

Department of Homeland Security **Office of Inspector General**

Free and Secure Trade Program –
Continued Driver Eligibility





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

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

MAY 21 2012

MEMORANDUM FOR: Kevin K. McAleenan
Acting Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection

FROM: Anne L. Richards *Anne L. Richards*
Assistant Inspector General for Audits

SUBJECT: *Free and Secure Trade Program – Continued Driver
Eligibility – For Official Use Only*

Attached for your action is our final report, *Free and Secure Trade Program – Continued Driver Eligibility – For Official Use Only*. We incorporated the formal comments from the U.S. Customs and Border Protection (CBP) in the final report.

The report contains three recommendations aimed at improving CBP's processes to ensure continued driver eligibility in the Free and Secure Trade program. Your office concurred with all three recommendations. As prescribed by the Department of Homeland Security Directive 077-1, 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 recommendations. Until your response is received and evaluated, the recommendations will be considered open and unresolved.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post a redacted version of the report on our website.

Please call me with any questions, or your staff may contact Mark Bell, Deputy Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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Abbreviations

CBP	U.S. Customs and Border Protection
CJIS	Criminal Justice Information Services
CPIC	Canadian Police Information Centre
DHS	Department of Homeland Security
FAST	Free and Secure Trade Program
FY	fiscal year
III	Interstate Identification Index
NCIC	National Crime Information Center
OIG	Office of Inspector General



Executive Summary

The U.S. Customs and Border Protection (CBP) Free and Secure Trade program is a border accord initiative among the United States, Canada, and Mexico, designed to ensure security and safety of interborder commerce while enhancing the economic prosperity of each country. Under the program, participants who meet certain eligibility criteria are considered low risk and receive expedited border processing. This enables CBP to redirect security efforts and inspections to commerce that is high or unknown risk while ensuring the movement of legitimate, low-risk commerce. We reviewed the Free and Secure Trade Program to determine whether the program's continued eligibility processes ensure that only eligible drivers remain in the program.

The Free and Secure Trade program's continued eligibility processes do not ensure that only eligible drivers remain in the program. CBP is hampered in its ability to ensure that Mexican citizens and residents in the program are low risk because [REDACTED] and Mexico does not share the southern border Free and Secure Trade program with the United States to vet and continuously monitor drivers' eligibility. Also, the program's Continuous Vetting process does not assess all violations and criminal information that may render drivers ineligible to participate in the Free and Secure Trade program. The information excluded from this process is reviewed every 5 years. As a result, ineligible drivers may be actively enrolled in the program, exposing the agency to increased risk of compromised border security. In addition, CBP has not implemented a process to assess the effect of the program on border security. CBP should determine whether Free and Secure Trade participation has increased or decreased border security risk at land ports of entry and, if needed, establish control processes to mitigate any additional risk.

We made three recommendations intended to improve CBP's processes to ensure continued driver eligibility in the Free and Secure Trade program. CBP management concurred with all three recommendations.



Background

The Free and Secure Trade (FAST) program was initiated after September 11, 2001, as a border accord initiative among the United States, Canada, and Mexico to ensure the security and safety of interborder commerce while enhancing the economic prosperity of each country. The program goal is to promote free and secure trade by using common risk management principles, supply chain security, industry partnership, and advanced technology to improve the efficiency of screening and clearing commercial traffic at our shared borders.

The supply chain security requirements associated with the FAST program are layered, meaning that to be considered a FAST shipment, all participants (i.e., importers, highway carriers, commercial drivers, Southern border manufacturers) have to meet certain eligibility criteria. FAST participants who meet the program's eligibility requirements are considered low risk and receive expedited clearance through designated FAST lanes at land ports of entry, fewer selections for inspections at the border, and front-of-the-line privilege when selected for secondary inspections. Drivers using the FAST lane must carry qualified cargo from a Customs-Trade Partnership Against Terrorism¹-approved importer and possess a FAST commercial driver identification card. The FAST program enables CBP to redirect security efforts and inspections to commerce that is high or unknown risk.

The FAST program has two processes—Continuous Vetting and Renewal—to ensure continued driver eligibility and maintain border security. Continuous Vetting involves a search of U.S. law enforcement databases every 24 hours to ensure the low-risk status of enrolled drivers. Renewal combines searches of law enforcement databases with in-person interviews, document reviews, and fingerprint identification every 5 years.

The FAST program is divided between the northern border, FAST North, and the southern border, FAST South. As of June 2011, 80,177 drivers were actively enrolled in the FAST program. Of these, 68,528 are enrolled in FAST North and 11,649 in FAST South. FAST North is a joint program between the United States and Canada. To participate in the FAST North program, applicants must be approved by the United States and Canada. The FAST South program is not shared with Mexico. FAST South applicants must be approved only by CBP.

¹ Customs-Trade Partnership Against Terrorism is a voluntary government-business initiative to build cooperative relationships that strengthen and improve the overall international supply chain and U.S. border security.



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Regarding the verification of eligibility criteria, drivers in the FAST program must be citizens or permanent residents of the United States, Canada, or Mexico; be 18 years old or older; possess a valid driver's license issued by the United States, Canada, or Mexico; and have a current address and primary residence in the United States, Canada, or Mexico. Additionally, to ensure their low risk, CBP vets FAST drivers using multiple law enforcement databases. These databases include TECS (not an acronym), the National Crime Information Center (NCIC), and the Canadian Police Information Centre (CPIC). CBP may deny an applicant participation in the FAST program for the following reasons:

- False or incomplete information in the application;
- Convictions, pending charges, or warrants for criminal acts;
- Pardons from any country for offenses that violate program requirements;
- Violations of customs, immigration, or agricultural laws or regulations;
- Active investigations by any Federal, State, or local law enforcement agency;
- Inadmissibility to the United States under immigration laws and regulations;
- Inability to satisfy CBP of low-risk status;
- Found ineligible by a country participating in the program.

The FAST program is one of CBP's trusted traveler programs. CBP trusted traveler programs provide expedited travel for preapproved, low-risk travelers through dedicated lanes and kiosks. The cost of the FAST program in fiscal year (FY) 2010 was approximately \$1.4 million, in addition to costs associated with functions shared by other programs (i.e., salaries).

Results of Audit

Improvements Are Needed To Ensure the Continued Eligibility of Drivers in the FAST Program and To Monitor the Program's Effect on Border Security Risk

The FAST continued eligibility processes do not ensure that only eligible drivers remain in the program. CBP is hampered in its ability to ensure that Mexican citizens and residents in the program are low risk because [REDACTED] and Mexico does not share the Southern border FAST program with the United States to vet and continuously monitor FAST drivers' eligibility. Also, the program's Continuous Vetting process does not assess all violations and criminal information that may render drivers ineligible to participate in the program. The information excluded from this process includes certain TECS, NCIC, and CPIC law enforcement data and is reviewed only every 5 years at renewal. As a result, ineligible drivers may be actively enrolled in the program, exposing CBP to increased risk of compromised border security. In



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addition, CBP has not implemented a process to assess the program's effect on border security risk. CBP should determine whether FAST participation has increased or decreased border security risk at land ports of entry and, if needed, establish control measures to mitigate any additional risk.

CBP Cannot Ensure the Low Risk of Mexican Citizens and Residents in the FAST Program

CBP's inability to assess the low-risk status of citizens or residents of Mexico in the FAST program for offenses committed in Mexico increases the risk of CBP's border security mission being compromised by drivers in the program.

In developing the FAST program, Canada, Mexico, and the United States agreed to coordinate, to the maximum extent possible, their processes for border clearance of commercial shipments. Canada joined the FAST North program with the United States. As part of the initial application and renewal processes, Canada Border Services Agency officers interview and approve both U.S. and Canadian northern border applicants. If the Canada Border Services Agency renders any northern applicant ineligible for the program, CBP will also deny the applicant without the need to obtain further details. In addition to the application process, the Canada Border Services Agency continuously removes FAST North drivers from the program. CBP also removes from the program drivers who have been removed by the Canada Border Services Agency without the need for details. Our review of 235 FY 2010 Fast North driver revocations and 112 FY 2010 FAST North denied renewal applications showed that the Canada Border Services Agency determined 160 (68 percent) of the FAST North revocations and 13 (12 percent) of the FAST North denied renewal applications.

In addition to the denials and revocations completed by the Canada Border Services Agency, Canada allows CBP access to the CPIC to vet FAST applicants during initial application and for renewals. A review of 112 FY 2010 FAST North denied renewal applications showed that 12 applications were denied because of violations identified by CBP in the CPIC.

This type of cooperation is not in place between the United States and Mexico for the FAST South program. Although an arrangement existed between Mexico and the United States for cooperating to the maximum extent possible when implementing the program, FAST South is not a joint program between the two countries, and they do not share information for vetting and continuously monitoring FAST South drivers' eligibility. For the southern border, the vetting and continuous monitoring of FAST drivers are completed exclusively by CBP.



CBP does not [REDACTED]

CBP Does Not Continuously Monitor All Available Information That Could Render a Driver Ineligible

The Continuous Vetting process [REDACTED] process in place for recurrent monitoring of FAST drivers' eligibility. This process is designed to screen only for subjects deemed of law enforcement interest in TECS and the NCIC [REDACTED] [REDACTED] may render a driver ineligible to participate in the program. The databases available to CBP to vet FAST drivers for violations and criminal information, such as TECS, the NCIC, and the CPIC, are [REDACTED] [REDACTED] CBP thoroughly checks all of these databases for all of types of information that could render a driver ineligible at the initial application and the 5-year renewal. Information excluded from the Continuous Vetting process is not verified during the 5-year period between applications. For example:

- The NCIC is a U.S. computerized index of criminal justice information (e.g., criminal history information, and information on fugitives, stolen properties, and missing persons) maintained by the Federal Bureau of Investigation. The Continuous Vetting process screens [REDACTED]
- The CPIC is a Canadian computerized system with tactical information about crimes and criminals (e.g., stolen property, wanted persons, criminal history information) maintained by the Royal Canadian Mounted Police. Information in this system could make a driver ineligible for the [REDACTED]



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FAST program. CBP vets applicants in the CPIC at the time of initial application and every 5 years at renewal. [REDACTED]

[REDACTED]

- TECS is a law enforcement and antiterrorism database, principally owned and managed by CBP. TECS includes information on temporary and permanent enforcement, inspection, and intelligence records relevant to the antiterrorism and law enforcement mission of CBP and other Federal agencies. The Continuous Vetting process monitors records of subjects deemed to be of law enforcement interest that have been entered or updated within the previous 24 hours. [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

We tested a sample of 136 FY 2010 applications denied at the point of renewal, of which 123 (90 percent) were denied by CBP. CBP denied 30 renewal applications for offenses committed up to 5 years before the renewal point. In all these cases, the derogatory information that rendered these drivers ineligible was available either in TECS, the CPIC, or the NCIC, but this information was not part of the Continuous Vetting process, and CBP did not remove these drivers until their 5-year renewal application was processed. These drivers remained in the FAST program for up to 5 years before they were deemed ineligible by CBP.



Table 1 shows the types of violations that made drivers in our sample ineligible for the program.

Table 1: Reasons for Drivers' Ineligibility

Reason	Number of Drivers
Criminal Violations	16
Customs, Agricultural, and Immigration Violations	8
Links to Drug Smuggling or Terrorism	6
Total	30

Not removing ineligible drivers from the FAST program until their 5-year renewal occurs exposes CBP to additional risk of compromised border security. For example, five drivers denied at renewal had close links to drug smugglers or were suspected drug smugglers, including a driver listed in TECS as a broker of drug shipments between the United States and Canada. Information rendering these drivers ineligible was available in TECS for 6 to 55 months prior to these drivers' renewal point; however, they were not removed from the program until this derogatory information was reviewed during their 5-year renewal process.

Another driver had close family ties to an individual on the United States Government consolidated terrorist watch list, making the driver ineligible for the FAST program. The driver remained in the FAST program for more than 3 years after this information was available in TECS.

Controls Are Needed To Monitor and Mitigate the Effect of the FAST Program on Border Security Risk

CBP has not implemented a process to assess the effect of the FAST program on border security risk. Without a robust risk assessment process, it is uncertain what effect the program has on border security risk at land ports of entry and whether current control measures are sufficient to compensate for any additional risk resulting from benefits provided to FAST participants.

The FAST program facilitates the clearance of known low-risk commerce at the ports of entry, allowing CBP to concentrate its resources on commerce of high or unknown risk. FAST benefits include reduced number of examinations, which means that FAST shipments receive fewer selections for inspections at the border and expedited border processing. These benefits make the program



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attractive to drug smugglers. Media coverage has emphasized the vulnerability of FAST drivers to the influence of drug-trafficking organizations. For example, a *CBS News* article claimed that benefits provided to FAST program participants (i.e., faster border processing, reduced number of inspections) attract drug smugglers, who often threaten drivers or offer them bribes to coerce participation in smuggling activities.²

CBP's Consolidated Trusted Traveler Handbook requires that Port Directors at each port of entry monitor FAST compliance rates. Compliance rates are calculations to determine adherence to U.S. laws at the border. If the FAST compliance rate is found to be equal to or lower than the compliance rate for non-FAST commercial traffic, Port Directors are required to take immediate remedial action to address the difference. Such remedial actions could entail increasing the number of referrals for additional inspections or implementing other control measures. For example, in 2006 the Otay Mesa, California, port of entry noticed an increase in violations and seizures related to FAST participants and implemented a control measure that examines selected FAST shipments. This control is still in place at this port and at the Calexico, California, port of entry, under the same field office.

Our survey of the 24 land ports of entry with FAST enrollment centers showed that none of these ports is currently implementing the handbook requirement to monitor compliance rates. The handbook requirement to monitor the risk of the FAST program at the land ports of entry is not clear on how the compliance rate will be calculated, and clarification has not been provided to the field. More than half of the surveyed land ports of entry agreed that data are available to calculate and monitor FAST violation rates.

Any FAST participant (i.e., importers, highway carriers, commercial drivers, Southern border manufacturers) who does not comply with established eligibility criteria could increase border security risk. It is important that CBP address weaknesses in ensuring the continued low risk of drivers in the FAST program and regularly monitor the risk that the program represents to border security so that it can implement remedial actions as needed.

² "Drug Smugglers Aided By U.S. Truck Program," *CBS News*, November 23, 2009.



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Recommendations

We recommend that the Customs and Border Protection's Assistant Commissioner for Field Office Operations:

Recommendation #1:

Coordinate with the Department of State and the Mexican government to [REDACTED] to determine the eligibility of Mexican participants in the FAST program.

Recommendation #2:

Develop and implement a process to recurrently verify the eligibility status of enrolled drivers by screening for derogatory information available to CBP that could render a driver ineligible for FAST.

Recommendation #3:

Develop and implement a process for land ports of entry to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed.

Management Comments and OIG Analysis

CBP submitted formal comments to our report. A copy of the CBP response is included as appendix B. We also received sensitivity and technical comments from CBP, and we have made changes to the report based on these comments.

CBP concurred with all recommendations and offered intended corrective actions with projected completion dates. Our analysis of the CBP response to the recommendations follows.

Recommendation #1: Coordinate with the Department of State and the Mexican government to [REDACTED] to determine the eligibility of Mexican participants in the FAST program.



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Management Response: CBP’s Office of Field Operations, in coordination with CBP’s Office of International Affairs, will approach Mexican officials and discuss the possibility [REDACTED]

OIG Analysis: CBP comments are responsive to this recommendation. However, it will remain open and unresolved until CBP provides documentation supporting the implementation of Mexican vetting to the FAST screening process or a substitute control.

Recommendation #2: Develop and implement a process to recurrently verify the eligibility status of enrolled drivers by screening for derogatory information available to CBP that could render a driver ineligible for FAST.

Management Response: The 24-hour vetting process was developed to identify high-risk members with an active want or warrant and/or a subject record in TECS. This process ensures that wanted criminals will be revoked from a Trusted Traveler program even before attempting to make entry into the United States. The continuous vetting process was not meant [REDACTED]

CBP’s ability to [REDACTED]

[REDACTED]

CBP’s Office of Field Operations will [REDACTED]

[REDACTED]



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OIG Analysis: This recommendation will remain open and unresolved until CBP provides OIG documentation supporting the implementation of corrective action plans for the use of information available in NCIC, CPIC, and TECS to ensure the continuous eligibility of drivers in the FAST program.

Recommendation #3: Develop and implement a process for land ports of entry to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed.

Management Response: One of the Beyond the Border initiatives is to “enhance facilities to support trusted trader and traveler programs.” In this initiative, a review of the FAST program will be conducted by CBP and Canada Border Services Agency. As part of the review, CBP and Canada Border Services Agency will analyze FAST and determine if future infrastructure investments are warranted. CBP will determine the best options to build and monitor the outcome of the FAST program while facilitating known low-risk “trusted traveler members.”

OIG Analysis: CBP comments are responsive to this recommendation. However, this recommendation will remain open and resolved until CBP provides documentation describing the steps planned to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed; and provides documentation supporting their implementation.



Appendix A

Objectives, Scope, and Methodology

The 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 to promote economy, efficiency, and effectiveness within the Department.

This report provides the results of our work to determine whether the CBP FAST program's continued eligibility process ensures that only eligible drivers remain in the program. To accomplish our audit objective and gain an understanding of internal control that is significant within the context of the audit objective, we reviewed CBP policies, procedures, management directives, standard operating procedures, and plans to ensure the continued eligibility of drivers in the program.

We interviewed CBP personnel responsible for the FAST program at the Vetting Center in Williston, Vermont, and three enrollment centers and ports of entry in Champlain, New York; Otay Mesa, California; and El Paso, Texas. We also observed operations at the Vetting Center and the enrollment center and port of entry in Champlain, New York.

We tested a random sample of 294 hits from a population of 1,774 hits for FY 2010 from the daily 24-hour vetting process to determine the appropriateness and timeliness of decisions made and actions taken by CBP personnel. We tested a sample of 382 active FAST drivers who are Canadian residents against the CPIC database to determine whether any derogatory information that occurred after the driver's last application that would make drivers ineligible has not been detected by CBP. We reviewed a statistical sample of 136 records from the population of FY 2010 denied FAST renewal applications to determine whether the derogatory information that resulted in denials was available and should have been acted upon before the application renewal stage. We reviewed a statistical random sample of 264 records for FY 2010 FAST driver revocations to determine what prompted the revocations and evaluate any differences in reasons and avenues for revocations between FAST North and FAST South.

We interviewed officials and personnel from various offices, including the Trusted Traveler Program Office, Headquarters Cargo, Customs-Trade Partnership Against Terrorism, the Vetting Center, and Project Planning Analysis and Evaluation to determine whether the FAST program risk is being monitored. We surveyed 24 land port directors and performed followup interviews with selected land ports and respective field offices to determine whether the risk of the FAST program is being



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monitored at the ports of entry and remedial actions are being implemented if needed. We did not review whether FAST participants are receiving program benefits.

To assess the reliability of data, we (1) reviewed documentation related to the systems, (2) made inquiries of knowledgeable agency officials about the systems, (3) reviewed the data for obvious inconsistency errors, and (4) reviewed documentation related to data sources for sampled records. We relied on computer-generated data from TECS. Based on our assessment, we determined that the data were sufficiently reliable for the purposes of our report.

We conducted this performance audit between May and October 2011 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 our findings and conclusions based upon our audit objectives.



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Appendix B

Management Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



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

March 8, 2012

Charles K. Edwards
Acting Inspector General
Department of Homeland Security
245 Murray Drive, SW, Building 410
Washington, DC 20528

Re: The Office of Inspector General's Draft Report Entitled, "Free and Secure Trade Program - Continued Driver Eligibility- For Official Use Only"

Dear Mr. Edwards:

Thank you for the opportunity to review and comment on the Office of Inspector General's (OIG's) draft report entitled "Free and Secure Trade Program - Continued Driver Eligibility- For Official Use Only," (project no. OIG-11-024-AUD-CBP). U.S. Customs and Border Protection (CBP) appreciates the OIG's work in planning and conducting its review and issuing this report.

The report contains three recommendations directed to CBP Assistant Commissioner Office of Field Operations (OFO). A summary of CBP actions and corrective plans to address the recommendations is provided below:

Recommendation #1: Coordinate with the Department of State and the Mexican government to [REDACTED] to determine the eligibility of Mexican participants in the Free and Secure Trade program (FAST).

CBP Response: Concur. CBP's OFO, in coordination with CBP's Office of International Affairs (INA), will approach Mexican Officials and discuss the possibility of [REDACTED]

Completion Date: December 31, 2012

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Appendix B Management Comments to the Draft Report

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Recommendation #2: Develop and implement a process to recurrently verify the eligibility status of enrolled drivers by screening for derogatory information available to CBP that could render a driver ineligible for FAST.

CBP Response: Concur. The 24-hour vetting process was developed to identify high-risk members with an active want or warrant and/or a subject record in TECS. This process ensures wanted criminals will be revoked from a Trusted Traveler program even before attempting to make entry into the United States. G24 was not meant [REDACTED]

CBP's ability to [REDACTED]

CBP's OEO, in coordination with INA, [REDACTED]

Completion Date: December 31, 2012

Recommendation #3: Develop and implement a process for land ports of entry to assess and continuously monitor the effect of the FAST program on border security risk and implement remedial actions as needed.

CBP Response: Concur. One of the Beyond the Border initiatives is to "enhance facilities to support trusted trader and traveler programs." In this initiative, a review of the FAST program will be conducted by CBP and Canadian Border Services Agencies (CBSA). As part of the review, CBP and CBSA will analyze FAST and determine if future infrastructure investments are warranted. CBP will determine the best options to build and monitor the outcome of FAST program while facilitating known low risk "trusted traveler members."

Completion Date: December 31, 2012

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Appendix B
Management Comments to the Draft Report

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With regard to the sensitivity of the draft report, CBP has identified information within the report requiring restricted public access based on a designation of "For Official Use Only" as it exposes vulnerabilities in the FAST program, which could be exploited by persons seeking to do harm. Accordingly, CBP's sensitivity and technical comments will be provided separately as an attachment to this letter.

We look forward to working with you on future reviews. If you have any questions, please have a member of your staff contact Kathryn Dapkins, Audit Liaison, Office of Internal Affairs at (202) 344-2102.

Sincerely,

James F. Tomsheck
Assistant Commissioner
Office of Internal Affairs

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Appendix C

Major Contributors to This Report

Alex Best, Director
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Gary Crownover, Program Analyst
James Diaz, Program Analyst
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Appendix D
Report Distribution

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