to Public Law 116-26 – the *Emergency Supplemental Appropriations For Humanitarian Assistance and Security at the Southern Border Act, 2019*.¹⁴ The recommendation is resolved and will remain open until CBP provides guidance on consumables that applies beyond its emergency supplemental appropriation.

CBP's Comments to Recommendation 3: Concur. CBP indicated that it started training regional monitors in the second quarter of 2019, after it began rapidly expanding its contract in December 2018. CBP requested closure of the recommendation.

OIG Analysis of CBP's Comments: CBP provided similar information about its planning efforts and its quality surveillance assurance plan on several

¹⁴ *Emergency Supplemental Appropriations For Humanitarian Assistance and Security at the Southern Border Act, 2019*, Pub. L. No. 116-26, title III, 133 Stat. 1020 (July 1, 2019).



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occasions during the course of the review. CBP's procedures do not require task order monitors to conduct invoice reviews that validate the quantity and reasonableness of purchased inventory. CBP also does not require them to validate that time billed was for actual time worked. The recommendation will remain unresolved and open until CBP provides new information about how its contract oversight will specifically address invoice review.

CBP's Comments to Recommendation 4: Concur. CBP indicated its Senior Medical Advisor already provides recommended oversight of a system included in the established Statement of Work for its medical contract, which will remain in place for future agreements. CBP requested closure of the recommendation.

OIG Analysis of CBP's Comments: Our recommendation requires CBP to incorporate monitoring in CBP's future medical services contract to improve identified weaknesses in financial oversight. CBP has not provided documentation that it awarded a new medical services contract including the required oversight. The recommendation will remain unresolved and open until CBP issues a new contract and demonstrates oversight is included in its new statement of work, along with corresponding program office implementation of financial oversight procedures.¹⁵

Objective, Scope, and Methodology

Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We initiated this review to determine whether CBP adequately planned and is deploying FY 2019 appropriated funds quickly and effectively to address humanitarian needs on the southwest border. Our scope included CBP FY 2019 funding appropriated for medical contracts and consumables. To answer our objective, we:

- interviewed officials from CBP, Border Patrol, Office of Field Operations, and Air and Marine Operations officials, as well as representatives from the Offices of Budget Execution, Contracting and Acquisition, and Finance;
- interviewed mission support specialists at Border Patrol locations including El Paso Sector, El Paso Station, RGV Sector, McAllen Station, and Weslaco Station;

¹⁵ See *Management Alert – CBP Needs to Award A Medical Services Contract Quickly to Ensure No Gap in Services*, OIG-20-70, September 3, 2020. We urgently recommended CBP award a new medical services contract prior to its expiration on September 29, 2020.



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- observed operations at Border Patrol locations in El Paso Station and McAllen Station;
- interviewed a mission support specialist and observed operations at the Central Processing Center McAllen, TX;
- conducted interviews and observed operations at temporary processing centers in Donna, TX; and Tornillo, TX;
- interviewed mission support specialists at Office of Field Operations locations including El Paso Field Office, Paso Del Norte Port of Entry (POE), Tornillo POE, and Brownsville POE;
- observed operations at Office of Field Operations locations at Paso Del Norte POE, Tornillo POE, and Brownsville POE; and
- interviewed budget and financial officials from the Laredo Field Office and Hidalgo POE.

We analyzed 30 journal voucher spreadsheets related to consumables expenditures to determine whether CBP reviewed reimbursement requests in compliance with its own component guidance and to ensure compliance with the appropriation. We also analyzed journal vouchers to determine whether the totals reconciled. We reviewed the medical services contract and the statement of work to determine the extent to which they included onsite monitoring, as well as CBP's plan to continue medical services when the contract expires in 2020.

We conducted this review between August 2019 and May 2020 under authority of the *Inspector General Act of 1978*, as amended, and according to the *Quality Standards for Inspection* issued by the Council of the Inspectors General on Integrity and Efficiency.

The Office of Audits contributors to this report are Christine Haynes, Director; Heidi Einsweiler, Audit Manager; Peter Christopher, Auditor-in-Charge; Rolando Chavez, Auditor; Callece Gresham, Program Analyst; Darvy Khun, Program Analyst, Matthew Taylor, Auditor; Thomas Hamlin, Communications Analyst; and Loretta Atkinson, Independent Referencer Reviewer.



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Appendix A
CBP Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



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

September 21, 2020

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

9/21/2020

FROM: Henry A. Moak, Jr.
Senior Component Accountable Official
U.S. Customs and Border Protection

X

Signed by: HENRY A MOAK JR

SUBJECT: Management Response to Draft Report: “CBP Did Not Adequately Oversee FY 2019 Appropriated Humanitarian Funding” (Project No. 19-066-AUD-CBP)

Thank you for the opportunity to comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

CBP takes its role in providing care and ensuring the health, safety, security, and welfare of each adult and child in its custody very seriously. CBP is committed to ensuring that: 1) officers and agents are trained to recognize individuals in CBP custody showing signs of medical distress; 2) field personnel understand and execute their reporting obligations accurately and diligently; 3) contracting officers and their representatives hold and document mandatory contract reviews; and, 4) there is robust medical oversight.

CBP is concerned that OIG’s draft report contains several inaccurate representations, despite numerous meetings with program officials, subject matter experts, and others, and CBP’s sharing of extensive supporting documentation throughout this audit. Despite CBP providing the details of expanded oversight mechanisms, for example, the draft report does not fully discuss CBP’s efforts to ensure sufficient oversight - and thus presents a skewed and inaccurate portrayal of the agency’s multi-layered efforts.

In October 2018, with an unprecedented number of migrants attempting to cross into the United States, CBP saw a significant increase in the need for humanitarian assistance, including medical emergencies of migrants on the southwest border (SWB). In response to the unprecedented increase on the SWB, CBP formulated requirements to address critical humanitarian needs and presented them to Congress, which enacted \$192 million



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as requested in the Consolidated Appropriations Act, 2019, Pub. L. No. 116-6, dated February 15, 2019, (Fiscal Year (FY) 2019 Omnibus). These funds provided humanitarian assistance for increased consumable commodities, transportation services, and contracts for medical professionals.

Consequently, CBP rapidly expanded its humanitarian assistance, including the medical services contract to ensure the health, safety, security, and welfare of every adult and child in its custody. CBP also expanded its well-established, government-led oversight of humanitarian assistance, including medical services and administration of services under the existing medical services contract. The expansion of the oversight mechanisms began in July 2018 and was well underway, or fully implemented, during this OIG audit.

To ensure sufficient oversight, CBP assigned a Contracting Officer's Representative (COR), multiple task order monitors (TOM), a Quality Assurance Surveillance Plan (QASP), and ensured significant involvement and oversight by its Senior Medical Advisor (SMA). CBP initiated these oversight mechanisms before the OIG began this audit. However, the OIG's draft report does not fully recognize CBP's robust effort to ensure that: 1) the medical services contract's rapid expansion was carefully structured and planned; and 2) CBP had the appropriate oversight for this complex medical services contract when implemented. Together, these actions provide multiple overlapping levels of oversight for the medical contract.

Furthermore, twelve months before the OIG initiated this audit, CBP, in coordination with the U.S. Coast Guard, Department of Defense, and U.S. Department of Health and Human Services, was critically involved with a whole-of-government response at the SWB that included but was not limited to:

- 1) An enormous increase in contracted medical support in underserved border areas;
- 2) Medical contract expansion to Office of Field Operations (OFO); and
- 3) Creation of two encompassing CBP medical policy documents.

As the agency charged with protecting the nation's borders, CBP grew its medical contract footprint approximately 500 percent since 2018, an unprecedented amount for a law enforcement agency. As part of this, United States Border Patrol (USBP) personnel integrated contractors directly into its operational environment and policies to ensure the proper level of government oversight at all levels. USBP transitioned from seven facilities with approximately sixty staff in December 2018, to thirty sites in November 2019 with 230 staff. As of August 2020, USBP had contractors in 52 locations and more than 350 medical professionals working during any given 24-hour period. In addition to these numbers, CBP's OFO joined the contract with fifteen additional sites. The OIG's draft report does not acknowledge the extensive CBP-wide coordination, planning, and implementation efforts that occurred to be able to staff the



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additional sites in a prudent manner, which included substantial monitoring mechanisms within a very short time frame with existing government personnel.

CBP is alarmed by the OIG's conclusion that sufficient oversight does not exist. The OIG's determination that the COR, along with regional TOMs, cannot effectively oversee contracted medical professionals at all locations is flawed. It is essential that the contract administrative oversight remain with the respective components, as the field-based operational personnel responsible for contract oversight rely heavily upon the headquarters (HQ) operational counterparts to understand how the contract integrates and works with existing field operations. When questions or challenges arise, the operational HQ USBP and OFO offices are the appropriate offices for interfacing with the field to ensure an effective and efficient resolution. Additionally, these HQ component offices have the best information available to develop and execute mechanisms for measuring service delivery and performance, and are ultimately the end customer for these medical services.

The draft report contained four recommendations, with which CBP concurs. Attached find our detailed response to each recommendation. CBP previously submitted technical comments under a separate cover.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Attachment



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Attachment: Management Response to Recommendations Contained in OIG 19-066-AUD-CBP

OIG recommended that the Finance Director for Border Patrol Mission Readiness Operations Directorate:

Recommendation 1: Formalize its process for sectors requesting reimbursements from HQ accounts. At a minimum, the procedures should include:

- documentation needed to support the request;
- steps analysts should take to review and validate transactions; and
- an escalation process for analysts to elevate questions or concerns.

Response: Concur. CBP's Offices of Finance (OF) and USBP Mission Readiness Operations Directorate, Financial Operations Division (MROD-FOD), acknowledge the need to have strong journal voucher controls with budgetary impacts at the tactical level. CBP currently has sufficient controls to ensure the journal vouchers are reviewed, approved before posting to the general ledger, and that adjustments do not result in a material error in the consolidated DHS financial statements. The journal vouchers referenced in the draft report, however, primarily address tactical adjustments to reimburse offices for humanitarian consumables expenditures. These adjustments have no effect on the classification of those expenses at the consolidated financial statement level, and the expenditures were within the same appropriation. In August 2020, MROD-FOD completed a draft Internal Operating Procedure (IOP) to formalize the process for USBP sectors requesting reimbursements from HQ accounts. The IOP includes: 1) defined roles and responsibilities for submission and review of journal vouchers; 2) documentation required to support requests; 3) steps analysts should take to review and validate transactions, and 4) an escalation process for analysts to elevate questions or concerns.

USBP MROD-FOD will proceed to finalize the IOP, and will also:

- 1) Conduct virtual training for all field and HQ finance staff on journal voucher requirements;
- 2) Perform annual review and revision of IOP, as necessary; and
- 3) Conduct annual refresher training.

Estimated Completion Date: February 26, 2021.



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OIG recommended that the CBP Assistant Commissioner, Finance:

Recommendation 2: Establish a formal definition of “consumables” other than those Congress specifically enumerated, eligible for reimbursement.

Response: Concur. Upon the enactment of the FY 2019 Omnibus, CBP OF established a unique fund code to timely allocate, monitor, and report the use of the \$192.7 million enacted for medical services, transportation, and consumables to address the needs of people in its custody along the SWB. This approach provided CBP with the ability to ensure funds were executed in alignment with the congressional intent established in the Joint Explanatory Statements accompanying the FY 2019 Omnibus. On July 30, 2020, the CBP OF Budget Directorate issued revised guidance, “Additional Execution Guidance for Emergency Supplemental Appropriations for Humanitarian Assistance and Security at the Southern Border Act, 2019,” on executing and reporting funding with an emphasis on consumables. The guidance document further defined consumables based on Black’s Law Dictionary to ensure funding is executed appropriately. While the guidance was created to address execution of FY 2019 Emergency Supplemental funds, the definition is standard and applicable to all implementation of consumable-related funds. On August 25, 2020, this document was provided to the OIG as documentation of steps OF took to educate the CBP Budget Community.

We request that the OIG consider this recommendation resolved and closed, as implemented.

OIG recommended that the Chief of Border Patrol Law Enforcement Operations Directorate:

Recommendation 3: Immediately implement a plan to provide oversight by Government personnel at locations receiving medical services.

Response: Concur. In July 2018, CBP USBP implemented a plan to provide government personnel oversight at locations receiving medical services. From July 9-11, 2018, for example, when the contract expansion to three additional sites/sectors was being planned, the USBP Assistant Chief responsible for managing the medical contract traveled to Yuma, Tucson, El Paso, and Laredo to meet with sector leadership for meetings during which the Assistant Chief:

- 1) Discussed screening to take place;
- 2) Introduced the medical contractor managers and the CBP Senior Medical Advisor to sector leadership;
- 3) Enhanced the understanding and awareness of unique sectors’ processing circumstances and challenges; and



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- 4) Provided the deliverables for the contractor; and sector for the establishment of medical services.

Of the deliverables planned at these meetings, each sector's requirement to assign a USBP GS-1896 Special Operations Supervisor as the sector operational lead, and one COR II for the sector contract lead is an example of how CBP ensured ample oversight. As an additional layer of oversight, some sectors provided a specific station lead as a point of contact. USBP orientation events for local leadership in each regional area also: 1) ensured familiarity with the contractor schedule; 2) provided inventory management expectations; 3) outlined the contact's scope; and 4) provided USBP HQ contacts for contract management/resolution of questions, as well as an overview other contractual aspects to attendees.

In December 2018, the contract began a rapid expansion order covering a majority of the SWB stations, including onboarding medical professionals as quickly as possible using regionally-located USBP agents to coordinate with the medical contractors. The local USBP agents successfully ensured that detailed personnel assigned to stations were present. During this time, USBP HQ also began planning its robust and formalized contract oversight to ensure the proper level of the contract's day-to-day management medical services contract.

DHS's system for Contractor Performance Assessment Reports (contract ratings) and invoice processing platforms (invoicing) can only accommodate one COR per contract, similar to other large contracts. While CBP began training regional monitors to become CORs in the second quarter of 2019, once the program office understood that only one primary COR could be designated for the contract, the program office decided to instead call the regional monitors "Task Order Monitors." USBP's Special Operations Headquarters (SOH) program office formally amended the contract to include the TOMs in September 2019. These TOMs work closely with the COR and report findings and ratings to the COR on a regular basis.

In June 2019, SOH scheduled a conference call with eight SWB TOMs to discuss their duties and responsibilities and the process, including a biweekly COR/TOM/USBP HQ/Medical Contractor coordination call. Beginning in August 2019, the coordination calls reviewed the TOMs duties, shared best practices, and ensured that minor adjustments could be made quickly. Invoicing, schedule monitoring, inventory monitoring, contract access, records management, contract scope, and contract personnel oversight duties were significant in biweekly discussions. These discussions were also critical to providing the TOMs updates on any contract developments and changes and answering any questions and addressing concerns.

By August 2019, USBP identified TOMs, including backups, for all but El Centro Sector. The medical contract COR developed training and instruction materials for new regional-



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level medical services TOMs. During this time, the COR also provided insights to the program office regarding recommended best practices for TOM monitoring, and assisted with updating the contract QASP to reflect performance metrics where TOM input was required. The surveillance methodologies were carefully established in consultation with the COR, CBP contracting, and other DHS program offices that managed large-scale services contracts.

In September 2019, the COR sent the government approved medical contractor bi-weekly work schedules to the TOMs, as well as the updated Statement of Work (SOW) including the updated QASP that explicitly included the performance metrics requiring TOM monitoring and feedback. An email distribution list was created, and a process was formally established for the TOMs to provide written feedback to the COR beginning with the first quarter of the fiscal year FY 2020. As demonstrated by the ratings previously provided to the OIG in July 2020, TOMs provide quarterly ratings and comments to the COR relative to the QASP metrics, which include inventory management and schedule adherence.

In November 2019, the SOH program office conducted a second in-person training with TOMs. During this training session, oversight functions, best practices, and concerns were discussed. Additional topics covered included: 1) SOW scope; 2) SOW task categories; 3) contractor organizational/management structure; 4) Medical Quality Management Program; 5) medical contract performance metrics requiring TOM input (with threshold surveillance standards and frequencies); 6) contract challenges; and 7) resolution strategies. Performance metrics were covered in the training and, for which TOMs provide input to the COR, included the following: 1) regional level program management and customer service; 2) inventory management; 3) adherence to work schedule; and 4) professionalism. The methodologies for surveilling these performance areas were formulated following best practices and an understanding of CBP operations. The regional TOMs have provided this quality assurance surveillance feedback to the COR quarterly since the first quarter of FY 2020.

Directly following the November 2019 TOM training session, on November 26, 2019, the SOH program office distributed the training information and the contact information for all parties, both on the government and contracting side, including their contracted program management counterparts within their respective areas of responsibility to ensure clear communication lines so that problems and questions are handled efficiently.

In addition, USBP continued and expanded other oversight mechanisms, such as daily communications between USBP SOF and the medical contract provider's management. CBP HQ-level involvement with these communications includes the CBP SMA, who was, and still is, actively engaged in the provision of oversight of contract medical support efforts, such as dozens of onsite visits and assessments and regular coordination, consultation, review, and thorough, extensive medical quality management efforts. The



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CBP SMA also developed a plan for a CBP medical program office within CBP that is currently expanding to its approved staffing levels. This team of medical professionals will continue the monitoring and compliance work already underway.

Finally, the contractor has three levels of oversight built into its model, including:

- 1) Program managers and deputy program managers regionally located to ensure compliance with staff scheduling and adherence to protocols;
- 2) Patient Safety Risk Managers that are tasked with conducting routine inspections on the quality and appropriateness of care provided at the facilities and who report directly to the National Level Patient Safety Risk Manager rather than the regional Program Manager; and
- 3) Robust level of internal medical contract oversight that includes regionally assigned Pediatric Review Officers and supervising physicians, and a national level supervising physician and national level Patient Safety Review Officer.

Based on the information above, CBP is confident that this recommendation was addressed through the contract's natural, planned expansion. Each region (Sector for USBP and Field Office for OFO) now has a TOM who provides oversight at locations receiving medical services.

We request that the OIG consider this recommendation resolved and closed, as implemented.

OIG recommended that the CBP Head of the Contracting Activity for the Office of Acquisition, in conjunction with Border Patrol Law Enforcement Operations Directorate:

Recommendation 4: Ensure proper monitoring and oversight commensurate with the contract scope in its future medical contract.

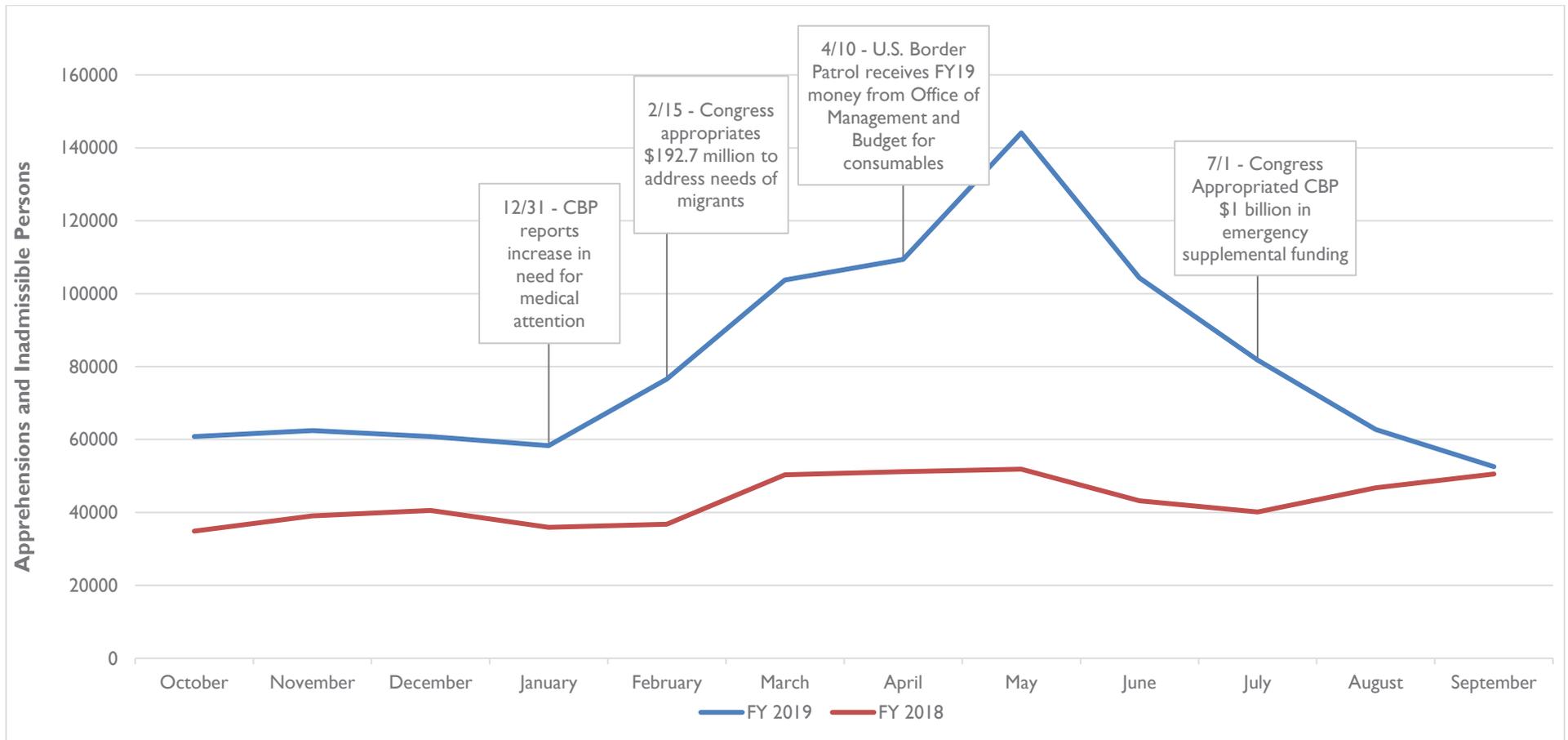
Response: Concur. The CBP Senior Medical Advisor already provides the recommended oversight, in addition to supervising physicians, pediatric review officers, patient safety risk managers, program managers, and deputy program managers throughout the contract hierarchy to ensure adherence to the established SOW. This oversight is in the current medical contract and will remain for future agreements.

We request that the OIG consider this recommendation resolved and closed, as implemented.



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Appendix B
Timeline of Events and CBP's Apprehensions and Inadmissible Persons on the Southwest Border



Source: OIG analysis of significant events and CBP border statistics



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Appendix C
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