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DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2008

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

Department of Homeland Security
Nondepartmental witnesses

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DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, MARCH 8, 2007

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:35 p.m., in room SD–192, Dirksen Senate Office Building, Hon. Robert C. Byrd (chairman) presiding.

Present: Senators Byrd, Leahy, Murray, Landrieu, Lautenberg, Nelson, Cochran, Stevens, Shelby, Craig, and Alexander.

DEPARTMENT OF HOMELAND SECURITY

STATEMENT OF HON. MICHAEL CHERTOFF, SECRETARY

OPENING STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Welcome, Secretary Chertoff. You've been here long enough to know what the problems are, and you should be able to answer the tough questions.

This is the first hearing of the Homeland Security Subcommittee during the 110th Congress. The Department of Homeland Security has had the benefit of oversight from two excellent Subcommittee chairmen during the Department's 4-year history. Senator Thad Cochran, and Senator Judd Gregg. It would be difficult, Mr. Chairman, to live up to the standard that you and Senator Gregg have set. But, I look forward to the challenge.

Mr. Secretary, thank you for appearing here today.

You manage a department that employs over 192,000 dedicated men and women. These workers serve on the front lines. The front lines, securing our ports and waterways, securing our borders, enforcing our immigration laws, protecting the 600 million flyers who use our airports each year, and responding to disasters. I commend them for their dedication, and their service to preserving our freedoms and securing our homeland.

Two years ago, Senator Craig and I, with support from Chairman Gregg offered an amendment to begin the process of hiring and training a significant number of border patrol agents, and immigration investigators.

Despite opposition from the White House, the funds for enhanced border security were enacted into law. Since 2004, on a bipartisan basis, we have increased the number of border patrol agents by 4,000, the number of immigration enforcement personnel by 1,373, and the number of detention beds by 9,150.

So, Mr. Secretary, I'm pleased that the President's budget for fiscal year 2008 includes significant additional resources for improving security at our borders.

Regrettably, the President's budget did not commit significant resources to other known vulnerabilities in this country. The administration continues to attempt to secure the Nation on the cheap. In every State of the Union address since the attacks on 9/11, the President has raised the specter of another attack.

In January he said, "Every success against a terrorist is a reminder of the shoreless ambitions of this enemy. In the 6 years since our Nation was attacked, I wish I could report to you that the dangers have ended. They have not." Yet, when you dig through the details and decipher the book-cooking in the President's budget, and truly understand the consequences of the budget, the increase that is proposed for Homeland Security is only 1 percent, 1 percent.

The administration has a huge credibility gap when it comes to Homeland Security. In August, after the arrests in Britain of potential terrorists who plotted to blow up commercial airliners over the Atlantic Ocean, you elevated the threat-risk level in the aviation sector to "orange," or high, orange. And it remains there today, orange.

Yet, the President's budget that is before the subcommittee, proposes to cut funding for purchasing and installing explosives-detection equipment at airports by 17 percent.

According to your own Department's nationwide plan review, 61 percent of the States, and 69 percent of the urban areas, do not have adequate plans to respond to a catastrophic event. Hurricanes Katrina, Rita and Wilma, certainly proved that we are not prepared to respond to such an event, or a mass evacuation.

Yet, the President's budget proposes to cut first responder grants by $1.2 billion—B-I-L-L-I-O-N—$1.2 billion, and to freeze funding for emergency management performance grants.

In recent years there have been deadly attacks on trains in London, Madrid, Moscow, Tokyo, and Mumbai, India. Hundreds of innocent people have lost their lives. The Department has responded with unenforceable policy directives, two small pilot projects, the results of which have not been applied nationally, and a budget that proposes to fund the mass transit and rail security program at the inadequate 2007 level of $175 million.

I also figure that the Department is far too reliant on what I would call paper security. The Department is reliant on standards that are not enforced, and on reports prepared by contractors that are never executed. Five years since 9/11, the majority of cargo containers that are loaded onto passenger aircraft are not N-O-T not inspected. We rely on a paper process for determining the threat potential of 3,800 freight forwarders, who have access to air cargo in 10,000 facilities. Congress has added funding for 300 air cargo inspectors, none of whom are being used to actually inspect cargo.

Now, with regard to inspecting the 11 million cargo containers that are shipped into this country, we physically inspect only 5 to 7 percent. How, how, how can you ride herd on an aggressive and regular basis over more than 6,100 trading partners in nearly 60 countries who ship cargo into this country with only 157 supply-

chain security specialists? And yet, the President does not seek additional security specialists for fiscal year 2008.

Mr. Secretary, you have taken on the task of managing a Department within an organization that was flawed at its inception. I said so then. Flawed at its inception. In its short 4-year history, the Department has been reorganized nine times.

I know you're committed to securing the homeland. But I do not understand why this administration insists on hamstringing the Department with a status quo budget. Can you explain that? Can anyone? I doubt it.

Mr. Secretary, you have a tough job. Following any opening remarks that Senator Cochran might have, we look forward to your testimony.

Senator Cochran.

STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Mr. Chairman, I'm pleased to join you in welcoming the distinguished Secretary of Homeland Security to our Committee. We appreciate his leadership of the Department, and his assistance in describing the Department's priorities as we begin the year's appropriations process.

The discretionary appropriations request included in the budget submitted for the Department is $32.4 billion, which is an increase of just over 1 percent from the current year's level.

Mr. Secretary, I compliment you for not including the presumption that aviation security fees will be approved by the Congress. I also want to compliment you for the Department's response to the U.K. airline bombing plot last August. The Transportation Security Administration deserves commendation for creating a flexible program to meet threats to aviation.

In the past 2 years, you have managed a substantial increase in funding for border security, and you have overseen the ending of the practice of catch-and-release on the Southwest border. I'm also pleased to see that you are on-track to meet the aggressive hiring targets that were funded during the past 2 years for Customs and Border Protection, and Immigration and Customs Enforcement.

PREPARED STATEMENT

The people of my State appreciate very much the Department's efforts to respond to the Hurricanes Katrina and Rita. The devastation caused by those hurricanes continues to be a reminder of the importance of this Department's mission. Our State's Governor, Haley Barbour, has worked closely with your agencies to recover and rebuild. He has said, on several occasions, and I agree, that the Federal Government has been a strong partner with the States. We need to ensure that this partnership will continue.

Welcome to the hearing.

Senator BYRD. The subcommittee has received a statement from Senator Shelby which will be placed in the hearing.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD C. SHELBY

Mr. Chairman, thank you for holding this important hearing today.

Secretary Chertoff, I appreciate you appearing before the committee. I believe it is essential to hear directly from you about the Department's needs, challenges, and goals.

Last week, I visited Alabama after a tornado ripped through the State. In Enterprise, the tornado destroyed a high school, killing 9 people. The same storm system killed another Alabamian half way across the State in Miller's Ferry. This was a horrific natural disaster causing nearly $400 million in damage in Alabama alone. Lives were shattered and communities are struggling to cope with the aftermath of the storm.

It was this visit in the aftermath of the storm that reminded me of the great need for preparedness. We won't always be able to predict when disaster will strike, but having a capable, tested system in place will allow us to react effectively. And it is your Department, Secretary Chertoff, the Department of Homeland Security that we turn to after events like the one we faced in Alabama last week.

While the Department has made some major mistakes in the past when responding to other natural disasters, I am confident that you are making progress. The recent response in Alabama was quick and decisive. The affected communities came together to react to the damage and with the assistance of the Department of Homeland Security, Alabama is moving towards a swift recovery.

The storms last week once again reinforced the importance that we, as a Nation, must become better prepared to respond to all disasters whether they are acts of God or acts of man. While the risk of another terrorist attack is as real today as it was 6 years ago, we must ensure that our Nation is prepared to respond effectively to all disasters we may face. We cannot stop training our first responders for the next terrorist attack. We must remain vigilant and continue funding essential programs to keep our Nation ready to deter and respond to the next disaster—in whatever form it may take.

A plan without proper execution is merely words on paper. And proper execution can only occur with well-trained, properly equipped first-responders. Whether it is a FEMA recovery team, a State emergency management group, or a volunteer search and rescue squad, we must do everything in our power to ensure that those responsible for executing the plan are able to act swiftly and appropriately in order to save lives and property from further destruction. In particular, Mr. Secretary, I am interested in hearing the Department's efforts to effectively train the men and women that are willing to put themselves in harm's way when duty calls and disaster strikes. I am particularly interested because Alabama has our Nation's only live-agent training facility for civilian first responders, The Center for Domestic Preparedness or CDP.

In addition, Mr. Secretary, I remain concerned about the problem of illegal immigration. Our immigration laws must be enforced. If they are not enforced, what is their purpose?

Enforcing our current immigration laws would send a message to those seeking to enter this country illegally, that breaking our laws is not a lucrative endeavor when you are immediately deported. Our law enforcement must be agile and efficient but more importantly, able to enforce the law. Those in search of a better way of life through immigration are welcome, but only if they do so legally.

Ours is a Nation of laws Mr. Secretary, and to continuously reward those that ignore the law or to turn a blind eye sends the wrong message to those who come here legally and those that follow our laws each and every day.

Mr. Secretary, as I travel through Alabama and hear from my constituents, illegal immigration is the number one topic of discussion. Alabamians are searching for answers. They want to know why they are raising their children to obey the law when our own government is encouraging others to break the law. What's more, they are not punished, in fact many are proposing to reward them. Yet hundreds of thousands of people are sitting behind bars today for breaking the law—the difference is that they didn't enter the country illegally, they were already here. Mr. Secretary, how do you differentiate between the laws that are acceptable to break and those that are unacceptable to break?

I look forward to hearing from you about what your Department is doing to address this pressing, and increasingly threatening, issue.

The Senate has a responsibility to make sure the Department of Homeland Security is adequately funded so that it may carry out its mission, but it would be imprudent for us to go about this blindly. We want to make sure that you are better organized and that you have learned from the mistakes of the past.

Again this is a critical hearing and I applaud the Chairman for holding it today.

Thank you Mr. Chairman.

DEPARTMENT'S RESPONSE TO THE CENTER FOR DOMESTIC PREPAREDNESS

Answer. The Department provides Federal leadership and resources to strengthen State and local governments' preparedness capabilities—with the goal of reducing the Nation's risk as a whole while increasing the collective ability to address catastrophic events. To fulfill this critical mission, first responders must have the necessary training and knowledge to mitigate a range of threats. The Department fulfills this requirement in a number of ways.

The Training Division within the Department's Office of Grants and Training assists first responders by serving as a central resource for the creation, management, and dissemination of high-quality preparedness training and related products. Over 100 Grants & Training-supported courses are available to emergency responders across the Nation through 45 training providers. In fiscal year 2006, over 700,000 first responders were trained through these providers. Courses are offered in Agro-terrorism, Cyber Security, Weapons of Mass Destruction, Hazardous Materials, Intelligence Capacity, Transit Security, and Vigilant Communities. The Training Division also maintains course catalogs of State and other Federal training courses for over 150 courses.

The Federal Emergency Management Agency (FEMA) operates the Emergency Management Institute (EMI), a national training center for emergency planning, exercise design, and incident command operations for Federal, State, local, tribal and private sector individuals. EMI curricula are structured to meet the needs of this diverse audience with an emphasis on how the various elements work together in emergencies to save lives and protect property. Instruction focuses on the four phases of emergency management: mitigation, preparedness, response, and recovery. EMI develops courses and administers resident and non-resident training programs in areas such as natural hazards (earthquakes, hurricanes, floods, dam safety), technological hazards (hazardous materials, terrorism, radiological incidents, chemical stockpile emergency preparedness), professional development, leadership, instructional methodology, exercise design and evaluation, information technology, public information, integrated emergency management, and train-the-trainers. Additionally, the U.S. Fire Administration/National Fire Academy (NFA) promotes the professional development of the fire and the emergency response community and its allied professionals. The NFA delivers educational and training courses having a National focus to supplement and support State and local fire service training programs.

Within the Department's Federal Law Enforcement Training Center (FLETC), the Counterterrorism Division (CTD) provides several courses of instruction to First Responders, both at the basic and advanced levels. Advanced First Responder-related training is also provided to State, local, tribal and campus law enforcement colleagues. First Responder training delivered to basic students includes Introduction to Man-Portable Air Defense Systems, Vehicle-Borne Improvised Explosive Devices, Bombs & Explosives, Elements of Suicide Bombers, National Incident Management System, Incident Command System, and Critical Incident Response, and Response to Weapons of Mass Destruction /Hazardous Material situations. These courses are delivered throughout the FLETC Basic Training Programs to students from more than 80 Federal agencies.

Plans for the "New FEMA" call for the Center for Domestic Preparedness in Alabama to be a key component of FEMA's new National Preparedness Directorate's National Integration Center (NIC). The NIC will include a specialized office for integration and coordination of emergency management and emergency preparedness training and exercises to ensure the most effective use of the Nation's training and exercise assets. The NIC will also include among its components the Noble Training Center and EMI; will have strong ties to the NFA; and, will coordinate its efforts with other training partners, including the National Domestic Preparedness Consortium, TRADE, and other colleges, universities and training facilities. This approach will support a more coordinated and effective emergency preparedness and management training program that will help ensure that the Nation's first responders are properly trained for their responsibilities.

While the Department of Homeland Security (DHS) has made measurable progress in achieving effective control of the border and improving the enforcement of our immigration laws in the interior, in order to continue on this path of success, we need your help by giving us effective tools to do our job. We appreciate the ongoing consideration for comprehensive immigration reform within the Congress. DHS is committed to the President's vision of immigration reform based on five main pillars: (1) gaining effective control of the border; (2) building a robust interior enforcement program; (3) establishing a Temporary Worker Program (TWP); (4) bringing

illegal aliens who are now in the United States out of the shadows; and (5) promoting assimilation of new immigrants into our society.

Senator BYRD. Mr. Secretary.

STATEMENT OF MICHAEL CHERTOFF

Secretary CHERTOFF. Mr. Chairman, thank you for inviting me to testify on the President's budget. I appreciate the opportunity to appear before you and Ranking Member Cochran and the other members of the committee to talk about what our priorities are for the coming fiscal year. I have a somewhat more extensive statement than I propose to deliver orally, and I ask that it be made part of the record.

Senator BYRD. It will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF MICHAEL CHERTOFF

Mr. Chairman, Senator Cochran, and Members of the Subcommittee, as this is my first opportunity to appear before this Subcommittee in the 110th Congress, let me start by saying that I look forward to working with you in not only securing the appropriate resources, but making sure that we use them in the most effective and efficient manner to protect the homeland and the American people. While we have had many successes, there are numerous challenges that still remain. I am here today to ask for your partnership and support as we face these challenges. We may not see eye to eye on all issues, but we certainly agree that our interests are best served when we work together to achieve our common goal of securing this great Nation.

I am pleased to appear before the Subcommittee today to highlight some of our key accomplishments of the last year and present President Bush's fiscal year 2008 budget for the Department of Homeland Security (DHS). Five years after September 11, 2001, DHS is more dedicated than ever to our vision and accomplishing our mission. September 11, 2001, will forever be etched in our souls as we remember the lives lost, the terror felt, the sacrifices made, and the courage shown. As a result of the deliberate and malicious acts of our enemies that occurred on that day, the Department was formed and charged with the significant responsibility of securing America. As we approach our fourth anniversary on March 1, 2007, we recognize that the Department has endured challenges, yet bravely stood in the face of our Nation's enemies, diligently building systems to secure our homeland with urgency, flexibility and resolve.

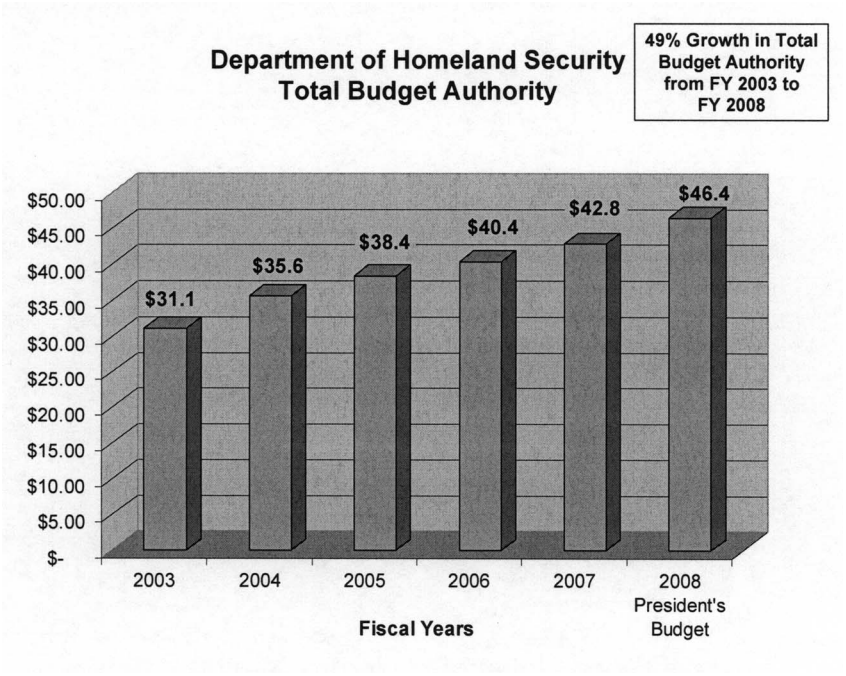
We must focus on the greatest risks and be flexible to changing threats, disciplined in our use of resources, and fully committed to building a Department that will meet future challenges, preserve freedom and privacy, and protect the American people. To achieve this, we will place considerable attention over the next 2-year period on the following five goals:

Goal 1.	Protect our Nation from Dangerous People
Goal 2.	Protect our Nation from Dangerous Goods
Goal 3.	Protect Critical Infrastructure
Goal 4.	Build a Nimble, Effective Emergency Response System and a Culture of Preparedness
Goal 5.	Strengthen and Unify DHS Operations and Management

We have already made great progress in each of these areas, and with the fiscal year 2008 Budget, we will continue that momentum. Let me highlight some of our key accomplishments along with initiatives and ongoing programs in our fiscal year 2008 budget request.

Overall, the fiscal year 2008 budget request for the Department of Homeland Security represents an 8 percent increase over fiscal year 2007, with a total request of $46.4 billion in funding. The Department's fiscal year 2008 gross discretionary budget is $37.7 billion, an increase of 8 percent. Gross discretionary funding does

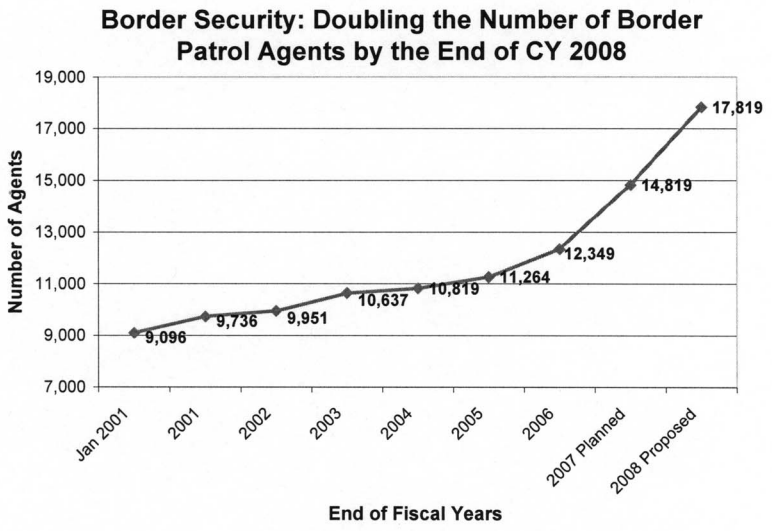
not include funding such as Coast Guard's retirement pay accounts and fees paid for immigration benefits. The Department's fiscal year 2008 net discretionary budget is $34.3 billion, which does not include fee collections such as funding for the Federal Protective Service (ICE), aviation security passenger and carrier fees (TSA), credentialing fees (such as TWIC–TSA), and premium collections (National Flood Insurance Fund, FEMA). It should also be noted that the fiscal year 2008 President's Budget request reflects the Notice of Implementation of the Post-Katrina Emergency Reform Act of 2006 (Public Law 109–295) and of Additional Changes Pursuant to Section 872 of the Homeland Security Act of 2002, provided to Congress on January 18, 2007.



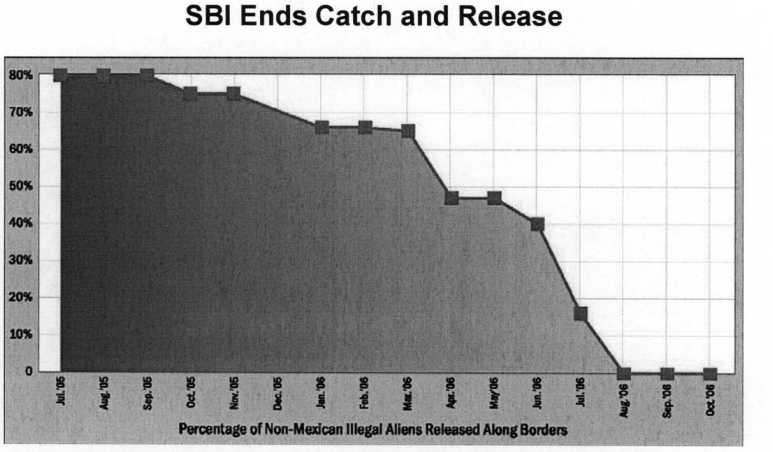
GOAL 1: PROTECT OUR NATION FROM DANGEROUS PEOPLE

We have accomplished a lot in terms of continuing to protect our Nation from dangerous people. Key accomplishments supporting this goal are as follows:

6,000 National Guard Deployed to Border.—In support of the President's initiative to secure the border, 6,000 National Guard personnel were deployed to the Southwest border as part of Operation Jumpstart. In addition to the National Guard deployment, Border Patrol agent staffing increased by 8 percent, from over 11,200 to 12,349, as shown in the chart below.

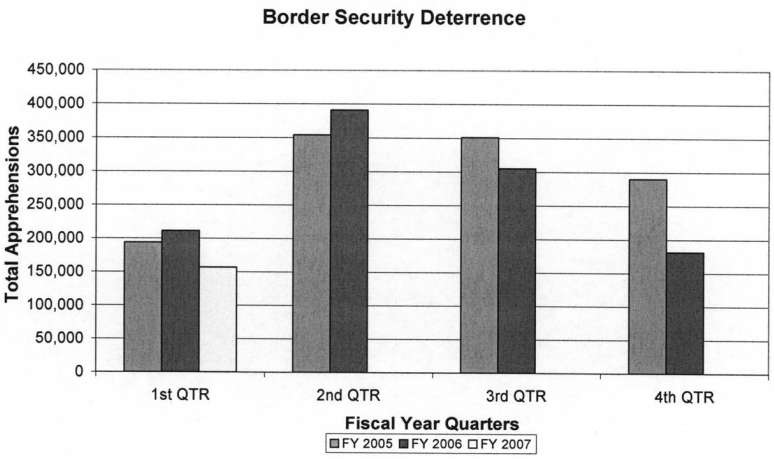


"Catch and Return" Replaced "Catch and Release" Along the Borders.—As part of the Secure Border Initiative, the Department ended the practice of "catch and release" along the Southern and Northern borders. In the past, we apprehended illegal aliens from countries other than Mexico and then released them on their own recognizance. Often these illegal aliens failed to return for their immigration hearings. In July of 2005, we were releasing up to 80 percent of non-Mexican illegal aliens because we did not have the bed space to hold them. As of August 2006, we are holding 100 percent. When people know they will be held in detention and then returned to their home country, it creates a strong disincentive to cross illegally in the first place. Ending this practice and replacing it with "catch and return" is a breakthrough in deterring illegal immigration on the Southern border. This accomplishment is one that many considered impossible in 2005 when only approximately 34 percent of apprehended non-Mexican aliens were detained.



Apprehension Rates Declined.—Fiscal year 2006 showed a marked decrease in the apprehension rate due, in principle, to the end of "catch and release," the implementation of Operation Jumpstart, and the expanded use of expedited removal procedures. The graph below provides historical data by fiscal year for total apprehen-

sions of both Mexican and non-Mexican aliens between U.S. ports of entry. CBP's Office of Border Patrol (OBP) made nearly 100,000 fewer apprehensions in fiscal year 2006 than in fiscal year 2005 due to these factors. This decline is represented below by quarter.

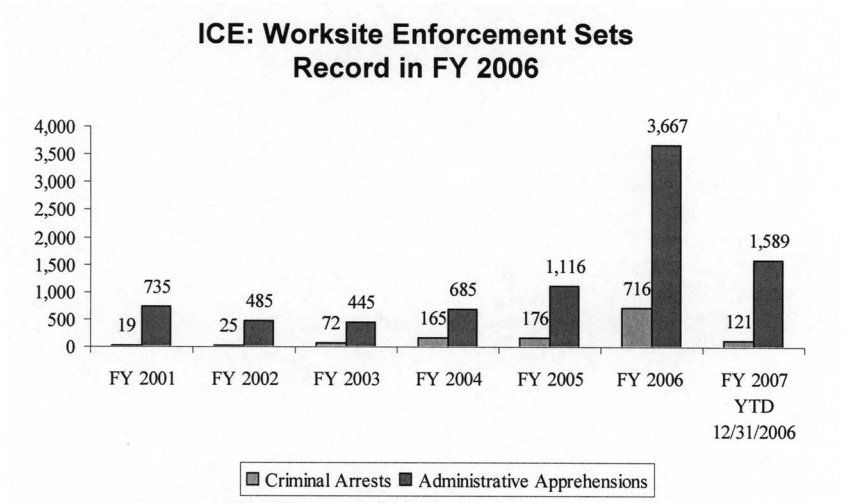


Border Security At and Between the Nation's Ports of Entry Increased.—By deterring illegal immigration, security has been strengthened. DHS can more effectively target resources to control our borders with fewer alien crossings. As shown in the chart above, CBP Border Patrol agents reduced the number of apprehensions at the borders by more than 8 percent in fiscal year 2006. As a result of targeted coordinated enforcement efforts, CBP Border Patrol reduced non-Mexican illegal alien apprehensions by 35 percent.

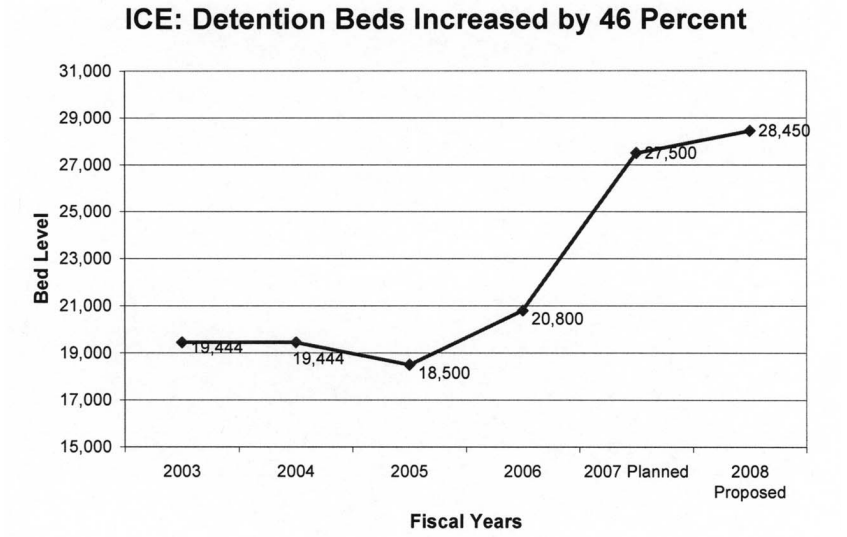
CBP Increased Capability to Secure the Northern Border.—CBP Air and Marine opened its third of five Air Branches planned for the Northern border of the United States. The Great Falls Air Branch in Montana joins the Bellingham, Washington, and Plattsburgh, New York, Air Branches in supporting Homeland Security efforts along the Northern tier.

Ports of Entry Inspections Formed First Line of Defense at Land Borders.—CBP officers inspected 422 million travelers and more than 132 million cars, trucks, buses, trains, vessels, and aircraft. CBP officers inspected 1.19 million private vehicles, 11.48 million trucks, and more than 1 million aircraft.

ICE Set New Records for Worksite Enforcement and Compliance Enforcement.—As depicted in the graph below, in fiscal year 2006 more than 4,300 arrests and apprehensions were made in ICE worksite enforcement cases, more than seven times the arrests and apprehensions in fiscal year 2002, the last full year of operations for the U.S. Immigration and Naturalization Service (INS). ICE completed 5,956 compliance enforcement investigations resulting in the administrative arrest of 1,710 overstay and status violators, a 75 percent increase over the number of administrative arrests in fiscal year 2005.



ICE Set New Record for Alien Removals.—ICE removed 189,670 illegal aliens from the country in fiscal year 2006, a 12 percent increase over the number of removals during the prior fiscal year. As shown in the following chart, ICE also increased its detention bed space by 6,700 and is now funded for a total of 27,500 beds for fiscal year 2007.



US VISIT's Biometric Program Kept Terrorists and Other Criminals Out of Our Country.—US VISIT's biometric program increased watch list hits by 185 percent at consular offices. Keeping terrorists and other criminals out of our country protects the American people, while facilitating visits from legitimate travelers. In fiscal year 2006 there were 2,558 watch list hits at consular offices, up from 897 hits in fiscal year 2005. The use of biometrics has allowed DHS to deny entry to more than 1,100 known criminals and visa violators.

TSA Responded to Liquid Explosive Threat.—Although over 600 million people fly each year, the Transportation Security Administration was able to perform necessary passenger screening operations preventing and protecting against adverse ac-

tions while attaining a new high in customer satisfaction. Customer satisfaction reached 81 percent, a new high for screening operations at the Nation's security checkpoints. In addition, in response to the foiled terror plot in England, TSA trained its 43,000 security officers to address the threat of liquid explosives. After two days, security wait times returned to normal levels. Six weeks later, after conducting extensive explosive testing with our Federal partners, TSA again proved its flexibility by modifying its ban on liquids by allowing limited quantities onboard aircraft. Again, efficiency was not seriously affected and in fact wait times during the Thanksgiving holiday in 2006 were slightly lower than in 2005.

U.S. Coast Guard Migrant Interdiction Efforts Contributed to Border Security. The Coast Guard evaluates its migrant interdiction effectiveness by counting the number of undocumented migrants from four primary source countries (Cuba, Haiti, the Dominican Republic, and the Peoples Republic of China) against the combined estimated yearly migration threat from these countries. There were 5,552 successful migrant arrivals out of an estimated threat of 51,134 migrants in fiscal year 2006, yielding a deterrence and interdiction rate of 89 percent.

Intelligence Campaign Plan for Border Security (ICP).—The ICP, managed by the Office of Intelligence and Analysis, is a departmental planning effort to provide comprehensive and coordinated intelligence support for the full spectrum of the Department's border security operations. The ICP is linking DHS intelligence resources, and those of State and local partners, with the Intelligence Community in order to deliver actionable intelligence to front-line operators and to fuse national intelligence with law enforcement information. As part of the ICP, we began developing and implementing, in partnership with the Director of National Intelligence, a robust strategy for collection and analysis of border security intelligence to support our operational missions. In addition, DHS intelligence analysts draw on their extensive experience in the Intelligence Community to help ensure that the Department gets full benefit from national collection assets.

The fiscal year 2008 budget request includes funding to continue the progress made in protecting our Nation from dangerous people. Examples are as follows:

—Total funding of $1 billion is requested for the SBInet program to support the deployment of an integrated infrastructure and technology solutions for effective control of the border to include fencing and virtual barriers to prevent illegal entry into the United States.

—Total funding of $778 million will provide for 3,000 additional Border Patrol agents as well as the facilities to house the agents, the support personnel, and equipment necessary to gain operational control of our borders. This will bring the total number of Border Patrol agents to 17,819 at the end of fiscal year 2008. This will keep us on track to achieve the President's goal of doubling the Border Patrol by the time he leaves office.

—Increased funding of $252 million is requested for implementation of the Western Hemisphere Travel Initiative (WHTI) at land ports of entry. The requested resources will advance the WHTI goal of ensuring that all people arriving at U.S. ports of entry have a valid and appropriate means of identification and can be processed in an efficient manner.

—An increase of $146.2 million for the transition to 10-Print and IDENT/IAFIS Interoperability. The funding will provide the capability to biometrically screen foreign visitors requesting entry to the United States through the collection of 10-print (slap) capture at enrollment. US VISIT, along with the Departments of State and Justice, will be able to capture ten fingerprints rather than the current two, as well as increased interoperability between DHS' Automated Biometric Identification System (IDENT) and Justice's Integrated Automated Fingerprint Identification System (IAFIS).

—An increase of $224.2 million in funding will support the Transportation Security Administration's screening operations. This includes funding for the Transportation Security Officers (TSO), Document Checkers, Career Progression Program, and procurement and installation of checkpoint support and explosives detection systems. TSA has evolved its TSO workforce to be highly responsive and effective in addressing the variety of potential threats, such as those presented in August 2006 by liquids, aerosols and gels. In fiscal year 2008, TSA will add an important layer of defense for aviation security by assuming responsibility of document checking.

—An increase of $38 million in funding will support development of the Secure Flight system. This includes funding for hardware procurement, operations ramp-up and training, and network interface engineering between the Secure Flight and the U.S. Customs and Border Protection (CBP) Advance Passenger Information System (APIS) network. Secure Flight will strengthen watch list screening and vet all domestic air travelers.

—An increase of $28.7 million for the ICE Criminal Alien Program (CAP) will ensure the safety of the American public through the addition of 22 CAP teams. These teams will identify and remove incarcerated criminal aliens so they are not released back into the general population.

—An increase of estimated fee revenue of $16.5 million in funding will support the Transportation Worker Identification Credential (TWIC) which will establish an integrated, credential-based, identity verification program through the use of biometric technology. In order to gain unescorted access to the secure areas within the Nation's transportation system, transportation workers who need access to these areas will go through identity verification, a satisfactory background check and be issued a biometrically verifiable identity card to be used with local access systems. The TWIC final rule has very recently been issued, and initial enrollment for this program is scheduled to begin in March 2007.

—A total of $788.1 million is requested for the Coast Guard's Integrated Deepwater System. This funding will: complete the acquisition of four National Security Cutters; fund engineering and design costs for the Replacement Patrol Boat; and purchase four additional Maritime Patrol Aircraft. These long-awaited upgrades to its fleet will strengthen the Coast Guard's ability to safeguard our seaports from terrorists seeking to enter the country or transport dangerous weapons or materials.

—A funding request of $30 million for U.S. Citizenship and Immigration Services' Employment Eligibility Verification (EEV) Program. Through this voluntary web-based program U.S. employers are able to quickly verify the employment eligibility of their employees, helping them avoid the hiring of unauthorized workers.

—Total funding of $263 million requested for the Federal Law Enforcement Training Center (FLETC) will provide the most current basic and advanced training for our Nation's law enforcement officers. FLETC will provide training for over 53,000 students in fiscal year 2008 including an estimated 4,350 Border Patrol Agents, 60 ICE Investigators and 530 ICE Detention Personnel in support of the Secure Border Initiative.

GOAL 2: PROTECT OUR NATION FROM DANGEROUS GOODS

We have also made a lot of progress in protecting our Nation from dangerous goods. Key accomplishments include:

Increased the Number of Containers Inspected Prior to Entering the United States.—Almost seven million cargo containers arrive and are offloaded at U.S. seaports each year. CBP increased the percent of shipping containers processed through its Container Security Initiative prior to entering U.S. ports from 48 percent in fiscal year 2004 to 82 percent in fiscal year 2006. This significantly decreases the risk of terrorist materials entering our country while providing processes to facilitate the flow of safe and legitimate trade and travel from more foreign ports.

DHS Deployed Over 880 Radiation Portal Monitors at Land and Sea Ports.—DHS deployed 283 new radiation portal monitors throughout the Nation's ports of entry, bringing the number of radiation portal monitors to 884 at the Nation's land and sea ports of entry. These additional RPMs allow us to inspect 90 percent of incoming cargo containers, an increase of approximately 30 percent from this time last year.

DNDO Awarded over $1 Billion for Next Generation Nuclear Detection Devices.—DNDO announced the award of Advanced Spectroscopic Portal (ASP) program contracts totaling $1.15 billion to enhance the detection of radiological and nuclear materials at the Nation's ports of entry. ASP models were deployed to the Nevada Test Site, where they will be tested using nuclear threat material. Portals have also been delivered to the New York Container Terminal for data collection.

Secure Freight Initiative Launched to Begin Screening at Foreign Ports.—DHS and the Department of Energy announced the first phase of the Secure Freight Initiative, an unprecedented effort to build upon existing port security measures by enhancing the Federal Government's ability to scan containers for nuclear and radiological materials overseas and to better assess the risk of inbound containers. The initial phase involves the deployment of a combination of existing technology and proven nuclear detection devices.

Protected Air Cargo.—Recently published air cargo security rules help prevent the use of air cargo as a means of attacking aircraft. The rules mark the first substantial changes to air cargo regulations since 1999, and represent a joint government-industry vision of an enhanced security baseline. These new measures will be enforced by an expanded force of air cargo inspectors, who will be stationed at the 102 airports where 95 percent of domestic air cargo originates.

U.S. Coast Guard Set Records for Drug Seizures and Arrests.—This year, counter-drug boardings from United States and Royal Navy vessels resulted in all-time records for seizures and arrests. The 93,209 pounds of drugs that were seized was more than the combined amount seized in the last 2 years.

The fiscal year 2008 budget request includes funding to build on the accomplishments made in protecting our Nation from dangerous goods. Some examples include:

—Total funding of $178 million is requested for the procurement and deployment of radiation portal monitors, including next-generation Advanced Spectroscopic Portal (ASP) systems. Our goal is to screen almost 100 percent of arriving cargo at seaports by the end of this year, and nearly 100 percent at all of our ports of entry by the end of fiscal year 2008.

—An increase of $15 million is requested for the Secure Freight Initiative that is designed to maximize radiological and nuclear screening of U.S. bound containers from foreign ports. Secure Freight includes a next generation risk assessment screening program and an overseas detection network, while merging existing and new information regarding containers transiting through the supply chain to assist customs and screening officials in making security and trade decisions.

—An increase of $47.4 million is requested for DNDO's "The Acceleration of Next-Generation Research and Development" program which will increase funding across multiple DNDO Research, Development, and Operations program areas. The largest increases will be for the Systems Development (including multiple variants of Advanced Spectroscopic Portal systems) and Transformational Research and Development program areas.

GOAL 3: PROTECT CRITICAL INFRASTRUCTURE

Working closely with State and local officials, other Federal agencies, and the private sector, DHS helps to ensure that proper steps are taken to protect critical infrastructure, property and the economy of our Nation from acts of terrorism, natural disasters or other emergencies. America's critical infrastructure includes food and water systems, agriculture, health systems and emergency services, information and telecommunications, banking and finance, energy (electrical, nuclear, gas and oil, dams), transportation (air, road, rail, ports, waterways), the chemical and defense industries, postal and shipping entities, and national monuments and icons.

Summarized below are some of the key accomplishments associated with the goal of protecting critical infrastructure:

Buffer Zone Protection Plans Helped Protect Communities from Potential Terrorist Attacks Against Chemical Facilities.—In 2006, 58 percent of identified critical infrastructure has implemented Buffer Zone Protection (BZP) Plans, up significantly from our fiscal year 2005 percentage of 18 percent. The Department worked in collaboration with State, local, and tribal entities by providing training workshops, seminars, technical assistance and a common template to standardize the BZP plan development process.

DHS Completed the National Infrastructure Protection Plan (NIPP).—The NIPP is a comprehensive risk management framework that clearly defines critical infrastructure protection roles and responsibilities for all levels of government, private industry, nongovernmental agencies and tribal partners.

TSA Conducted Rail Security Explosives Detection Pilot Programs.—Rail Security Explosives Detection Pilot Programs were conducted in Baltimore, MD and Jersey City, NJ to test and evaluate security equipment and operating procedures as part of DHS' broader efforts to protect citizens and critical infrastructure from possible terrorist attacks.

U.S. Coast Guard Implemented the National Capital Region Air Defense Mission.—The U.S. Coast Guard officially assumed responsibility for air intercept operations in the Nation's capital from CBP. The Coast Guard will support the North American Aerospace Defense Command's mission with its rotary wing air intercept capability. Coast Guard HH–65C helicopters and crews will be responsible for intercepting unauthorized aircraft which fly into an air defense identification zone that surrounds Washington, D.C. Since assuming the mission on September 25, 2006, the Coast Guard has successfully responded to 23 of the 23 incursions into the National Capital Region Air Space.

The Secret Service Continued its 100 Percent Protection Rate of Our Nation's Leaders.—To safeguard our Nation's leaders, the Department operates the Domestic Protectees program 24 hours a day, 365 days a year to protect the President and Vice President and their families, former Presidents and their spouses, and other individuals designated by statute or Presidential directive. All protectees arrived

and departed safely 100 percent of the time at more than 6,275 travel stops during fiscal year 2006.

We will protect critical infrastructure by continuing to foster mutually beneficial partnerships with industry owners and operators. Our fiscal year 2008 budget request builds on the 17 sector-specific plans as identified in the National Infrastructure Protection Plan (NIPP), which will be complete this year. We will continue to enhance protection through our chemical plant security program and regulations to protect high risk rail shipments in urban areas. The fiscal year 2008 budget request will support this goal by providing:

—An increase of $30 million is requested for DNDO's "Securing the Cities" initiative. Building off analytical work done in fiscal year 2006 and fiscal year 2007 in support of the New York region, DHS will begin the implementation of strategies developed through the course of this analysis. Activities included in the development of regional strategies include analyses of critical road networks, mass transit, maritime, and rail vulnerabilities. DNDO will engage State and local partners in additional urban areas beginning in fiscal year 2008 to tailor strategies and lessons learned from the New York region to meet requirements specific to these regions.

—An increase of $21.9 million is proposed for the newly formed Science and Technology Office of Innovation to provide increases to programs developing game-changing and leap-ahead technologies to address some of the highest priority needs of the Department. The technologies being developed will be used to create a resilient electric grid to protect critical infrastructure sites, detect tunnels along the border, defeat improvised explosive devices, and utilize high-altitude platforms and/or ground-based systems for detection and engagement of MANPADS in order to offer alternative solutions to installing systems on aircraft.

—An increase of $15 million is requested to improve Chemical Site Security and regulate security of chemical plants. The funding will be used to establish the Chemical Security Compliance Division which will include a national program office to manage training of inspector staff, help desk personnel and other administrative staff. The division will also include an Inspector/field staff of subject matter experts in chemical engineering, process safety, as well as an adjudication office. Funds will also be spent on assisting chemical facilities with vulnerability assessments.

—TSA requests an increase of $3.5 million to expand its National Explosive Detection Canine Team program by approximately 45 teams to support the Nation's largest passenger transportation systems in both mass transit and ferry systems.

—An increase of $11.5 million is requested for the Coast Guard's National Capital Region Air Defense program. This funding is needed to make seven HH–65 helicopters fully mission ready, enabling the Coast Guard to continue protecting the National Capital Region against potential airborne attacks.

—An increase of $35.6 million for the Presidential Campaign will enable the Secret Service to provide the appropriate level of resources to adequately protect the candidates and nominees during the 2008 Presidential Campaign while sustaining other protective programs.

GOAL 4: BUILD A NIMBLE, EFFECTIVE EMERGENCY RESPONSE SYSTEM AND A CULTURE OF PREPAREDNESS

We have taken many steps toward building a nimble, effective emergency response system and culture of preparedness. Before I highlight some of those steps, let me reflect on what has been accomplished in the Gulf Coast Region since Hurricane Katrina made landfall.

DHS through the Federal Emergency Management Agency's (FEMA) disaster relief and recovery programs specifically, have provided an unprecedented amount of assistance to the Gulf Region following the devastation caused by Hurricanes Katrina, Rita and Wilma. Over 1.5 million people were affected with over 800,000 displaced from their homes and communities. DHS is committed to continuing its efforts in working with its Federal partners and State and local governments to rebuild the Gulf Region.

—FEMA has provided more than $9 billion in Public Assistance grant funding to support State and local authorities and non-profit organizations repair, rebuild and restore public facilities and infrastructure.

—The Coast Guard has played a vital role in ensuring the aids-to-navigation and waterway management requirements have been restored and maintained to keep the Port of New Orleans open. The Coast Guard also assisted in the recov-

ery of the off-shore oil industry in the Gulf by locating and marking damaged or destroyed oil platforms to ensure safe navigation that allowed operations to resume.

—FEMA's National Flood Insurance Program has paid over $16 billion in flood damage claims to help over 200,000 people rebuild and recovery from their losses. Over $12.8 billion of that amount was for Louisiana alone. To-date, approximately 98 percent of all claims have been closed.

—FEMA has funded the removal of approximately 108 million cubic yards of debris in the Gulf Region. Virtually all of the debris in Texas, Alabama and Mississippi has been removed, with approximately 83.4 percent of the debris in Louisiana removed.

—In the immediate aftermath of the storms, FEMA provided over 85 million liters of water, 176 million pounds of ice, and 46.5 million meals.

—FEMA is providing over $1.47 billion in mitigation grant funding to Louisiana and an additional $432 million to Mississippi to fund post-disaster mitigation projects that will enhance the safety and protection of lives and property in future event.

As we continue our efforts to assist those affected in the aftermath of Hurricanes Katrina, Rita and Wilma, we continue to learn valuable lessons. Many of our major accomplishments supporting this goal stem from those lessons, including:

Federal, State, Local and Tribal Governments are Better Able to Protect Against Acts of Terrorism, Natural Disasters, or Other Emergencies.—The percent of Federal, State, local and tribal governments that self-reported their compliance with the National Incident Management System (NIMS), for fiscal year 2006 was 100 percent, up from 82 percent. NIMS establishes standardized processes, protocols, and procedures that all responders—Federal, State, tribal, and local—will use to coordinate and conduct response actions. With responders using the same standardized procedures, they will all share a common focus in national preparedness and readiness in responding to and recovering from an incident should one occur.

FEMA's Average Response Time to Arrive at a Disaster Scene Has Improved.—With a goal of 48 hours for Federal response teams to arrive on scene at a disaster site, during fiscal year 2006 our average response time was 25 hours. Improving the timeliness of specialized Federal response teams has saved lives, reduced property loss, enabled greater continuity of services, and enhanced logistical capability in the wake of disasters.

Customer Satisfaction with FEMA's Recovery Assistance Has Improved.—To ensure that individuals and families that have been affected by disasters have access to the full range of response and recovery programs in a timely manner, the Department seeks to increase the annual customer satisfaction level among recipients, while reducing the program delivery cost and increasing the timeliness of service delivery. With a goal of 90 percent satisfaction with Individual Recovery Assistance programs, during fiscal year 2006 we achieved a customer satisfaction rating of 91 percent in response to the question "Overall, how would you rate the information and support you received from FEMA since the disaster occurred?"

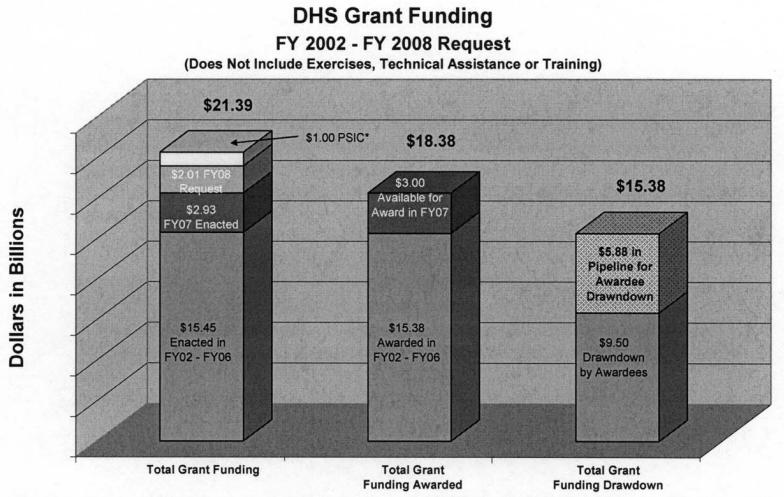
FEMA Expands Capability to Assist Disaster Victims.—FEMA increased registration capability to 200,000 victims a day through its toll-free registration number, online registration process, registering individuals in shelters and using mobile units; increased home inspection capacity to 20,000 a day; activated a contract to assist in identity verification in future disasters; and tightened processes to speed up delivery of needed aid while simultaneously reducing waste, fraud and abuse.

FEMA Strengthened Logistics Management Capabilities.—FEMA implemented the Total Asset Visibility (TAV) program in two Regions to provide enhanced visibility, awareness, and accountability over disaster relief supplies and resources. It assists in both resource flow and supply chain management.

FEMA Improved Communications and Situational Awareness.—To improve upon existing communications systems, DHS has initiated technological advances and elevated the standard by using satellite imagery, upgrading radios, and employing frequency management. The new National Response Coordination Center at FEMA and Mobile Registration Intake Centers are now operational.

DHS Awarded $2.6 Billion for Preparedness.—Included in this total, approximately $1.9 billion in Homeland Security Grant funds has been awarded to State and local governments for equipment, training, exercises and various other measures designed to increase the level of security in communities across the Nation. $400 million in grants was awarded to strengthen the Nation's ability to prevent, protect against, respond to, and recover from terrorist attacks, major disasters and other emergencies that could impact this country's critical infrastructure. Almost $300 million was also distributed in fire grants to fire departments and EMS organizations to enhance their response capabilities and to more effectively protect the

health and safety of the public and emergency response personnel with respect to fire and all other hazards. Of the funds awarded to State and local governments, almost $400 million was used to support State and Local Fusion Centers—valuable partnerships in place across the Nation in which interagency efforts are focused to better share intelligence with State and local governments. The graph below shows the funding available to States and localities since fiscal year 2002.



* In coordination with the DHS State Preparedness Grant Program, DHS will be co-administering the $1.0 billion Public Safety Interoperable Communications (PSIC) grant program, in partnership with the Department of Commerce.

DHS Reviewed 131 State and Local Emergency Plans.—By reviewing State and local disaster plans, collocating decision-makers, and pre-designating Federal leadership, DHS is improving coordination across all levels of government. Through the Nationwide Plan Review, DHS completed visits to 131 sites (50 states, 6 territories, and 75 major urban areas) and reviewed the disaster and evacuation plans for each. These reviews will allow DHS, states and urban areas to identify deficiencies and improve catastrophic planning.

DHS Issued Tactical Interoperable Communication Scorecards for 75 Urban/Metropolitan Areas.—These scorecards measured the ability of Urban/Metropolitan Areas to provide tactical (within one hour) communications capabilities to first responders. This process included the creation of Tactical Interoperable Communications Plan (TICP), peer evaluation, full-scale exercise, and after action reports.

U.S. Coast Guard Search and Rescue Efforts.—No one can predict when the next disaster will occur or whether it will be natural or man-made. Nevertheless, it will come, and the public expects the Coast Guard to be mission ready to answer the call and respond. The Coast Guard rescued 85 percent of mariners in imminent danger during 2006.

The fiscal year 2008 budget request includes funding to build on these accomplishments and reflects the Administration and DHS' commitment to the recovery of the Gulf Coast Region. Examples include such things as:

—An increase of $100 million is requested for FEMA's Vision Initiatives that will ensure FEMA has the resources in place to continue the progress made in preparation for the 2006 hurricane season and be positioned to deliver these critical commodities to a disaster area as quickly, efficiently, and effectively as possible. A combination of staffing increases, new technologies, and targeted investment in equipment and supplies, will increase FEMA's mission capacity in the areas of Incident Management, Operational Planning, Continuity Programs, Public Disaster Communications, Hazard Mitigation, Disaster Logistics, and Service to Disaster Victims.

—The fiscal year 2007 supplemental request includes a $3.4 billion for FEMA's Disaster Relief Fund to continue the Department's recovery efforts in the Gulf. These funds will allow FEMA to continue to provide financial assistance to the Gulf Region in support of the President's commitment to rebuilding the Region and restoring the City of New Orleans to its rightful place as one of the Nations preeminent cities.

—A total of $3.2 billion will be available for State and local preparedness expenditures as well as assistance to firefighters in fiscal year 2008, as shown in the following table. In addition to the $2.2 billion requested by DHS to fund its grant, training and exercise programs, DHS will also be co-administering the $1.0 billion Public Safety Interoperable Communications (PSIC) grant program, in partnership with the Department of Commerce.

Grants and Training

$ in Thousands

Budget Activity	FY 2006 Enacted	FY 2007 Request	FY 2007 Enacted	FY 2008 Request
State Preparedness Grants Program	**1,185,000**	**838,000**	**1,148,000**	**465,000**
State Homeland Security Grants	550,000	633,000	525,000	250,000
Interoperability (PSIC) Grants [1]				[1,000,000]
LETPP [2]	400,000	-	375,000	-
Emergency Management Performance Grants	185,000	170,000	200,000	200,000
Citizen Corps Grants	20,000	35,000	15,000	15,000
Metro Medical Response System	30,000	-	33,000	-
Targeted Infrastructure Capability Grants Program	**1,155,000**	**1,438,000**	**1,229,000**	**1,256,000**
Urban Area Security Initiative (UASI) Grants	765,000	838,000	770,000	800,000
Infratructure Protection Grants	-	600,000	-	-
Port Security Grants	175,000		210,000	210,000
Rail/Transit Grants	150,000		175,000	175,000
Intercity Bus Security Grants	10,000		12,000	12,000
Buffer Zone Protection Grants	50,000		50,000	50,000
Trucking Industry Security Grants	5,000		12,000	9,000
National Exercise Program	**52,000**	**48,708**	**49,000**	**50,000**
State and Local Training Program	**210,000**	**92,351**	**218,000**	**95,000**
Continuing and Emerging Training Grants	25,000	3,000	31,000	3,000
Demonstration Grants	30,000	-	30,000	-
Center for Domestic Preparedness	57,000	50,000	57,000	54,000
National Domestic Preparedness Consortium	88,000	39,351	88,000	38,000
Rural Domestic Preparedness Consortium	10,000	-	12,000	-
Technical Assistance Program [3]	**20,000**	**11,500**	**18,000**	**6,000**
Eval and National Assessment Program	**14,300**	**23,000**	**19,000**	**19,000**
Commercial Equip Direct Assist. Program	**50,000**	**-**	**50,000**	**-**
Fire Act Program	**655,000**	**293,450**	**662,000**	**300,000**
Fire Program Activities	545,000	293,450	547,000	300,000
SAFER Act Hiring Program	110,000	-	115,000	-
REAL ID Act Grants	**40,000**	**-**	**-**	**-**
Management and Administration	**5,000**	**5,000**	**-**	**5,000**
Total, DHS G&T	**3,386,300**	**2,750,009**	**3,393,000**	**2,196,000**
Interoperability (PSIC) Grants [1]				1,000,000
Grand Total	**3,386,300**	**2,750,009**	**3,393,000**	**3,196,000**

1 In coordination with DHS' State Preparedness Grant Programs, FEMA will be co-administering the $1 billion Public Safety Interoperable Communications (PSIC) grant program in partnership with the Department of Commerce, pursuant to P.L. 109-171 and P.L. 109-459. The funding for this program was appropriated per The Deficit Reduction Act of 2005 from anticipate spectrum auction receipts, and therefore is not included as requested DHS budget authority. However, PSIC will support interoperable communications grants to States and local public safety agencies, and adjusted totals are provided to illustrate the level of grant funding that will become available for State and local preparedness projects.

2 Funding for LETPP in FY 2008 is estimated to be $262.5 million and reflects a 25% carve out of State Homeland Security Grants and UASI Grants.

3 Reflects a $12 million transfer from Technical Assistance to the Office of Emergency Communications for the Interoperable Communications Technical Assistance Program (ICTAP).

—A realignment of $132.7 million in base resources is requested to establish a Deployable Operations Group and strengthen the Coast Guard's overall response capability. The alignment of Coast Guard's deployable, specialized forces under a single command will improve and strengthen Coast Guard's ability to perform day-to-day operations and respond to maritime disasters and threats to the Nation.

—A total of $48 million is requested to further professionalize FEMA's disaster workforce by converting Cadre of On-Call Response Employee (CORE) positions with 4-year terms into permanent full-time employees. This transition will stabilize the disaster workforce, allowing for the development and retention of employees with needed program expertise and increased staffing flexibility to en-

sure critical functions are maintained during disaster response surge operations.

—An increase of $12 million for the Nationwide Automatic Identification System will continue funding for this vital project that significantly enhances the Coast Guard's ability to identify, track and exchange information with vessels in the maritime domain, especially those vessels that may threaten our Nation.

GOAL 5: STRENGTHEN AND UNIFY DHS OPERATIONS AND MANAGEMENT

It has been a challenge to take 22 separate agencies, each with their own set culture and way of operating and merge them together into a unified Department with a common mission of securing the homeland from terrorist and other threats. We have made many strides in strengthening the Department's operations and management. Major accomplishments include the following:

Chief Human Capital Office Moved Forward with Performance Management Goals.—DHS deployed its performance management program and its automated system to approximately 10,000 employees in multiple components and trained 350 senior executives and more than 11,000 managers and supervisors in performance leadership.

The Office of Security Completed HSPD–12 Goals.—The Office of Security met all Homeland Security Presidential Directive (HSPD) 12 requirements by deploying an HSPD–12 compliant credentialing system and associated policy and procedures. This new credential meets all Federal requirements for interoperability and security.

The Chief Procurement Office Exceeded Small Business Goals. DHS awarded approximately 34 percent of DHS prime contracts to small businesses, exceeding the goal by 4 percent.

Chief Information Office Stood up New Data Center.—Data Center Services completed the Stennis Space Center Data Center Construction Phase I, 24,000 square feet, on time and the first application has been transferred to this data center.

The fiscal year 2008 budget request includes funding to build on the accomplishments made in this area.

We will strengthen and unify DHS operations and management by joining DHS headquarters' facilities at a single campus, beginning in 2010. We will unify IT infrastructures by reducing 17 data centers to two, seven networks to one, and through a common email operation. We will meet HSPD–12 goals by providing all newly-hired DHS employees with a single, secure, tamper-proof smartcard that allows interoperable access to DHS facilities and systems. We will integrate our hiring, retention, training and development, and performance programs by the end of 2008. Other specific examples of items included in the fiscal year 2008 budget include:

—An increase of $139 million in premium processing fees will transform and improve USCIS Business processes and out-dated information technology systems. This investment will improve customer service and processing times of immigration applications, increase security and fraud detection, and support automation of USCIS operations by eliminating the current paper-based processes and antiquated technology.

—An increase of $120 million is requested for the DHS Consolidated Headquarters Project for the relocation of the USCG Headquarters and the consolidation of other DHS components on the St. Elizabeths West Campus and throughout the National Capital Region.

—A total of $99.1 million will continue to support the Inspector General activities to serve as an independent and objective inspection, audit, and investigative body to promote economy, efficiency, and effectiveness in DHS programs and operations.

—A total of $17 million in new funding within ICE and CBP will help improve the internal oversight of personnel. This is especially critical as the workforces of these organizations are continuing to expand. Timely attention to allegations of misconduct is critical to DHS success.

—An increase of $9.6 million for the Office of the Chief Procurement Officer is requested to improve acquisition operations. The Department is committed to establishing the staffing necessary to properly award and administer Department-wide acquisition programs to ensure effective delivery of services and proper procurement and contracting procedures in compliance with all Federal Laws and Regulations Governing Procurements.

—An increase of $5 million is requested for the Policy Office to strengthen the Department's Committee on Foreign Owned Investments in the United States,

work with states on the REAL ID Act, and expand the duties of the International Affairs Office.

—An increase of funding is requested for the Office of Intelligence and Analysis to strengthen the Department's intelligence and information sharing capability and to continue integrating the intelligence offices and programs of the Department.

CONCLUSION

I am sure you will recognize that with the support of Congress, the Department has had many successes. I have outlined many of them in my testimony today and how they relate to the Department's five goals. We have also learned from our experiences certain things that we could have approached differently to get better results. As we move forward to face the many challenges ahead, those lessons learned will be at the core of our planning and implementation efforts. I am looking forward to working in partnership with the 110th Congress to build on our many accomplishments and focus on getting the desired results.

Thank you for inviting me to appear before you today. I look forward to answering your questions and to working with you on the fiscal year 2008 budget and other issues.

THE DEPARTMENT'S MAJOR PRIORITIES FOR FISCAL YEAR 2008

Secretary CHERTOFF. I thought I would very briefly review for a few minutes what our major priorities are, and where we hope to go with the help of Congress in fiscal year 2008.

Obviously, we continue to face complex challenges to our security, and it's important that we proceed in partnership with Congress in addressing the threats to the homeland, and to our people.

At $46.4 billion in homeland security funding that's being requested, our budget represents an 8 percent increase over the fiscal year 2007, and an increase of nearly 50 percent over the 2003 fiscal year. It's a strong budget, and it reflects the President's unwavering commitment to give us the tools and resources that we need to protect the homeland. Obviously, we have to deploy those tools and resources in a cost-effective and disciplined manner, but this is a budget that will enhance our security, safeguard our freedom, and extend our prosperity.

From border protection to intelligence gathering and sharing, from airline security to maritime protection, this budget funds a wide range of endeavors. But it reflects, overall, a consistent strategy of focusing on our greatest risks, and confronting them in a deliberate, but decisive manner.

FIVE OVERARCHING STRATEGIC MISSIONS

Essentially, the budget looks at five different over-arching strategic missions that the Department has: protecting our Nation from dangerous people; protecting our Nation from dangerous cargo; protecting our critical infrastructure; building a more nimble and effective emergency response system, and a culture of preparedness; and finally, strengthening and unifying our own operations and management at the Department.

Let me very briefly talk about our progress in each of these areas over the past year, and the funding priorities for the coming fiscal year.

PROTECTING THE NATION FROM DANGEROUS PEOPLE

As you observe, Mr. Chairman, and Senator Cochran, we've added significant new Border Patrol and infrastructure along the

border, deployed the National Guard under Operation Jump Start, awarded the SBInet contract, which will give us 21st century tools on the border, and replaced catch-and-release at the border, with catch, detain, and return.

As a consequence, apprehension rates have fallen significantly. We are seeing some very clear indicators that fewer illegal immigrants are attempting to cross our border.

To further this important progress, we're requesting $1 billion for the SBInet high-tech program to continue the deployment of integrated infrastructure and technology across our land borders. We're also requesting money for 3,000 additional Border Patrol, which will put us on track to meet the President's commitment of over 18,300 Border Patrol by the end of 2008. That is a doubling of the number of Border Patrol, as compared to the number that existed when the President took office.

Now, we measure the results each quarter in terms of the number of apprehensions we have, as compared to the same time period the prior year. That's a good way to show some of the results that we've had. Since the President announced Operation Jump Start in the third quarter of last year, we have seen in each quarter, a successive, significant decline in apprehensions; 13 percent in the third quarter of 2006, 38 percent in the fourth quarter, and a 25 percent decrease in the first quarter of 2007.

The conclusion that this reflects positive momentum in stemming the flow of illegal migration, is supported by other metrics which the Border Patrol uses that leads them to conclude that we are beginning to win this war against illegal migration. Although, I hasten to add that we have not won the war, and we have to continue to put the resources and effort into the border if we are to be successful.

I also want to observe that we've dramatically turned around our efforts at the interior, in terms of worksite enforcement cases. Last year, we had 716 criminal arrests, and more than 3,600 administrative apprehensions for violations of the worksite rules by those who employ illegal migrants. This is a seven-fold increase over INS in its final year of operation in fiscal year 2002.

PROTECTING THE NATION FROM DANGEROUS CARGO

Now, let me talk about keeping dangerous things out of the country. We currently screen 90 percent of incoming cargo into the United States for radiation. That is a major leap forward, considering that in fiscal year 2003, we screened zero percent. In fiscal year 2008, we're requesting $178 million for radiation porto-monitors, including the next-generation advanced spectroscopic porto-system. This will get us to the point that will allow us to screen almost 100 percent of cargo at our major sea ports by the end of this year, and almost 100 percent at our land and sea ports by the end of next year. That is from a base of zero, just several years ago.

PROTECTING CRITICAL INFRASTRUCTURE

Across the interior of this country, we are acting to protect infrastructure through new chemical site regulation authority, and new regulations we've proposed to protect high-risk rail shipments in transit. We've conducted site visits and vulnerability assessments

at hundreds of critical facilities. We've released a National Infrastructure Protection Plan that gives real guidance to all of the sectors of the economy, in terms of steps they need to take to protect their investments, their assets, and most importantly, their people.

As was noted, we also protected our aviation system from a terrorist attack, originating in London during last summer, while responding with remarkable flexibility to the rapidly changing circumstances posed by that plot.

EFFECTIVE EMERGENCY RESPONSE SYSTEM AND A CULTURE OF PREPAREDNESS

Of course, a big part of our mission involves improving our Nation's response to catastrophes, including natural disasters like the gulf coast hurricanes of 2005, as well as man-made catastrophes. At the Federal level, that means rebuilding our Nation's emergency management agency. Last year, we boosted FEMA's capabilities, leadership and customer service, worked with State and local partners to assess emergency plans, and communications interoperability, promoted individual preparedness, and awarded $2.6 billion in Homeland Security grants. By the end of fiscal year 2007, we will have committed nearly $20 billion in grants to our State and local partners.

It also bears mentioning that the Federal Government has committed more than $100 billion in support of gulf coast recovery in the aftermath of the hurricanes. This includes more than $9 billion in FEMA public assistance grant funding to help State and local authorities and non-profits repair and restore public facilities and infrastructure.

FEMA's National Flood Insurance Program has paid over $16 billion, in flood damage claims, to help over 200,000 people rebuild and recover from their losses, and over $12.8 billion of that amount was for Louisiana alone. To date, approximately 98 percent of all of those claims have been closed.

FEMA is providing over $1.47 billion in mitigation grant funding to Louisiana, and an additional $432 million to Mississippi to fund post-disaster mitigation projects. We're committed to continuing gulf coast recovery, and the fiscal year 2008 budget request includes a $3.4 billion supplemental request for FEMA's Disaster Relief Fund. These funds will allow for me to continue providing financial assistance to the gulf region, along with our other partners in the Federal Government, all in support of the President's commitment to rebuild the region, and restore the cities of that region to the preeminence that they previously had.

Now, to boost preparedness across the country, we intend to make available $3.2 billion in grants over this next year, to support State and local preparedness expenditures, as well as assistance to firefighters. Of this amount, $2.2 billion is requested to fund grant training and exercise programs under FEMA. But we will also be co-administering the $1 billion public safety interoperable communications grant program, in partnership with the Department of Commerce.

STRENGTHENING AND UNIFYING DHS MANAGEMENT AND OPERATIONS

Finally, we need to tend to our own house. We plan to strengthen and unify our own operations in management at DHS, by among other things, requesting $120 million in additional funds, to help join our headquarters facilities at a single campus, starting in 2010. In order to make sure we continue to improve our procurement and auditing skills, we're proposing a $9.6 million increase for the Office of the Chief of Procurement, to make sure that we are capable of managing our acquisition operations; and this includes staffing increases.

We're looking forward to working with this committee, as we continue to build on the successes that we've had. I have to observe that this country has been blessed since September 2001, in that we've not had another successful attack on the domestic homeland. But, I have to say that is not for lack of trying by the enemy.

Therefore, we look forward to continuing to work with you to make sure that we can preserve safety and security in the homeland, and do so in a way that does not compromise our liberty, or our prosperity.

Thank you.

EXPLOSIVE DETECTION TECHNOLOGY

Senator BYRD. Thank you, Mr. Secretary.

The intelligence community says terrorists still view the aviation sector as the biggest target for an attack. The threat risk has stayed at orange, or high, since August. There is a $1.1 billion backlog for baggage systems to screen for explosives at our 25 largest airports across the country. Five and one-half years have passed since 9/11, and air passengers still walk through archaic security devices that cannot detect plastic or liquid explosives. Yet, the President proposes to reduce spending for explosives detection and installation by 17 percent.

What is the rationale for such a cut? Shouldn't we also be investing more in emerging technologies that can better detect explosives on passengers and their baggage? Shall I repeat the question?

Secretary CHERTOFF. No, I have the question, and I think that you're quite right. The current technology, and the technology that we're currently in the process of purchasing, is useful, but it has some limitations. Among the limitations, is that it's not an adequate system for detecting liquid explosives, or other kinds of explosives like certain types of plastic explosives. Therefore, even as we continue to acquire existing technology, we have to make sure we don't over-invest in a technology that has, within itself, the seeds of its own obsolescence. That's why we have a couple of strategies with respect to aviation.

First, through our Science and Technology Directorate, we are continuing to work aggressively to find new technologies that actually work in the real world, and provide a higher measure of security. We're trying one of those out now in Arizona; the backscatter device, which does allow us to detect all kinds of explosives, if concealed on an individual. We're looking at other kinds of devices which would be able to detect and distinguish among various kinds of liquids.

But the fact remains that there do not currently exist, technologies that satisfy all of these needs. We don't necessarily want to over-invest in a technology that is imperfect, as opposed to continuing to push forward on new technology.

TRAINING AND DEPLOYING SCREENING OFFICIALS

I also have to say, an important dimension of what we do in airline security is focusing on individuals who might be a threat. For that reason, we have in the President's budget, over $60 million for training and deploying screening officials that will be operating at the very entry point of the screening process; they are trained in behavioral analysis, and replacing the traditional mechanical document-checkers, who used to simply look at your identification and your face, and let you go through. A combination of better-trained and behaviorally trained screeners, plus research in additional technologies, gives us a more comprehensive strategy than simply putting all of the money into an existing, but not totally effective explosives screening set of equipment.

AIR CARGO SECURITY

Senator BYRD. It is mind-boggling that in five and half years since 9/11, the majority of cargo loaded in the belly of commercial airplanes is not inspected. This administration does not pay enough attention to air cargo security. Congress, not the administration, added funding to hire 300 air cargo inspectors to examine air cargo facilities between fiscal year 2004 and fiscal year 2006. Congress, Congress, not the administration, added funding to test physical inspection concepts at three airports nationwide. And last year, because of foot-dragging by the administration, Congress required you to submit a detailed air cargo security action plan addressing recommendations made by the Government Accountability Office in 2005.

I received the four-page response. Flimsy. Four-page response, on Monday. Three months late. Sadly, the report revealed that 5½ years since 9/11, comprehensive assessments of air cargo vulnerabilities and critical assets still have not been completed.

Now, Mr. Secretary, this committee wants real action. When will you have a complete assessment? When will you have a complete assessment of air cargo vulnerabilities and a real action plan to address them?

Secretary CHERTOFF. Well, Mr. Chairman let me tell you what we've done.

In addition to spending $4.2 billion for screening, in general, on EDS since TSA was created, we have analyzed the air cargo process; we have imposed new regulatory requirements, including 100 percent screening for all cargo that is checked at the airline to go on a specific flight; we've eliminated exemptions from an inspection requirement with respect to shippers that consolidate shipments and send them by air; and we have underway, programs that will increase the degree of review and audit of known shippers to move into what we call a "Certified Shipper Program" that would actually impose upon shippers, requirements for self-auditing and for security activities that will be force multipliers with respect to our

ability to be confident about the air cargo that appears on passenger aircraft.

The challenge is to have a system that is so sufficiently efficient, that it does not bring the air cargo system to a halt. Because that system is one which requires very, very swift movement of packages. If you look at the regulations we promulgated late last year, you will see a dramatic increase in the amount of screening that we're doing on all types of air cargo, and a path that will continue to make us more secure with respect to this particular issue.

Senator BYRD. Senator Cochran.

Senator COCHRAN. Mr. Chairman, I'd like to yield to others on my side who have joined the hearing. I've already made some comments, and I'll defer my questions until later.

May I ask Senator Stevens to proceed, may I yield to him?

Senator BYRD. Yes.

IDENTIFICATION DOCUMENTS FOR CROSSING THE NORTHERN BORDER

Senator STEVENS. We tried to create a delay in the Western Hemisphere Travel Initiative, Senator Leahy and I, and we've tried to find a way to get some, you know, some recognition of the problems we face in the north country.

I like to tell people about the time that a fellow called me on the Yukon River, and told me that the Coast Guard said he had to have a license now to run his boat. His father had been running similar boats, and he'd run a boat up there all his life, and he said, "They want something called a birth certificate." And, I said, "Well, where were you born?" And he said, "I don't know, somewhere along the river here." So, we got together, some people up there, and helped him find the church where it was recorded that he had been, recorded as having been born to a parishioner there at the time, so the State issued him a birth certificate. He made a statement to the press that he wasn't born until he met me.

Secretary CHERTOFF. I guess he was born-again.

Senator STEVENS. Yeah, that's right.

My problem is we have a lot of people in rural Alaska who we have 70 percent of our areas can only be reached by air, they don't have driver's licenses, they don't have any need for identification, unless they start traveling, and they want to go across the border, and come down into what we call the South 48. Now, the requirement for a passport or similar documentation is abhorrent to them whatever they do, they're going to have to fly into Anchorage or Fairbanks to get that. We want you to try to help us find some way to develop a pass. Are you willing to do that?

Secretary CHERTOFF. Well, one of the things we've stated that we want to do, and we intend to do is create a PASS Card which will be an alternative to a passport. It will be less expensive; it will be something you can carry in your wallet, and would do the trick of making sure that we have secure identification.

We've also talked to the State of Washington about an effort they have underway to use their driver's license, and make that configured to be sufficient for crossing the border. It would have to meet certain standards.

We're interested in preserving efficiency here, and not inconveniencing people. But regrettably, we live in a different world than

we used to live in. I'm not confident that without secure identification, I can tell the American people that we are keeping them safe from dangerous individuals crossing the border from Canada.

We're trying to work to do this as smoothly as possible. We're not insisting on one-size-fits-all, but we do need to honor the 9/11 Commission recommendation that we get some secure documentation to protect the people of this country.

Senator STEVENS. Well, will you allow the States and local governments to have a role in this? I mean, our school districts, for instance, could very well issue passports, or city halls, other places. But, if they have to go to Juneau to pick up what you want to issue through the State, we've not gone very far.

Secretary CHERTOFF. Well, we've invited the States through the REAL ID Program to come up with an alternative. We've talked about PASS Cards and passports.

But, Senator, here's what the problem is. Right now I've got border inspectors who are obliged to take one of 8,000 forms of identification. About a year ago, GAO ran a test, and they were able to sneak a significant number of people by with phony documents. There was a big hoopla on The Hill, and people were criticizing the border inspectors. I thought that was a little unfair. You can't ask a border inspector to be able to recognize 8,000 different kinds of identification.

If we're serious about this, we have to create a set of identification documents, maybe three or four or five, that are sufficiently verifiable and secure and recognizable, that we can honestly ask our border inspectors to be responsible for checking whether they're genuine or not.

Now, I understand Alaska has some unique geographic challenges, and we can find a way to try to work with those. But I can't in good conscience step back from a commitment that I think we've owed the American people since 9/11, which is to get the system of documentation that allows people to enter this country, in some kind of good order.

Senator STEVENS. Well, we don't ask you to do that, all we ask you to do is to trust the local people to know who they're issuing a card to. You know, in our areas, we know who lives there, but we're told that we have to go to a Federal official to get these cards.

Secretary CHERTOFF. Well, we've talked about working with the States to let the driver's license serve this purpose. But, here's the problem I have, Senator.

Senator STEVENS. Again, you know, over half of our people don't have driver's licenses.

Secretary CHERTOFF. Well, here's the——

Senator STEVENS. They got an airplane license, you know.

Secretary CHERTOFF. Well, maybe, and maybe if Alaska wants to set up a REAL ID airplane license, that may do the trick.

I am open to coming up with solutions to the problem. On the other hand, I've got to face the following challenge. If someone from Alaska wants to come into the United States through Detroit, Michigan, the border inspector in Detroit is not going to know whether the signature of the guy on the school board up in a remote town in Alaska is a genuine signature, or not. I've got to be

able to build a set of documents that can be used across our entire border. We're happy, to work to try to be as cooperative as we can. But, I've got to tell you, this is a life and death principle. And——

IMPACT ON TOURISM

Senator STEVENS. All right, well let—I've only got so much time, I'm sure the chairman will tell me when my time's over, but I am a little bit disturbed, one of our major industries now is tourism—we've lost our mining industry, our timber industry, oil industry is down, fishing is under attack—tourism was being a success. But, now we find that these international travelers are dropping off because there is not really a way for them to, to know in advance, the problems that they face coming into our country. We had a model ports, and a model airports program, we had an international travelers program suggestion from the Congress what are you working on in that regard?

Secretary CHERTOFF. We are working on an International Registered Traveler Program. We have begun to roll out a Domestic Registered Traveler Program. We are interested in working with passengers, and particularly regular travelers. Secretary Rice, the Department of State, and our Department are putting out an initiative which is designed to actually be more accommodating and friendlier to people who want to visit the country.

I think we worked on a solution in Alaska for the issue of people who wanted to de-plane at the airport, and have an opportunity there to do some traveling.

Senator STEVENS. Yes, we thank you for that. It's worked very well.

Secretary CHERTOFF. We are trying to be hospitable to travelers because we know it's important, not only to those in Alaska, but to the rest of the country as well.

Senator STEVENS. Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

Senator BYRD. Thank you, Senator Stevens.

Senator Leahy.

WESTERN HEMISPHERE TRAVEL INITIATIVE

Senator LEAHY. Thank you, Mr. Chairman.

The Secretary and I have discussed what Senator Stevens just discussed with him, on a number of occasions. It appears the more I hear in these briefings, the more I see us heading toward a national ID card in the United States. I always heard over the years, this is something that the left was going to be pushing, but it appears to be coming from a very conservative Republican administration, which is a matter of some irony and fills the blogs, as you know.

I have stated a number of concerns about the way the Department of Homeland Security and the Department of State have pushed for the implementation of the Western Hemisphere Travel Initiative, WHTI. I understand what you're saying about being concerned that we protect these borders, but what I'm concerned about is that it be done right.

For example, the obvious thing I talked about how you get these Watch Lists, and those make us secure, Ted Kennedy gets blocked

10 times from flying on a flight he's been taking for decades even the President calls him and apologizes. He said, "I don't need an apology, just let me get on the darn plane." A 1-year old child, told they have to have a passport to prove they're not a 40-some odd year old suspected terrorist. I won't even go into the question of Catholic nuns. But I expect those who went to Catholic schools would have mixed emotions about whether they would fit in the terrorist definition or not.

But, you know, I don't see the technology there, I don't see the infrastructure there, I don't see the training there. And if we suddenly, on day one, said, "Boom, this is what we're going to do, you're going to see delays that are going to be on the front page of every newspaper in the country, probably in the world, in both of the Mexican and Canadian border.

Now, Congress has given you the time to coordinate this, and get it right. Why not do that? You have ideas of pilot programs, and key points on the Canadian-Mexican border?

Secretary CHERTOFF. Well, we are going to take the time to do it right. We appreciate the flexibility, but it also can't become a basis to simply kick the can down the road.

When we rolled out the air passport requirement, in the 6 months before the time it became effective, the press in border areas was full of dire predictions about the disaster at the airport. But, by sticking to a deadline and by being clear in the messaging, at the time that we actually put this into effect in January, we had better than 99 percent compliance.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST) CERTIFICATIONS

Senator LEAHY. Well, then, I have no reason to assume it's not. But your Department has endorsed one PASS Card technology over another. And yet the Congress, in the Leahy-Stevens law, clearly stated you had to have a NIST a National Institute of Standards and Technology certification on that card before you went forward. You ignored that part of the law, moved forward unilaterally. This was the so-called "vicinity-read technology" it is usually used on inventory control, or moving pallets of material, not people. And it's going to necessitate a whole lot of new technology that is not there now, and again, being done by the National Institute of Standards and Technology. Why not wait at least? This is not kicking the can down the road. Why not wait for the NIST to make sure it's going to work, so we don't spend billions of dollars, and say, "Whoops, came close? Came close, but now we've got to do it again."

Secretary CHERTOFF. Well, Senator, we are working with NIST, and so I——

Senator LEAHY. Yeah, but you approved it without getting that NIST certification.

Secretary CHERTOFF. First of all, the NIST certification, if I recall the language in the bill precisely, talked about how to comply with existing NIST standards. I'm not sure there actually were standards with respect to this particular technology.

However, in the spirit of the law, we're working with NIST. We're comfortable that by the time this actually gets kicked off, we

will meet any NIST standards that would be applicable to this kind of technology.

NEXUS CARD READERS

But, we use this technology, even as we speak, in our NEXUS cards which cross the border. In addition to the vicinity element, there will continue to be a——

Senator LEAHY. Is the NEXUS card readable by both the State Department's computers, and DHS's computers?

Secretary CHERTOFF. Well, it's readable by our readers, as we speak. We're the ones who maintain the readers at the border.

Senator LEAHY. Okay.

Secretary CHERTOFF. It's not, it's not——

Senator LEAHY. Okay, how many readers are there at the border?

Secretary CHERTOFF. I can get back to you on that, I don't know how many NEXUS readers we have at the border.

[The information follows:]

NEXUS READERS AT THE BORDER

The following Ports of Entry have the indicated number of NEXUS lanes; with one radio frequency identification (RFID) NEXUS card reader for each lane:

—Blaine (Pacific Highway) 2
—Blaine (Peace Arch) 3
—Blaine (Point Roberts) 1
—Port Huron 1
—Detroit (Ambassador Bridge) 1
—Detroit (Tunnel) 2
—Buffalo (Peace Bridge) 2
—Buffalo (Rainbow Bridge) 1
—Buffalo (Whirlpool Bridge) 2
—Champlain 1
—Highgate Springs 1
—Lewiston Bridge 1—This lane is not open but equipment is installed.

In summary, there are a total of 17 RFID readers on the border.

MACHINE-READABLE ZONES

Secretary CHERTOFF. Let me just follow this up for a moment, Senator. Right now, the 8,000 documents require a manual check by every single border inspector. At a minimum, what we will have when this program begins next year, is on each card, a machine-readable zone, identical to the passport, that is currently readable by all of the technology that we have deployed at the border.

Senator LEAHY. Is that going to include the REAL ID?

Secretary CHERTOFF. Its——

Senator LEAHY. National identification, ID card?

Secretary CHERTOFF. It's different, it's not; this is the same item you have on your passport.

Senator LEAHY. Well is this, it's going to be able to read a REAL ID?

Secretary CHERTOFF. Well, it's——

Senator LEAHY. What about this $20 billion unfunded mandate you've given to the States on a driver's license, is it going to be able to read that?

Secretary CHERTOFF. For those States——

Senator LEAHY. Or is that separate?

Secretary CHERTOFF. For those States that chose to be part of the program and have REAL ID that satisfies WHTI, yes, that's the entire point. The entire point is to give them the option to build in the same kind of machine-readable zone, and the same kind of architecture, so that can be——

Senator LEAHY. Any money in the budget to help them with that?

Secretary CHERTOFF. With respect to the REAL ID act, we've indicated that we're talking an estimate of about $10 billion to $11 billion in out-of-pocket costs, over a period of about 10 years. For this year, we've indicated about $100 million in the State Homeland Security grants will be made available to the States to enable them to do some of the work they need to do on REAL ID.

Senator LEAHY. So, it's about 1 or 2 percent of what they might need.

Secretary CHERTOFF. Well, it's about 10 percent of what one year would be. Because if it's $10 billion over 10 years, it's about $1 billion a year.

Senator LEAHY. They're going to get this national ID card, whether we like it or not.

Secretary CHERTOFF. Senator, I don't think it's a national ID card, but I will tell you this. I have a very vivid recollection of the 9/11 Commission hearings, and the discussion about how they showed Hanni Hanjur's fake driver's license, which he bought in the 7–11 in Virginia. We authorized the prosecution of the guy who sold it to him. It seems to me that I would hate to be here, or have my successor in 10 or 5 years from now, in front of another 9/11 Commission, with other terrorists who are using phony driver's licenses.

Senator LEAHY. Yeah, but our Department of Justice had the names of these people, knew they were training, didn't do a damn thing about them, and the day before 9/11, the Attorney General wanted to cut the budget for counter-terrorism, on September 10, he wanted to cut the budget for counter-terrorism, so don't blame it on that. Your administration dropped the ball.

Secretary CHERTOFF. Senator, I can't un-ring the bell from September 11th, but I can sure do my level best to guarantee that we don't repeat the same mistake again. And part of that is having a secure form of ID, which is exactly what the 9/11 Commission recommended.

Senator BYRD. Thank you, Senator Leahy.

Senator Craig.

Senator CRAIG. Thank you very much.

Senator BYRD. Senator Craig.

BORDER SECURITY ON THE UNITED STATES-MEXICAN BORDER

Senator CRAIG. Thank you, Mr. Chairman.

Secretary Chertoff, thank you for being before the committee, obviously issues within your realm are of great importance to all of us.

Let me carry on a dialogue with you for a few moments about border control, and border security, and the United States-Mexican border, and our concern there.

It's obvious that border is tightening, and I congratulate you on that effort. It is not yet secured. And that's an area of concern to me.

I was having dialogue, conversation, the other day with a friend of mine, former Governor of Idaho, now the Secretary of the Interior, who I know has visited with you about the approximately 3,500 acres of Buenos Aires National Wildlife Refuge in Texas, and also about the Oregon Pipe Cactus National Monument in Arizona.

We lost a ranger down there last year, at Organ Pipe, while assisting Border Patrol, shot by drug traffickers. I was mentioning this at a town meeting in Idaho, and a hand went up in the back of the room, and a fellow said, "Senator, I just came from there not long ago, I'm a retired fellow, I do freelance photography, it's a beautiful place, I was down there. And I was told by the Park Service, not to go into an area, that it was very unsafe, I ought to go armed—but of course, not in a park—and I ought to have a flak jacket on."

Now, there is a reality that is going on, on our Southwestern border, as the walk-across kind of illegal is being stopped. But the drug trafficker in his beefed-up Humvee with his Uzi is basically saying to our security people, and our border patrol, "Get out the way. We're coming through." Or, "We're coming through at night." And that is a great concern, I think, to all of us, that our public lands and our security in those respects, that we've still got a long way to.

Would you visit with us about that, and that problem, and what you're doing?

Secretary CHERTOFF. I think it is a problem of increasing seriousness. Regrettably, the Border Patrol tells me that one of the signs of our success in cracking down on the border is that the organized criminal gangs, and the traffic in drugs or humans, are now getting more violent as they protect a shrinking market share. That's actually a phenomenon I've seen in other contexts when you really start to crack down on criminal groups. We do have to be prepared.

Senator CRAIG. So, the violence, tragically enough, is a good sign in the marketplace?

Secretary CHERTOFF. It's a good sign in the marketplace, but it suggests that we need to make sure of a couple of things. First of all, we have to make sure we are supporting our Border Patrol with the tools they need to defend themselves, and to repel violence. I've spoken to Secretary Kempthorne, specifically about the park. We've talked about additional measures that we can take with respect to fencing there, that can create more difficult obstacles for vehicles.

In the end, this underscores the importance of moving ahead vigorously, as we have been doing, with this combination of high technology physical infrastructure, and additional Border Patrol agents, in order to make sure that we get control of all of the problems there. Because, we certainly shouldn't have to bargain with criminals over the right to use our own national parks.

Senator CRAIG. Bargaining with criminals, it sounds like that may have happened, as it relates to border patrolmen who have been accused of wrongdoing, and I'm not going into that at all, I'm

reading court transcripts now, and I've asked the Judiciary Committee to look into it, but Americans are very frustrated about that.

BORDER PATROL TRAINING

The chairman of this committee and I partnered a few years ago, and got you a half a billion dollars more a year to train border patrolman. I think at that time, we called it the Craig-Byrd amendment, today we will certainly call it the Byrd-Craig amendment. Be that as it may, obviously the resources along that border are strained in relation to the situation at the border. In order to relieve the National Guard troops, we obviously need to see more recruiting of Border Patrol agents. Can you outline how well the recruiting process is working, and additionally, what can be done to expedite the hiring of qualified Border Patrol agents?

Secretary CHERTOFF. It is a high priority for us. Because, as I said in my opening statement, the President is committed to having over 18,300 Border Patrol agents. We are on track to do that, we are expanding our training capabilities; so that we can move that number of Border Patrol through the pipeline. We recognize that as we have normal attrition, we have to recruit sufficiently to fill the empty spots, as well as the increases.

Chief Aguilar and Commissioner Basham continue to report to me on this, and assure me that we are on track with recruiting goals. We do get a lot of folks, including other law enforcement people, and ex-military people, who are eager to join the Border Patrol. We are conducting extensive outreach, to make sure we are getting a good pool of recruits.

Senator CRAIG. Thank you, Mr. Chairman.

Senator BYRD. Thank you, Senator.

Senator Landrieu.

PROGRESS ON THE GULF COAST

Senator LANDRIEU. Thank you, Senator.

Thank you, Mr. Secretary, let me begin with a positive comment, thank you for including comments in your testimony about the gulf coast, because at one of the previous meetings that was, unfortunately, left out. So, we appreciate you reminding us of the efforts. On behalf, though, of the people I represent in Louisiana, I want to say that we are grateful for your effort, but we believe that the effort has fallen short. And we believe that the outcomes are not what the people of Louisiana expected, trying to recover from two of the worst storms to hit our Nation—Katrina and Rita.

REALLOCATION OF FUNDING FOR INTEROPERABILITY GRANTS

But, having said that, there is progress that's being made, and I want to just focus on a few things, and I brought this up at the last meeting, at the Homeland Security authorization level, because I really need to get this record straight I'm both an authorizer and an appropriator. And one of the main early issues that was apparent in the collapse of our response system, was that there was virtually no communication on the ground. Now, that has been well-documented, and I would just be surprised if anybody contradicted me.

So, I'm looking at this budget, which is subject of this hearing, and I want to just be clear and if the chairman could help me understand I want to be clear that the $1 billion in interoperability grant money that is being touted as a step in the right direction, and I most certainly think that we need to spend more money in the right way to achieve communications in the middle of a disaster, but is it not coming out of the State preparedness grant program, that was enacted last year a $525 million, and this year it's only at $250 million request? And then, out of the targeted infrastructure capability grants program, there's a reduction, and in the State and local training, there's a homeland grant program reduction from $2.3 billion to $1.7 billion. So, I guess my question for the record is, are we maintaining funding levels for training grants, and then adding $1 billion? Or are we taking the $1 billion out of the training programs?

Secretary CHERTOFF. I think that the best way to categorize it is, we're re-allocating money. It is true that if you look at the State Homeland Security grants——

Senator LANDRIEU. But they increased, or decreased?

Secretary CHERTOFF. They're decreased. Our request is $250 million last year, what was enacted was $525 million. On the other hand, this billion dollars of interoperability grants is new. Net, in terms of a focus on communications and interoperability, which I think we all agree is a very, very big priority, there's actually more money that's going to be available over the next year, than was available last year.

There's no question that some things have moved up and some things have moved down, on our various infrastructure grants. Actually, I think we have moved up or remained level in virtually all of those, with the exception of trucking industry grants, which went down a very small amount.

And with respect to this, some of the State and local training programs, some of those have been dramatically lowered, because we believe we're at the point now that there's a better way to spend the money.

There's no question, like with any budget exercise, we're making choices. I think the view that we're expressing is very similar to what you just said; communication is the foundation of everything. If we can get that right, we can then start to move to other things.

Senator LANDRIEU. Well, and I don't disagree with you, but I want this committee to be very clear that, I'm not sure we're solving the problem by taking, basically, $1 billion away from general training, and moving it to communications just because we have a problem with communications, because we're soon going to have a problem with training.

And, I'd refer you to a great book that's been written called "Disaster", which says that one of the problems with a Hurricanes Rita and Katrina, was we had a Hurricane Pam exercise—and I know you're familiar with the Hurricane Pam exercise, not a real one, but an exercise, but all the lessons learned that came out of a training program were not put to a test, because of a lack of funding in this Homeland Security local grant program, Mr. Chairman.

So, what I'm saying is, the Homeland Security had exercised, exercised Pam, and had planned for it, but then because of lack of

funding—which is well-documented—they could never train. And so then, the real hurricane came, and we weren't ready.

So, I say this to raise a flag of alarm here—taking money from our trainers that have general training to do, and just moving it to interoperability, I'm not sure solves the problem, and I think this committee has to look at it.

FLOOD MAP PLANS

Let me move to my next question, if I could. Just a second the flood map plan, and I know that you've never heard anybody talk about flood maps, because we're talking about the borders, et cetera, but all along the coast, people are going to start talking about these flood maps, because this is a serious issue. You have to have the right kind of mapping to get the levies to the right height, and if you don't, then all of your communities are at risk when storms come. So, this is not just an issue for Louisiana.

We're again cutting the program of flood mapping when we, I think, are years behind accurate flood maps. Our whole Corps of Engineers relies on these flood maps to set the right levels for protection. So, why are we cutting funding for flood maps, when we don't have the accurate data now, and it's one of the major problems about why this flood occurred in the first place?

Secretary CHERTOFF. First of all, I think the principle challenge in terms of doing the mapping is actually an engineering issue in the domain of the Army Corps of Engineers. They've got the responsibility of figuring out, particularly in terms of the levies, what the current requirements are, what the threat is, and what is necessary in order to get the desired measure of protection. I don't know that that's a funding issue within our Department.

Obviously the flood maps that we design flow from decisions, or information that we get from the Army Corps of Engineers concerning what kind of force the levies can withstand, and what the rising water levels are that will be addressed by the levies. Based on that, we then can do the flood elevations.

Now, we do have the interim, or preliminary, elevations out. I think that the final elevations have to wait until the Army Corps finishes its work.

I don't know that this is a funding issue in our Department, so much as it is with respect to——

INCLUSION OF LEVIES IN CRITICAL INFRASTRUCTURE

Senator LANDRIEU. Well, I appreciate that, my time is limited, but one final really brief question, do you support the inclusion of levies in critical infrastructure, at least for us to look at, to make sure that the levies around urban-populated areas are secure from collapse as they were in Katrina and Rita?

Secretary CHERTOFF. I think it is, as you're talking about nationally now. It is very important that one of the lessons we take out of Katrina and Rita and Wilma is not to avoid making necessary investments in infrastructure now, to protect catastrophes later. Otherwise, you're playing musical chairs with people's lives, because you're not putting the money in until the music stops; it's much better to put the money in up front. I think the analysis

that's been done has been very helpful, and will guide us as a society in terms of our investments going forward.

Senator LANDRIEU. Thank you.

Senator BYRD. Senator Shelby.

FEMA'S RESPONSE IN ALABAMA

Senator SHELBY. Thank you, Mr. Chairman.

Mr. Secretary, first I want to say something nice about the Department of Homeland Security that you have.

FEMA's recent response to the tornado in my home State of Alabama was quick, and decisive. I was down there, as you well know, with the President on Saturday, Senator Sessions was there the day before, and FEMA was everywhere, they had been there, and that says a lot about what you're doing in your leadership, I believe, and the Department of Homeland Security in that area of natural disasters.

Now, I want to go back on the illegal immigration. Mr. Secretary, if there are 12 million, some say 15 million, some say 20 million—illegal aliens in this country, and we don't know the figure. But if there—there's the conservative figure of 12 million. Then that says to me that our immigration system is broken. That we have not protected our borders, we have not known who's coming here legally, and overstayed their visa. And I know this has been going on a lot longer than you have been the Secretary of Homeland Security and before we created Homeland Security, and I'm not trying to lay that at your feet. But, something's wrong, and has been wrong.

I know you referenced earlier that you're making progress at the border. But, I think the perception and the truth is that there's a heck of a lot of work to do. That we don't have control, even as today, March 2007, of our borders. We know it's a daunting task. We also know there are probably several billion people in the world that would like to come here. We're a Nation of immigrants. I would probably like to come here, if I weren't here.

But, I believe if we have and we do a system of laws, that we ought to enforce those laws, or we ought to just repudiate them, period. Because they're being ignored, for the most part. I'm not saying for everybody. And what do you say to people, who stand in line, and work hard to come here legally, and they see everybody breaking the law—not everybody, but millions—and coming here, and they can't even get their wife here, or something, through the channels. That's a tough question, there's no easy answer, I know that. But what do you say to that?

Secretary CHERTOFF. I agree the foundation of a sound immigration policy, is requiring that the law be enforced. I think we do have to design an immigration reform system that ultimately addresses all of the elements of the problem. The foundation has to be that we are going to enforce the law.

I see sometimes that my Department gets criticized because we're arresting people or detaining people, but I have to tell you, Senator, as long as the law's on the books, we owe it to the American public to enforce that law, and to do it seriously. We will continue to do that, even as we work with Congress on an approach to immigration that will ultimately solve this problem.

VISA ENFORCEMENT

Senator SHELBY. Sure, and I've been encouraged recently by some of your tougher worksite enforcement. And, it's going to take worksite enforcement, and border enforcement and visa enforcement too, I know that. If—I could get into the overstay of visas—Mr. Secretary, how many people come here legally each year from other countries, roughly, to go to school, to visit as a tourist, to do business or so forth?

Secretary CHERTOFF. We have millions of visitors.

Senator SHELBY. Millions, I know. And, some people come here without a visa, do they not?

Secretary CHERTOFF. Correct, there's a visa waiver program.

Senator SHELBY. They come here legally, but is there any way that you keep up with who goes back?

Secretary CHERTOFF. That's been challenging. We ran a pilot at the airports which, was not terribly successful, but we are looking in the next year or two, and we have money in the budget for 2008, to do a U.S. visa exit at the airports.

Senator SHELBY. Sure.

Secretary CHERTOFF. That will capture a list of who leaves by air. U.S. visit exit by land is much more challenging.

Senator SHELBY. We know that. And we know it's tough. But we know you've got energy, and you're a determined person, I know you, I've known you a long time.

CENTER FOR DOMESTIC PREPAREDNESS

I want to shift to something else, the Center for Domestic Preparedness that you're very familiar with. The Center for Domestic Preparedness, Fort McClellan, is a cornerstone, some people believe, of our Nation's emergency responder training facilities, and it's the only civilian live-agent training facility in the Nation, unique. The CDP is one of our several facilities where we're training our Nation's first responders in a variety of disciplines. This year, it's expected that CDP will train close to 65,000 people through on-site, mobile, and the trainer programs. We know training and you've said this is the key to preparedness, and response.

In the President's budget request, the Center for Domestic Preparedness—and this is disturbing to me—the CDP's base budget is reduced by $3 million from the enacted level of $57 million in 2007, to $54 million in 2008. And then while the transfer of the Noble Training Center is reflected in the President's budget, the CDP's budget is further reduced by Noble's budget, by $5.5 million. So, the bottom line is, as I understand it, the 2007 proposal level for CDP and Noble is $62.5 million. The President's budget request for 2008 is $54 million, resulting in a serious shortfall of $8.5 million. Mr. Secretary, why would you propose to cut that at this time? Do you have enough trained first responders? I would think not.

Secretary CHERTOFF. Well, Senator, of course, we're not zeroing it out, and with respect to——

Senator SHELBY. Oh no, we would not, we don't plan to zero it out, not while I'm here.

Secretary CHERTOFF. With respect to the CDP, just to put it in perspective, I think in 2007, our budget request was $50 million,

and Congress went up to $57 million. I think we've come to rest in the middle at $54 million, which we think is an adequate amount of funding.

It is a valuable program, and like anything else in the budget, it's rarely the case that it's easy to make a decision about where to trim. We have to reconcile a lot of different elements in order to come in within a budget.

Senator SHELBY. But this is a recommendation, ultimately, Congress will make that decision.

Secretary CHERTOFF. Sure, that's right. And Congress could decide——

Senator SHELBY. To trim or add, right?

Secretary CHERTOFF. Correct. Congress can add or trim; this is the President's recommendation for what the right way to balance is. Congress can put more into this, but take it away from something else.

Senator SHELBY. Mr. Chairman, can I ask one last question? I know I'm over my time.

DEEPWATER PROGRAM

The Deepwater Program that the Coast Guard could you address, and you can address it for the record, if you want to. Could you speak to what is going right with Deepwater? You know, some people criticize it.

Secretary CHERTOFF. Yes.

Senator SHELBY. Some don't. In addition, would you discuss the Deepwater Program the CASA 30, 300M Airtime Patrol Craft, the plane you know, I've been told by the Coast Guard it's a crucial piece of this overall mission. It's my understanding that the first one is set for delivery soon, and I'd like to know all about that, and where you are? Can you do that for the record?

Secretary CHERTOFF. The second one, I will certainly do for the record. I can't do it off the top of my head.

[The information follows:]

DEEPWATER MARITIME PATROL AIRCRAFT

The HC–144A Maritime Patrol Aircraft (MPA) is a transport and surveillance, fixed-wing aircraft that will be used to perform search and rescue missions, enforce laws and treaties including illegal drug interdiction, marine environmental protection, military readiness, and International Ice Patrol missions, as well as cargo and personnel transport. The Airframe Manufacturer is EADS CASA. The Aircraft are delivered to the USCG Aviation Repair and Supply Center (ASRC) in Elizabeth City for the installation of the Mission System Pallet (MSP) which brings a new era of C4ISR to USCG aviation and Maritime Domain Awareness, prior to final delivery to the fleet.

There are currently eight HC–144As under contract and their disposition is as follows:

The first Deepwater HC–144A arrived in Elizabeth City in January 2007 and is currently in the middle of its C4ISR mission system pallet integration. Once completed, the fully missionized aircraft will be flown to Coast Guard Air Station Mobile, Ala., for operational tests and evaluation.

The second Deepwater medium-range surveillance maritime patrol aircraft arrived in Elizabeth City for MSP installation on Feb. 19.

The third aircraft is scheduled for delivery no later than August 31, 2007 but an earlier delivery is anticipated.

Aircraft #4 & #5 have an expected delivery date of first quarter CY 2009.

Contract award for aircraft #s 6–8 was awarded in April 2007.

Completion of Developmental Testing and Evaluation (DT&E) is projected for June 2007 but the actual date dependents upon successful completion of certification and accreditation of the Mission System Pallet. Upon successful completion of DT&E the aircraft will be assigned to Aviation Training Center (ATC) Mobile, AL. Although the aircraft will be capable of performing Coast Guard missions at that time (June 2007), there are additional pre-operational activities that need to be completed before the aircraft assumes official operational status. One of the significant events that will occur at ATC Mobile is Operational Testing and Evaluation (OT&E) where the aircraft will be evaluated for operational effectiveness and suitability to perform assigned missions. Additional pre-operational activities include training of instructor cadre, development of the training curriculum, follow-on training for flight crews and maintenance personnel, and acquisition of requisite logistics, including spares, to support operations of the aircraft. Once all these steps are completed, the aircraft will be considered ready to begin regular missions with the Coast Guard. This is projected to occur in January 2009.

Secretary CHERTOFF. On the first one, I will say there is much that is right with the program. Admiral Allen is taking a very tough look at the program. He's reconfigured the way he's managing the program. He's taking account of some of the criticisms. He is using flexibility now to pull pieces of the program out and have them separately bid, or separately provided for, if there's a more cost-effective way to do it. I think he's still deeply committed to this, as a very important and necessary program for the Coast Guard going into this new century.

Senator SHELBY. Well, it's imperative.

Thank you, Mr. Chairman.

Senator BYRD. Senator Murray.

SAFE PORTS ACT

Senator MURRAY. Thank you, Mr. Chairman, and I want to join you and Senator Cochran in welcoming Secretary Chertoff to our subcommittee today.

Mr. Secretary, as a Senator from a State that depends on its seaports for its livelihood, the security of our Nation's ports has been one of my top priorities. We spoke, I believe, for the first time about port security shortly after you were nominated to be Secretary of Homeland Security, and the plans formed the basis of the Green Lane Maritime Cargo Security legislation that you know I worked on with Senator Collins.

As you are well aware, the Green Lane bill formed the backbone of the SAFE PORTS Act, which the President signed into law just a few months ago, in October. I was really pleased to hear of the progress in implementing the SAFE PORTS Act that you outlined in your testimony, and I know that we both agree that the agencies involved in securing these sea ports are doing an admirable job, and they're working through a lot of very, very difficult issues.

Could you speak for a minute about the Department's initiatives to implement the SAFE PORTS Act to improve the security of our ports?

Secretary CHERTOFF. Senator, I want to thank you for your support for this very important piece of legislation. In addition to what I've described about our moving close to 100 percent radiation scanning capability, here in the United States, both at our sea and land ports, we are working with our foreign partners to increasingly do some of the scanning and x-raying overseas. I think the bill mandated that we get up and running in three foreign ports. I think

we're going to be ahead of target on that. Ideally, we would like to encourage many of our overseas partners to allow us to push the perimeter into the port of embarkation, as opposed to the port of arrival. We recognize, some countries won't be able to do it, or won't be willing to do it, or in some cases, the port isn't configured, but we are going to continue to push on that initiative, which we think is very important.

SECURE FREIGHT INITIATIVE

Senator MURRAY. Okay, very good. I particularly wanted to ask you about the Secure Freight Initiative that implements multiple pilot projects at foreign ports, you just talked about. These pilots are ongoing, you said three, more than that, possibly?

Secretary CHERTOFF. Yes, I think we had agreements with six; then there was one where, it was a little bit contingent. I believe we had started to deploy some of the equipment overseas. I know the ports that come to mind, there's a port in Pakistan, a port in the United Kinddom, we're also looking at Pusan, South Korea, I think one or two terminals in Singapore, Hong Kong, and I know I'm missing a port, but we are——

Senator MURRAY. Do you have any results from some of the early testing?

Secretary CHERTOFF. I don't know that we're at the point now that we have results, but we will. I will be happy to check and get back to you.

Senator MURRAY. Okay, I'd be interested in hearing that.

[The information follows:]

SECURE FREIGHT INITIATIVE UPDATE

Background

Phase I of the Secure Freight Initiative (SFI) was launched on December 7, 2006. SFI is a $60 million effort in which the U.S. Government will join with other governments and maritime terminal operators, carriers and importers to implement a scanning initiative that employs the use of integrated radiation detection and large-scale imaging equipment in select foreign seaports.

Included in the first phase will be the ports of Qasim, (Pakistan), Cortes (Honduras) and Southampton (UK). Additionally, DHS will partner in a more limited capacity with other the strategic container ports of Pusan, Hong Kong, Salalah, and Singapore.

Qasim, PK.—Operational testing of the SFI scanning system, which includes Radiation Portal Monitors (RPM) and Non-Intrusive Imaging (NII) equipment commenced on March 31, 2007. Full-scale operational status is expected in October of 2007.

Puerto Cortes, HN.—Deployment of RPMs began in November, 2006, (NII was provided by host government). Operational testing of the system commenced on April 2, 2007, full-scale operational status is expected in October of 2007.

Southampton, U.K.—Discussions regarding the placement of equipment and the basic concept of operations are underway, with a delivery date of May, 2007. Construction will begin the 1st week of May, with operational testing scheduled to begin the last week of July 2007.

Busan, KR, Singapore, SG, Salalah, OM.—Site surveys to determine the placement and operation of the equipment were conducted the 1st and 2nd week of March, 2007. Construction is set to begin in October 2007, with operational testing scheduled for January 2008.

TESTING OF RADIATION DETECTORS

Senator MURRAY. As you know, that act requires a test center to test the issue of placing radiation detectors at a port where most

of the containers are loaded directly on from a ship onto a waiting rail car, can you comment for us on the status of that?

Secretary CHERTOFF. I think we are in the final process of putting together the plan for doing that, and making the final selection of the port. There's probably one port that fits the standards set in the statute, probably a little bit more obviously than any other. Then we're going to work to actually get a program like this underway.

We're requiring a little bit of a different architecture than we use at our other ports, because a critical element, is we don't want to slow the port up by making people take the container out, and put it back in.

Senator MURRAY. Right.

Secretary CHERTOFF. It's going to take a little bit of thinking through the business model at the port to get this done, but we are committed to moving forward, because that's the last piece we have to get into place.

Senator MURRAY. I appreciate that.

PORT SECURITY

We know there's a lot left to do in this world. And as you know, the Commandant of the Coast Guard said it would cost $5.4 billion over 10 years for our ports to comply with the Maritime Transportation Security Act. My ports, like a lot of them in the country, continually tell me they need more, they need more to comply with the security requirements that are in the Maritime Transportation Security Act and the SAFE PORTS Act.

So, it's a real challenge out there, and in rounds one through six of the Port Security Grant Program, the Department received over $4.3 billion in requests, but allocated only $836 million, and that by the way, is, not all ports are eligible for these, so we know that the demand is even higher than that.

There's a lot of significant issues out there, a lot of our smaller ports are very concerned they're not getting some of their needs met, and there are, at the same time, some new and expensive requirements that are now being implemented.

We've got the transportation worker ID card credentials and readers that are coming into effect, so I am concerned about the budget request on this, I saw the President included $210 million for port security grants for 2008, they've been eliminated in past budget requests, so we're making some progress. But, that isn't enough. And, the secure, or the SAFE PORTS Act, actually, authorized $400 million, I mean, it seems to me, clearly, there's a huge discrepancy between what, the budget we are being asked for to put into effect, and what the needs are out there.

And, I just wanted to ask you, are you confident that each of our 360 port facilities is secure?

Secretary CHERTOFF. I think that we have made them much more secure than they've ever been. None of them are perfectly secure, because that may be a standard that is unattainable. We are focusing on the higher-risk ports. The reality is that, based on our assessment of threat, vulnerability and consequence, some ports are more at risk than others. While I understand that every port has valuable assets, and every community cares about its port, I

think we have an obligation to focus on the high-risk ports first. That has been our template. We have, therefore, put a majority of the money, and done quite a bit to secure our major ports, like New York, and Los Angeles, Long Beach, and even up in Washington.

Obviously this is something that's going to be accomplished over a period of years. As with every other element of the budget, almost any program is worthwhile, and you could make a very powerful argument for adding more money. Then the question is, what's going to have the money taken away from it?

I think, in this budget, we have listened to Congress' budget activity, and appropriations from last year. As you observe, we have actually maintained consistency with last year's enacted in the various infrastructure areas, which I think does prove the point that we do listen.

Senator MURRAY. Well, I appreciate that.

My time is out, I do have a couple of other questions, one particularly on PNNL, which is in my State, which does a lot of research for Homeland Security. There's an issue with moving that, and I want to submit some questions to the Secretary on that, and on Northern border. And, if I could do that, and get a written response back, I'd appreciate it.

Secretary CHERTOFF. Surely.

Senator BYRD. Thank you, Senator Murray. Thank you, Senator Murray.

Senator Alexander.

Senator ALEXANDER. Thank you, Mr. Chairman, Senator Cochran.

SKILLS-BASED IMMIGRATION QUALIFICATIONS

Mr. Secretary, I first want to thank you for being here, and thank you for your service. I think you're providing skilled and principled leadership in the Department, I can't imagine a more difficult, more difficult job, and I think you're doing it very well.

I'd like to say to you in public what I've said to you in private—I hope the President challenges those of us in the Congress, if it's necessary, to pass an immigration bill this year. It is our responsibility. I think, sometimes I think the country thinks we in Washington, DC, aren't taking the country seriously. Because they know whose job it is. It's not the job of the County Commission in Tennessee, or West Virginia, or Mississippi, it's our responsibility, we're the only ones who can really deal with the rule of law on our borders, and we have a responsibility, I believe, to take it up soon, and not stop until we're finished. And I know you're working on that for the administration, and as one Senator, I support that as a priority.

And within that discussion, I want to raise a point. Yesterday, Bill Gates testified before a committee on which I serve, and he made a point in a way I hadn't quite thought of it before. He was talking about, he asked the question, why are there any limits in our immigration policy on bringing to our country highly-skilled people who create jobs for us, and raise our standard of living? Now, in the immigration bill that the Senate passed, there were two or three provisions, one of which—pin the Green Card on the lapel of a foreign student who earned a Ph.D., and I believe a Mas-

ter's Degree from an American University—and that person could stay here.

So, my question to you is this—we're talking about in-sourcing brain power. We talk a lot about outsourcing jobs, but we're in-sourcing brain power, so we can in-source jobs. Each of these very smart people come here, and they've got 100 jobs around them that they create, and they're either going to be here, or in Great Britain, or in China or India—I'd like for them to be here.

So, I'm asking—can you make it a priority, or do you think that it's wise to make it a priority, that as we consider immigration this year, we do as the Augustine Report, and the National Academy of Sciences suggests, which was introduced by Senator Reid, Senator McConnell last week—do we encourage more skills-based, let me, encourage more skills-based, preferential immigration options? In other words, do we make it easier for highly-talented people who create and bring jobs to come in here and stay here, rather than making it harder?

Secretary CHERTOFF. Well, I think there's a very powerful argument for that. I know other countries, for example, array their arrangement for whose admitted as a permanent resident based precisely on issues such as who brings the most value to the country. At the end of the day, as we look at immigration policy comprehensively; and particularly, the posture we have about permanent residents, the touchstone ought to be, what serves the interests of the United States? That is really what's got to be our guiding star. I think it's an important debate that we have, about how to promote that.

Senator ALEXANDER. As a follow-up question, could I ask you in writing, or your staff, to provide me with an estimate of currently how many, how many people come into the United States each year now, how many have these kinds of visas, who we would call as having a skills-based preferential option? The way I see it, generally, is we have 500,000 to 1 million people coming in legally every year as new citizens, we have maybe that many coming illegally every year—that's heavily weighted toward the lower income, people who aren't skilled. And I'd, frankly, like to see us, in our National interest, weight it much more heavily toward people who have higher skills.

Secretary CHERTOFF. We can get that for you.

Senator ALEXANDER. Thank you, sir.

[The information follows:]

LAWFUL PERMANENT RESIDENT STATUS SKILLS BASED QUALIFICATIONS

The number of aliens granted lawful permanent resident status under the employment-sponsored preferences has averaged 187,000 a year during the last three fiscal years (2004–2006). Of this total, approximately 86,000 were principals who qualified based on their skills and 101,000 were their family members.

The number of admissions of highly-skilled non-immigrants averaged 968,000 during the last 3 fiscal years (2004–06): 409,000 H–1B specialty workers and 459,000 L–1 Intra-company transferees. Note that an individual worker is counted at each entry so the number of admissions exceeds the number of persons admitted.

REAL ID

Senator ALEXANDER. Now, on the REAL ID question—we've also talked about that, but my objection with REAL ID is two or three.

One, the way it was passed was absolutely wrong, and that's not your fault. I mean, the only person, in my view, who could have passed something like this would have been a Congressman who'd never stood in line for a driver's license at a State office. I mean, I think it's completely unrealistic, there was never one minute of hearing about it in the United States Senate, never authorized, just popped into a bill we had to vote for.

Second, even your Department, if I'm not mistaken, believes with the new regulations it may be up to a $14 billion mandate on the States, and that's wrong for us to do. If we think it's a good idea, we ought to pay for it, not send the bill to the Governors, which has the effect of raising tuition, and raising property taxes, and interfering with their decisions.

But the other, the other concern I have about it, is that it answers a question before it needs to be answered. It may not be the best kind of ID card. We heard Senator Stevens talk about the number of people in Alaska who don't have driver's licenses. And I've come to the reluctant conclusion that we do need two or three forms of secure identification that may be used for a variety of purposes, such as crossing a border, getting on an airplane, cashing a check, whatever. I didn't used to believe that, I believe it now.

I doubt that the driver's license is the best way to do that. I suspect that a work card, such as a social security card, or a travel card, such as the PASS Card might be a better way.

So, what I would like to encourage you to do, as we have this extended time to consider REAL ID, is to consider REAL ID, along with your development of an employer verification card, which might be a work card. That would be a necessary part of any sort of immigration bill, or with a PASS Card, as you seek to implement these travel, or border restrictions. And if, in the end, requiring 190 million people to go grab a birth certificate and stand in a driver's license line, and turn driver's license examiners into investigators about whether we're lawfully living in this country, that may not be the best idea, and maybe it only is a single option for a few States who want to do it, and these other cards might fit into the whole picture.

So, will you consider the REAL ID in that broader context, as you go through this immigration bill process?

Secretary CHERTOFF. As you know, Senator, and we've talked about this, we've been listening on an ongoing basis to Governors. I think some of that was reflected in the proposed regulations we issued in the last couple of weeks; and we're always open to suggestions, and looking at alternatives. At the end of the day, I'm going to comply with the law, but we certainly want to come up with solutions to problems. I think we all agree there's a problem with phony ID. The question is, how do we get to the best solutions? So, I'm a good listener.

Senator ALEXANDER. Thank you, Mr. Chairman.

Senator BYRD. Senator Nelson.

RESOURCES TO SECURE THE BORDER

Senator NELSON. Thank you, Mr. Chairman.

Mr. Secretary, I want to begin by thanking you for the informative tour of the Arizona-Mexican border last month. I think we

learned a great deal, as a matter of fact, maybe you and I want to compare our welding skills with Senator Tester's, I saw that he got quite a bit of publicity about that.

Senator NELSON. I suspect he knows what he's doing, and we're still learning.

Secretary CHERTOFF. I think that's probably true.

Senator NELSON. Right.

Well, I appreciate having had the opportunity to travel with you, and view the border barrier construction and the enhanced border security measures that are being put in place, both in urban areas, as well as in the more rural or desert areas. And, I especially appreciated the opportunity to meet with the dedicated men and women who form the border patrol, and members of our National Guard who were there with Operation Jump Start.

Now, based on what I've learned, I believe we're really making some good progress in securing our border with increased patrols, physical barriers, and of course, the virtual fencing that takes advantage of technologies, such as radar sensors, and aerial patrols in the more remote areas.

I'm convinced that there's more to be done, and as we've discussed, there is clearly more to be done. And there's more that Congress can do to provide the resources necessary to secure that border, and to look, and I would hope that we would consider, if we don't currently have, a joint study with our Canadian friends on the northern border to see what we can do, and what might be necessary there to secure that border, as well. And I remain committed to border security first.

I know there's a lot of interest in getting a comprehensive bill in place, and I think we ought to do that, but not until the border's secure, my fear is from the experience of a little over 1 year ago, that when we start talking about the amnesty or some sort of legal residents here in the country before we have the border secured, they talk about it, and they will come. And they will come, and they will come, because they'll find a way until that border is far more secured.

So, I hope that we can put—keep that in overdrive, and get it done as quickly as we possibly can. Because it's so critically important.

URBAN AREAS SECURITY INITIATIVES

The second thing I want to talk about is, that with respect to the Urban Areas Security Initiative—I understand the GAO has recently provided the committee with a report on your administration of the UASI grant program, and I'm reserving judgment on the process outline there at the moment, but I'm wondering if you agree with the approach that the Senate is taking in our 9/11 Commission bill to broaden the scope of eligible cities, by allowing the 100 largest metropolitan areas to compete for these grants. If you disagree, I guess I'd like to hear that as well. Why wouldn't these metropolitan areas start out on an equal ground, and be allowed the opportunity to make the case for some funding that you would say would be a baseline funding, because they all have certain requirements? And, I'm a little bit concerned that we're getting into

an all or nothing kind of, type of competition. Perhaps you could give me your thoughts on that?

Secretary CHERTOFF. I'm going to have to say that I respectfully disagree with the idea of broadening the eligibility. I faced this dilemma in the last 2 years through three grant cycles, and basically there appear to be three views on the issue of grant funding for Homeland Security.

One view is we ought to spread it out among a lot of different jurisdictions, the theory being that everybody has some needs. That's almost kind of a revenue-sharing viewpoint.

The other view, sometimes articulated by tabloid newspapers in certain big cities, is that all of the money ought to go to one or two cities, because that's where all the risk is, and everybody else gets nothing.

I find myself in the middle position, which I think reflects where we've been, certainly this last year. Which is, we ought to weight the balance in favor of the high-risk cities, but we ought to broaden it to include other cities that are at significant risk of being lesser risk. I think in the grand funding for this current fiscal year, we came up with about 46 cities, but we identified a number of cities which were high-risk.

Now, to be perfectly forthright about this, Senator, if we broadened, and added another 50 cities, by definition those would be cities that are lower risk than the other cities. Either we would be telling them to apply, but there's not much likelihood they're going to get any money, in which case we're wasting their time and effort, or we'd have to guarantee them some minimal amount, but that amount would come out of the high-risk cities. Then we would be seeing lots of stories about how New York is getting cut, and Los Angeles is getting cut, and I don't think that's necessarily where we want to go.

I guess what I'm going to pitch for is our current risk-based system, one that doesn't put it all in a handful of cities, but does put a significant weight in the cities which have the highest risk.

Senator NELSON. Well, I would agree with you, but I suspect if I ask you the question how high would Oklahoma City have rated on the risk-based analysis you're making today, it might not have been very high on the list. So, it's not as though there isn't risk associated with various communities, that are not based on foreign attempts at terrorism, but based on domestic terrorism. If you don't have, basically—instead of revenue-sharing, if you consider it—a basic spreading of certain resources across, then you will end up with the chain no stronger than the weakest link.

Secretary CHERTOFF. Senator, I'm the first person to acknowledge that this is a very hard issue; you can make very good arguments on both sides of this.

In the State Homeland Security grants, there is some guaranteed base funding. That program was configured a little bit differently——

Senator NELSON. Yes.

Secretary CHERTOFF. I think with respect to the interoperability grants, we're going to have money coming out that way.

I have heard passionate, strong arguments on every different side of this issue, and I suspect Senator Lautenberg is going to give

an equally passionate approach about why it ought to be centered, all of it or at least a good deal of it—in the New York/New Jersey area. I think we've struck a balance that weights it, but doesn't put it exclusively there.

In the end, it's for Congress to decide; and you'll have to wrestle amongst yourselves.

Senator NELSON. Thank you.

Senator BYRD. Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman, and Mr. Secretary. Good to see you again. And to see you up on that tightrope trying to balance, I'd like you to fall my way, if you don't mind. Our way, let me say. Because, as the case was made that you make, and I respect you greatly, and that is that we're going to offer real protection that I think is two people in the country, and we spend so little on a relative basis in protecting ourselves against attack within our borders, as when compared to that which we spend outside our borders to protect our people.

And when I look, for instance, at the law enforcement terrorism prevention program, that's reduced to zero, because it's transferred to UASI. And the program in 2006 was $396 million, and 2007 it was offered at $375 million, now it's transferred over, and it's at 25 percent of the $800 million that's requested for the UASI, it goes to that program.

Now, it just doesn't make sense, Mr. Secretary, I mean, that challenges the prospect of taking care of our security needs by, as we reduce that funding. And when you looked at the cost, I always ask to see the—we can't replace the losses that took place on 9/11 in human terms. But the financial cost is also enormous, beyond almost any comprehension—$15 billion in physical assets, $11 billion in cleanup costs, and $40 billion in insurance claims, and the estimated economic loss from the New York City controller, goes up past $80 billion.

And, Secretary, it just doesn't make sense to me to spread it around any thinner than we have. You're right, you know, that—when I look at an area where 12 million people could be injured or killed in that 2-mile—as a result of an attack on that 2-mile stretch which has largely chlorine, and everybody knows this, so I'm not revealing any secrets, and now the insurgents in Iraq have discovered that chlorine is a deadly material to use in war, and here we have that kind of exposure, and we're talking about whether or not every State is entitled to something. And it, it's almost a moot case right now, because it's just not happening and I don't understand why not.

And I would appreciate your comment to see—where the justification comes in with all of these cuts, when we know that the threats of attacks in any of the more apparent targets are, would cause such incredible damage?

Secretary CHERTOFF. First of all, I don't see these as cuts. Obviously there are different allocations that we're proposing than were proposed last year. We've made a determination that having a billion dollars going to interoperability grants addresses an issue that, we all remember from 9/11, was a big problem. Not to make it only a matter of money, because there are some issues of governance and organization that every community has to come to grips with;

some have and some haven't. What we've sought to do here is, put the money into buckets that are sufficiently flexible enough to allow communities to allocate among a number of reasonable priorities; but not so fluid that it becomes a basis to repeat some of the spending that we saw 4 or 5 years ago, where people were buying things that were really not Homeland Security-based.

I think net, when you look at the amount of money that's going to be available over the next year, it's going to be roughly the same as we had last year. Through fiscal year 2007, we will have distributed about $20 billion to State and local governments. That is a huge chunk of change, by any measure.

There's a lot of money; $5 billion of it still remains to be drawn down. Now, that's not a criticism, because the process of drawing down requires the vendor perform before you pay the vendor. But it's to suggest that States and localities are already digesting billions of dollars.

Senator LAUTENBERG. But, in fairness, Mr. Secretary, the threat hasn't reduced, as a matter of fact, I think it's fair to say that the threats have increased. Where the sophistication of weapons, where the, they're—I'll call them, I don't mean to be kind to them in any way—slick operating structures, the threats are certainly more than there were before, and you can tell from those interceptions that DHS has made over the years, that there's still a significant amount of energy being put into ways to destroy our well-being and attack our people.

So, unfortunately, this is a pattern that we've seen as we try to get funds for security, we're told that whether it's environment or here, transportation, we're told that we're lucky that we're going to be doing so well, as we get our funds cut. And it, I don't think it squares—you're up something like $3.5 billion, but any damage that we could sustain would far outweigh that amount of money. And that's, as you've described it, change.

Secretary CHERTOFF. There's no question, the threat remains very significant, but we're $20 billion further advanced in terms of investments. In addition to the money we pay in grants, there are billions of dollars we pay in our employment of the Coast Guard, our employment of Customs and Border Protection, and our employment of TSA screeners. Many of the measures that the Federal Government provides to secure the homeland, are measures we provide by providing people, equipment, or capabilities that we, ourselves, manage.

Grants represent only one slice of the Homeland Security pie; we have some very generous slices that are provided through the Coast Guard's budget, and Customs and Border Protection and TSA, as well.

Senator LAUTENBERG. Mr. Chairman, I close and point out that a single day's activity in Iraq is fairly close to $3 billion. And when we think of what we're doing here, we're taking comfort that we're protecting the American public at home for, and there's a $3 billion increase for the year.

Senator BYRD. Thank you, Senator Lautenberg, for your very good questions, and your comments.

Thank you, thank you.

Senator Cochran, do you have any further questions?

Senator COCHRAN. Mr. Chairman, thank you.

FISCAL YEAR 2007 SUPPLEMENTAL APPROPRIATIONS BILL

Mr. Secretary, we will soon mark up a fiscal year 2007 supplemental appropriations bill. The President's budget includes a fiscal year 2007 supplemental funding request of $3.4 billion for the FEMA Disaster Relief Fund to support ongoing recovery costs for Hurricane Katrina through December 2007.

Is the $3.4 billion supplemental request adequate for addressing the gulf coast needs in fiscal year 2007?

Secretary CHERTOFF. We believe that it is, Senator.

[The information follows:]

CLARIFICATION OF $3.4 BILLION FEMA DISASTER RELIEF SUPPLEMENTAL

Since September 2005, Congress has provided a net total of $41 billion in supplemental funds to FEMA's Disaster Relief Fund (DRF) to support response, relief, and recovery activities for hurricanes Katrina, Rita and Wilma and other disasters. Because of the unprecedented scale of damage from, and the Federal response to, the hurricanes in the Gulf, and with the long-term recovery effort still underway, DRF allocations for the hurricanes alone are already nearly $40 billion. Nearly $39 billion of that amount has already been obligated to major program areas to address Katrina/Rita/Wilma needs.

In order to meet DRF needs through 2007 for continued recovery in the Gulf, the Administration is requesting an additional $3.4 billion in supplemental funds for the DRF. These funds will support on-going recovery efforts in the Gulf, including Human Services, Public Assistance, Mitigation, and Operations needs through December 2007.

Senator COCHRAN. I would like to know also, if the $3.4 billion request includes any additional Katrina-related supplemental needs that have been identified since decisions were made on the fiscal year 2008 budget. And, if so, we trust you will let us know about them so we can consider including them in the supplemental appropriations bill.

Secretary CHERTOFF. We will do that.

GULF COAST HOUSING ASSISTANCE

Senator COCHRAN. The housing assistance made available to gulf coast, the gulf coast region, following Hurricane Katrina has been deeply appreciated, and it has been extended for 6 months and is now scheduled to expire on August 28, 2007. What is the FEMA agency plan for those who are still living in temporary housing beyond the new expiration date?

Secretary CHERTOFF. Senator, this is a discussion that we're having internally. The people living in temporary housing fall into two categories. There are those people who are in apartments, distributed in various parts of the country, many of them not in the gulf coast. We're working with the Department of Housing and Urban Development to see what is the best way to address that population.

The second, are people who are currently located in trailers. Trailers are not really a long-term housing solution. They degrade over time, and that becomes a problem.

I think one of the challenges we're trying to consider, and I don't think we've completely come to rest on what the right answer is, is how can we help to accelerate the move of people out of trailers. Those people who are waiting to get their houses fixed, ideally

they'll get those houses fixed before this hurricane season. What is a better long-term solution for those people who are still occupying trailers, and won't have their houses fixed?

We don't want to leave people out on a limb. At the same time, we have to manage this process to a conclusion; because I don't think anybody has much relish for what we saw 10 or 15 years ago, where out of Hurricane Andrea, you had people living in trailers for years. I don't think that's a very good solution. We are working with the Governors, and talking about ways we might think outside the box in trying to come to a more settled resolution of this.

INTEROPERABLE COMMUNICATIONS

Senator COCHRAN. Last year, you announced that the Department of Homeland Security will ensure that the highest-risk urban areas have interoperable communications equipment by the end of the year, and that all States have it by the end of 2008.

The budget request the Administration has submitted assumes reductions in Homeland Security State and local grant programs, and many of these grants are used to fund interoperable communications. Do you think it's possible to reach these interoperable communications goals, in view of the budget request?

Secretary CHERTOFF. Well, that's because it's offset by $1 billion that's specifically dedicated to interoperability. As I've said previously, interoperability is not just about equipment; it's about governance and communities finally reaching agreement on what the rules of the road are.

I spent a fair amount of time talking to first responders. Many of them tell me the problem that they're having is not lack of equipment. The problem that they're having is getting the leadership of various communities to come to the table and agree on what is going to be the right process, procedure, language, and protocol. We're going to have to drive behavior, as well as push out more technology.

I think $1 billion certainly gives us the funding that we need, to do what we have to do.

OPTIMAL STAFFING LEVEL OF THE BORDER PATROL

Senator COCHRAN. The budget request for next year funds 3,000 additional Border Patrol agents. Will this get the Border Patrol to the optimal staffing level to control the border?

Secretary CHERTOFF. With the additional amount that we would anticipate in the 2009 budget, first quarter, that will get us up to 18,319, which is what we have judged will be an optimal size for the Border Patrol.

PHASING OUT NATIONAL GUARD TROOPS ON THE BORDER

Senator COCHRAN. In addition, Operation Jump Start placed 6,000 National Guard troops on the Southwest border. That deployment was complete in July 2006. Does the Department have a plan for replacing the National Guard troops with support positions for the Border Patrol?

Secretary CHERTOFF. As we phase-out the National Guard at some point, we would like to replace the back-office jobs with peo-

ple who are not Border Patrol that are less expensive to train and maintain, because we want to keep our border patrol on the front line. Eventually, we want to fill some of the back office slots with less expensive and less expert personnel.

Senator COCHRAN. When will the draw-down of National Guard troops begin, and when does the plan call for all National Guard troops to be removed from the border? How will the deployment be perceived to have helped to secure the border?

Secretary CHERTOFF. Well, there's no question it has been perceived, particularly by the people who want to come in illegally, as a huge deterrent. We're working with the National Guard now on what is the best path for re-deployment, recognizing that the National Guard has turned out to be even a better deterrent than we expected. We obviously want to respect the Guard's other challenges, but we are discussing with them now, what is the best way we can achieve all of our purposes in conducting any re-deployments.

SECURE FENCE ACT

Senator COCHRAN. My last question deals with the Secure Fence Act. It was passed and signed into law at the end of last year. Will this budget request for the coming year, $1 billion for border security, fencing, infrastructure and technology, give the Department the resources to meet the requirements of the Secure Fence Act?

Secretary CHERTOFF. Well, let me begin, Senator, by saying that I think what we would prefer, would be to get a measure of flexibility in the appropriation that would allow us to deploy the kind of fencing that's appropriate in the right place at the right time.

The budget would support, pretty close to 700 miles of some kind of fencing in various places. It wouldn't necessarily support a double-layered fence, 700 miles straight across the Arizona border, without essentially robbing all of the other parts of what is a balanced enforcement program.

The operators, those with the real expertise, and those who visited the border, really understand that what you want to do is not mandate a specific type of fence, but give the Department and the Border Patrol the flexibility to build the right kind of fencing in the right place at the right time. That's part of what our request is, to get that flexibility, so we could spend this billion dollars wisely, instead of pushing it all in a cookie-cutter approach.

Senator COCHRAN. Thank you, Mr. Chairman.

Senator BYRD. Thank you, thank you, Senator. Do you have any further questions?

Senator COCHRAN. I have no further questions.

VULNERABILITY ASSESSMENTS OF AIR CARGO SECURITY

Senator BYRD. Well, thank you very much.

I thank you, Mr. Secretary, for your answers. But you didn't answer my question on air cargo. Your report, which we received 3 months late says that vulnerability assessments of air cargo security nationwide have not started. When will they start? And when will they be completed? So that we can develop a real action plan? How can the airline passengers feel safe without such assessments, and a real plan?

Secretary CHERTOFF. Senator, I want to begin by saying, we are taking action. We've put out regulatory requirements. We are assessing vulnerability at various locations.

I will have to get back to you as to the point at which we would have completed all of those assessments. I suspect it's going to be—more or less of an ongoing process. We're not waiting until everything is done to continue to raise the level of security. Even as we speak, we have significantly added requirements to what would have been the case a year ago, in terms of screening of counter packages, and also requirements that there be screening of consolidated packages that come from shipping companies.

We are out assessing the system all of the time, but we are not waiting until everything is done to take action. We are constantly raising the bar on air cargo.

I can get you a more specific answer in writing, though, about a particular end date.

[The information follows:]

VULNERABILITY ASSESSMENT ANALYSIS OF COMPLETE AIR CARGO SECURITY SUPPLY CHAIN

The Transportation Security Administration developed a methodology to conduct a vulnerability assessment analysis of the complete air cargo supply chain from shippers to air carriers which was approved in November 2006. Three two-week pilots were conducted at three different airports to test and improve this methodology. All three pilots were completed by March 28, 2007. The results of these assessments are being analyzed to identify potential trends, threats, risks, and vulnerabilities across the air cargo supply chain at the pilot locations.

DEPARTMENT RESPONSE TO CONGRESSIONAL DIRECTIVES

Senator BYRD. Please do that, please do that.

Recently, I sent you a letter outlining the unacceptable record of the Department in responding to congressional directives. Every Senator takes very seriously his or her role in fiscal oversight of the Department of Homeland Security. Your Department's failure to respond impedes our ability, impedes our ability to make budget decisions, and set priorities critical to homeland security.

For example, an expenditure plan for catastrophic planning is late—late, late. A strategic plan for screening passengers for explosive is late, late, late. Your biological countermeasures strategic plan is late, and the list goes on and on and on. This performance cannot be tolerated. What do you think about that? Mr. Secretary.

Following this hearing, my colleagues and I will submit questions for the record. As you know, we need to have responses to these questions so we can do a proper job of appropriating resources for your Department. Last year, your Department took 5 months to respond, which was well after the bill passed the Senate. Now, will you commit to us to send us responses to questions by May 1? And submit to us statutorily-required reports on time?

Secretary CHERTOFF. Mr. Chairman, we will send you the responses by May 1. I think we've also sent a report that was done in January 2007, in which I asked the Department to analyze and establish a set of metrics for our responsiveness on questions for the record, correspondence, and reports.

I acknowledge the fact that we have a huge number of reporting requirements. Nevertheless, I sent a letter, which I think I've also

sent up to the committee, instructing my senior managers that failure to meet these metrics in terms of getting reports and responses to Congress in a timely fashion will start to result in adverse performance evaluations. To put it in plain English, we're going to start punishing people if they don't produce these reports in a timely fashion.

Sometimes we may have to come back to you and say, "We need more time," and I think that's a fair request. I commend to you this report, as well as the letter, because I do agree, it's sloppy and unacceptable to have a lot of lateness and a lot of drift. We're going to tighten the ship up, and I think we've actually succeeded in reducing some of the delays. I can't say it's compelling reading, Mr. Chairman, but I do think it shows a seriousness and a determination to get on top of this problem, which I think the committee will be pleased with.

Senator BYRD. Well, Mr. Secretary, we look forward to improved responsiveness.

PROCUREMENT SPENDING

The Homeland Security Department is a contractor's dream. A bipartisan study by the House Committee on Government Reform last year, found that procurement spending surged, surged, surged, between 2003 and 2005 from $3.5 billion to $10 billion. Your Undersecretary for Management recently testified that the amount was now $12 billion. While the contractors get richer, reports stream in on DHS contractors run amuck, and since the last time you testified before the committee, 82 independent reports on major DHS programs have been written most citing wasteful spending, or mismanagement.

The latest problem is the contract to recapitalize the Coast Guard called Deepwater. A systems engineer who worked on the contract referred to Deepwater as the "fleecing," I'll say it again, "fleecing of America."

Well, Mr. Secretary, Deepwater is just one example of a larger systemic problem at the Department. In 2002, when the Senate debated the bill to create the Department of Homeland Security, I warned that the creation of the Department was intended to eliminate large numbers of dedicated, trained, experienced, loyal, patriotic Federal workers, so that lucrative contracts for their services may be awarded to favor, to favored private entities. Sadly, that has come true.

Mr. Secretary, this Department shouldn't be for sale. You owe the American taxpayers a solution. Please, tell me, and tell the committee, and tell the American taxpayers what you are doing to get more value and more accountability out of the billions, billions, billions of dollars of Department contracts. Will you do that?

Secretary CHERTOFF. Yes, I'd be happy to, Mr. Chairman.

Ironically, the Deepwater Program was actually awarded before the Department was brought into existence. The flaws in that contract pre-date the Department, and indicate that contracting challenges exist in every department.

I also wanted to emphasize that Admiral Allen has really taken the helm on Deepwater. He has reconfigured the contract to give him much greater control over the way it actually operates, includ-

ing the right to pull out of the contract, elements that he thinks he can get satisfied more cheaply and more efficiently outside of the framework of the integrator; and I've encouraged him to do that.

There's no question that one of the keys to managing acquisitions is to have an appropriate workforce. One of the things that we've asked for in this budget, is almost $10 million in additional money that would allow us to expand our acquisition-capable workforce so we have the personnel we need in place to monitor the contracts and make sure that the contracts are being written and designed properly. These are enormously complex procurements.

There is actually a shortage of good, well-qualified contracting officers in the U.S. Government. We're competing for them. Ironically, sometimes you almost find yourself in the position of having to hire contractors to write contracts for other contractors, which is an unhappy scenario. We are eager to get this additional amount of money, to really build an in-house capability to manage these contracts.

I take this very seriously. I think that as we've issued the big contract with respect to our SBInet, I've repeatedly told the head of the Border Patrol, "These guys work for you, you don't work for them." Meaning, you tell them if there's a piece of equipment or a piece of technology that we've proven works in the real world, let them use that, instead of letting them invent their own, or buy it and then mark it up. I've told the folks from the company, pretty much every time I see them, that we're going to watch them like a hawk.

I do think we have a responsibility as operators to make sure that we're constantly kicking the contractors where they need to be kicked in order to make sure they're doing their job properly.

Senator BYRD. I thank you, then, Mr. Secretary, for your testimony and your responses to our questions. We all share the goal of securing our homeland.

We look forward to your rapid response to our written questions, as we prepare the fiscal year 2008 Homeland Security appropriations bill.

Did you have any further questions, Senator?

ADDITIONAL COMMITTEE QUESTIONS

Senator COCHRAN. Mr. Chairman, I don't. I think it is good though that we are able to work together on this committee in a bipartisan fashion, and I want to congratulate you for that. We've been taking turns chairing this subcommittee, although Senator Gregg had the honor of chairing this subcommittee during the last Congress, and I chose not to chair a subcommittee since I was full committee chairman, but I want you to know, and I wanted to say for the record, that I appreciate the opportunity of serving with you when you are acting as chairman.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

IMMEDIATE OFFICE OF THE SECRETARY

Question. Mr. Secretary, I've long been concerned that the creation of the giant Department of Homeland Security would create more problems than it would solve. Sometimes these problems show up in big ways, such as the mismanagement of FEMA during the Katrina fiasco, and in smaller ways, such as the recent OPM survey showing the department's employees have little job satisfaction or faith in their leadership and management. The Department ranks at the bottom.

How can we expect the Department to perform when it greatest resource, its people, have little faith in their management? What are you doing to fix the management at DHS?

Answer. The positive findings from the FHCS survey all revolve around our employees feeling positive about the actual work that they do—89 percent of our employees believe that the work they do is important, almost 80 percent believe that the people they work with cooperate to get the job done, and 80 percent like the work that they do.

In light of these positives, it is clear that our employees deserve better from senior leadership. My senior leadership team and I are taking these results very seriously. I asked Deputy Secretary Jackson to immediately send out a message to all employees communicating our results and letting them know that we were very disappointed with our scores and would be taking immediate steps to try to effect changes which would lead to improved morale.

However, as you know, our Department is large and made up of components with diverse missions. Our score on the Federal Human Capital Survey is really a compilation of the scores of our components, weighted to reflect the component's relative population within the Department. It should be noted that not all of our components scored poorly. For example, US VISIT, within Headquarters; U.S. Secret Service and U.S. Coast Guard all scored very well. The components which scored poorly already have efforts underway to try to improve scores.

From the Department-wide perspective, we are taking a two-pronged approach—activities at the Enterprise level and also at the component level. These activities include:

—Ongoing data analysis for actionable conclusions
—Focus groups (Department-wide on leadership and communication issues)
—Component action plans to address top 2 to 3 areas of weakness
—Sharing component best practices across the Department

At the corporate level we are also focusing on Performance Management, Leadership and Communications.

In the area of Performance Management, we believe we will see an impact through the performance management system we started implementing in 2005. We will continue to expand coverage of this program and also continue to revamp and reissue performance management tools which we believe will contribute to changing the negative employee perception of performance management within the Department. These initiatives include:

—Holding managers accountable for addressing FHCS issues as a corporate requirement
—Ensuring all employees in the new performance system are on performance plans

To enhance leadership skills, we will also continue to provide the leadership training initiatives which we started to implement last year. Additional efforts include:

—Delivering new leadership training programs to focus on core skills identified in the survey (leveraging existing component programs, where possible)
—Rolling-out existing leadership development programs, including the SES Candidate Development Program and the DHS Fellows Program

To improve communications, the Office of Public Affairs will work with the Office of the Chief Human Capital Officer to:

—Enhance DHS web sites to include more messages from senior leaders topics relevant to the workforce
—Structure a series of all hands meetings in coordination with components to address key issues
—Prepare an abbreviated DHS 101 module that explains DHS, what it does, who is in it, the Secretary's priorities and how each organization relates to them
—Maintain a robust FHCS website to ensure employees have access to all information on the Department's activities

Finally, we have also taken action to address low scores dealing with the receptivity of management to employee suggestions, innovation and creativity. We plan

to complete a robust, automated Homeland Security Employee Suggestion Program. We also plan to have an Innovation Council led by Policy Development and Science and Technology. We have also highlighted the importance of managers and supervisors recognizing innovation and suggestions through the awards program in the DHS Management Directive for Awards and Recognition.

While we hope that the Suggestion Program will have an immediate impact on the scores for questions which deal with suggestions and innovation, I think that for other issues, particularly in the areas of performance culture and leadership, it will take years to actually see the results from any of the changes which we have ongoing. But through these coordinated efforts, we aim to address the areas for improvement identified by the survey and put in place new accountability structures to help us implement, communicate and measure our effectiveness in doing so.

As initial steps toward improving employee satisfaction both at the headquarters and within the operating components, we have already identified the need for better communication throughout the workforce, continued emphasis of performance management training at the individual supervisor and employee level and implemented improved recognition of good performance. Although the general results of the survey were disappointing we are encouraged by the fact that DHS employees have passion for our mission. Eighty-nine percent of employees report that they believe the work they do is important, and 80 percent like the work that they do. This is a strong foundation to build upon for improvement.

We will continue to evaluate the detailed results of the survey, analyze the practices of Departments that are recognized for their high performance, and use this information to develop additional steps that will lead to DHS' employee satisfaction. This summer, we will conduct another survey of our workforce to ensure that our efforts are on track with addressing key employee concerns.

Additionally, the leadership team in each operating component and headquarters unit will discuss details of the survey with our workforce in order to gather employee suggestions and recommendations that will inform the way forward.

Question. Provide the number of contractors employed within offices of the OSEM and USM. Provide their average salary by office.

Answer. DHS does not track contractor FTE because we often acquire support on a fixed price basis or based on performance objectives. The number of personnel the contractor employs is not transparent or relevant since we are paying for a deliverable or outcome rather than man-hours. In those instances where DHS is acquiring a specific "level of effort" or man-hours, contractors may use several employees to accomplish tasks that total the number of man-hours in one FTE.

Question. According to DHS Spokesman Russ Knocke, the DHS contract for limousine service was to be rebid during the winter [of 2006–2007] or spring [of 2007]. Has this contract been rebid? If not, what is the timeline? Ref: Washington Post article on October 18, 2006.

Answer. On November 20, 2006 the Department of Homeland Security, Office of Procurement Operations (OPO) issued a Request for Proposal (RFP) on Federal Business Opportunity (FedbizOpps) for DHS-Wide Transportation services. Two protests were filed with the United States Government Accountability Office (GAO) during the preaward phase of the procurement that delayed the original anticipated award date of February 2, 2007. On March 15, 2007, GAO denied the first protest. OPO's record for the second protest was submitted to GAO on February 22, 2007 with GAO decision due date of April 30, 2007. The Agency now anticipates award during early June.

OFFICE OF COUNTERNARCOTICS ENFORCEMENT

Question. Department of Defense documents indicate that P–3 aerial patrol hours in the Caribbean in support of the counternarcotics mission declined from 6,062 in fiscal year 2002 to only 1,432 in fiscal year 2005. While there was a slight improvement in patrol hours last year, the Pentagon has apparently grounded much of the P–3 fleet for long periods due to a lack of pilots, money for flying time, or maintenance. Combined with the significant decommissioning of tethered aerostats in the Gulf Coast, it appears that there is a significant gap in our Nation's ability to both detect and interdict narcotics, as well as migrants and potential terrorists, in this area. What DHS resources currently are being directed to fill this gap and what is requested in the President's fiscal year 2008 budget to specifically fill this gap?

Answer. CBP's support for Transit Zone drug interdiction efforts expanded significantly from 886 hours in fiscal year 2002 to 2,225 hours in fiscal year 2005. In fiscal year 2006, CBP discovered structural problems in several P–3's that required CBP to inspect bathtub fittings in the entire P–3 fleet. Inspections resulted in major repairs on 9 aircraft.

CBP is dedicated to long-term sustainment and systems modernization of the P–3 Fleet. CBP is currently conducting a Service Life Assessment Plan (SLAP). The assessment will drive the P–3 Service Life Extension Plan (SLEP) requirements CBP received $70 million in fiscal year 2007 for the P–3 SLEP and additional flight hours.

USCG increased their Drug Interdiction hours from 2,803 hours in fiscal year 2002 to 4,863 hours in fiscal year 2005 (continued growth to 5,066 hours in fiscal year 2006). The fiscal year 2008 budget includes funding for fully mission-capable HC–130J's Maritime Patrol Aircraft which should be available by at least fiscal year 2009, replacing the vintage HC–130H aircraft.

OFFICE OF POLICY

Question. Explain why Singapore was chosen as a site to have an attaché and ten program analysts vice another international destination (Ref: OSEM0915).

Answer. The Office of International Affairs requests to fund an Attaché in Singapore and 10 program analysts in Washington D.C. to better support the Headquarters' burgeoning overseas presence. As the number of DHS international initiatives continues to increase, the demands placed upon the small Office of International Affairs staff increases proportionately. A key objective of the fiscal year 2008 budget request is to not only keep pace but tackle long-term projects and concentrate on addressing international issues in a strategic fashion. The 10 program analysts will assist in that effort.

The DHS Attaché program affords the Department the ability to promote overarching DHS goals and objectives that strategically guide the operational responsibilities of our myriad component representatives abroad. As the Secretary's personal representatives, the DHS Attachés actively engage our international partners on the full breadth of the DHS mission, to include immigration policy, transportation security, traveler screening, border management, and cargo security. The eyes and ears of the Office of International Affairs around the globe, these senior-level attachés dramatically increase the Office's ability to provide DHS leadership with real-time information exchange, negotiating strategies and expert advice on international security policy. Singapore was chosen as a critical regional deployment site to best address the significant security challenges throughout Asia-Pacific as a whole. Out year plans may include an Attaché in Beijing, China, for bilateral engagement but, near-term, Singapore presented the greatest opportunity for theater-wide coordination.

Question. Explain how the Office of Strategic Plans is different than the Screening Coordination Office (Ref: OSEM–16).

Answer. The Office of Strategic Plans expresses the long term view of the Department by translating the Secretary's priorities into capstone planning documents such as the Department Strategic Plan. The office also establishes the processes and relationships necessary to infuse a clear Policy role in setting budget priorities in order to ensure informed resource allocation decisions.

The Screening Coordination Office's (SCO) primary objective is to strengthen Homeland Security by enhancing screening processes and technologies to deter and detect those who pose a threat to the United States. The SCO's primary goals consist of identifying opportunities to harmonize and enhance screening processes across the Department's "people screening" programs, rationalizing and prioritizing investments in screening technologies and systems, developing metrics for evaluating and improving screening processes, and establishing standards for biometrics use in screening.

GENERAL COUNSEL

Question. What is the anticipated timeline to appoint a new General Counsel?

Answer. The General Counsel of the Department of Homeland Security is appointed by the President with the advice and consent of the Senate. The President will submit a nomination to the United States Senate at his discretion.

OFFICE OF CIVIL RIGHTS AND CIVIL LIBERTIES

Question. Provide a breakdown by component agency regarding the number of personnel assigned to deal with civil rights/civil liberties complaints. What is your plan to reduce this backlog?

Answer.

Staffing of the DHS Office for Civil Rights and Civil Liberties Review and Compliance Unit

To effectively handle a growing inventory of complaints, the Office for Civil Rights and Civil Liberties (CRCL) (a Headquarters element of the Department) established a Review and Compliance unit in December 2005. This Unit is responsible for investigating complaints "retained" by CRCL and reviewing outcomes of complaints "referred" to other components by CRCL. Headquarters elements rely on the staff of this Unit to handle civil right/civil liberties complaints. The Review and Compliance Unit reports to the Deputy Officer for Programs and Compliance. This unit meets regularly with CRCL staff working to provide proactive advice to ensure program consistency.

As of March 30, 2007, the staffing allocation for the Review and Compliance was: 10 full-time personnel [7 FTEs; 3 contractors]:

—1 FTE senior program manager
—4 FTE program analysts
—2 FTE investigators
—2 contract analysts
—1 contract administrative support (currently vacant)

Staffing of DHS Components to Review Civil Rights and Civil Liberties Complaints

FEMA—Office of Equal Rights: 2 Civil Rights Specialists.

TSA—Office of Civil Rights and Liberties, External Compliance Division: 2 FTE; 1 contractor.

The division handles civil rights/civil liberties issues concerning the traveling public.

USCG—Coast Guard Headquarters Office of Civil Rights, Compliance and Liaison division: 5 personnel [4 civilian; 1 military].

The Coast Guard centrally manages external (non-EEO) civil rights/liberties enforcement through the division. The division employs 5 personnel in total who perform a variety of functions related to compliance. Of the 5 employees, 1 civilian is responsible for tracking external, non-EEO civil rights/liberties complaints.

CBP and ICE do not have dedicated personnel to perform this function but, rather, rely on numerous in-house personnel on an as needed basis to respond to complaints and inquiries from the DHS Office for Civil Rights and Civil Liberties (discussed above), and to liaison with the CRCL staff.

In addition, civil rights/civil liberties complaints may be processed or investigated by the DHS Office of Inspector General.

CRCL plans a two-pronged attack to reduce its discrimination complaint backlog. With contract support CRCL was able to reduce the backlog of cases for final adjudication inherited from legacy agencies in fiscal year 2004 by over 1,800 cases to the current level of 311. By replacing the five contractors who left and with the requested fiscal year 2008 positions, CRCL expects to further reduce the inventory of cases to a more manageable 200 cases or less at given time. CRCL will also use requested funding to lead the Components in programs of early intervention and conflict resolution. Such programs have been proven to promote settlement of issues and reduce filing of complaints. Further CRCL is undertaking a program of Component evaluation and technical assistance to address compliance with Equal Employment Opportunity regulations regarding processing of EEO complaints.

Question. OSEM page 26 indicates there is a 2,000 backlog of discrimination complaints which grows approximately 100 new cases each month. Provide a breakdown of the current cases by component agency.

Answer. Generally, each Federal agency must take final action in employment discrimination complaints filed by employees and applicants pursuant to the requirements of 20 CFR Part 1614. Prior to taking final action, employment discrimination complaints are reviewed and either accepted for investigation or proposed for dismissal based on the complainant's failure to fulfill regulatory procedural requirements in Part 1614. After investigation complainants are given to option of either a hearing before an Equal Employment Opportunity Administrative Judge (AJ) or an immediate final agency decision from the agency without a hearing. Where a complainant opts for a hearing, final action on the decision of the AJ is taken by informing the complainant whether the decision will be implemented or appealed. Where the complainant opts for an immediate final agency decision, the agency's decision is the final action. Both may be appealed by the complainant to the EEOC's Office of Federal Operations.

At DHS, the Deputy Officer, Equal Employment Opportunity Programs, Office for Civil Rights and Civil Liberties (CRCL) has been delegated departmental responsibility for taking final action in departmental employment discrimination complaints

and issuance of decisions on the merits of those complaints. Pursuant to Part 1614, employment discrimination cases are submitted to CRCL for final action when:

—The complainant proposes dismissal of the complaint because of procedural deficiencies;

—The complainant, after investigation in a DHS component, elects a final agency decision without a hearing;

—After a hearing by an EEOC AJ; or;

—The case is remanded back to the agency after an appeal is heard by the EEOC of Office of Federal Operations

There are 311 employment discrimination complaints in CRCL's current inventory for adjudication. The component breakdown is as follows:

—CIS: 29
—CBP: 46
—USSS: 3
—TSA: 131
—HQ: 2
—FEMA: 24
—USCG: 17
—ICE: 58
—FLETC: 1

Furthermore, there are 2001 formal complaints of discrimination at the component level. The component breakdown is as follows:

—CIS: 127
—CBP: 402
—USSS: 21
—TSA: 928
—HQ: 13
—FEMA: 151
—USCG: 70
—ICE: 276
—FLETC: 13

Upon completion of an investigation, EEOC hearing or Appeal decision, CRCL will be required to take final action in each case.

CIS OMBUDSMAN

Question. Provide an update on the extent of backlog case files.

Answer. The latest Backlog Elimination Report for Congress for fiscal year 2006, 4th Quarter (July–September 2006) Update, reflected a net backlog of 9,482 cases that met the USCIS definition of backlog over 6 months and within our control. Still, there were more than one million overall pending cases outside USCIS control due to pending FBI background checks, requests to applicants for further evidence associated with an application or appeal, and visa applications where no visa is available due to statutory caps.

As of December 31, 2006, there was a gross total of 1,212,567 applications pending that met the USCIS definition of backlog over 6 months. Of these, 103,272 were pending USCIS action and 1,109,295 applications were outside USCIS control due to pending FBI background checks, requests to applicants for further evidence associated with an application or appeal, and visa applications for adjustment where no visa is available due to statutory caps.

Question. Your annual report to Congress submitted in June, 2006, contains a list of pervasive and serious problems. On page iii, you write: "Legitimate customers pay for services they would not need if the underlying petition were timely processed, while ineligible and fraudulent applicants receive work authorization and travel documents because of processing delays." How would the proposed USCIS fee increase impact this serious concern you raise?

Answer. The USCIS Director has stated in Congressional testimony (2/14/07) that the increase in fees will allow the agency to reduce average processing time by 20 percent. To the extent this is achieved, the fee increase will begin the process of mitigating the problems we see as arising from untimely processing. Additionally, the restructuring of fees associated with adjustments of status (Form I–485) and employment authorizations (Form I–765) will have a positive impact. By combining the current separate fees into a single fee collected for applying for adjustment of status, the current institutional bias to delay processing in order to collect the income from processing multiple annual renewals of employment authorizations (EAD's) is removed. Instead, the agency should now have an incentive to complete the I–485 as quickly as possible to avoid processing EAD's, for which USCIS no longer will be able collect a separate fee under the proposed fee schedule.

Question. What are the initial results of your initiative to create a "virtual ombudsmen"? What metrics and performance standards are (or will be used) to measure the effectiveness of this idea?

Answer. Initial results have been promising. We established a web site that invites comments on topical concerns or top priorities and began a regular call-in or teleconference program on specific USCIS topics and offices. These two aspects of our virtual ombudsman has provided additional access to our office for individuals, representatives of community organizations and immigration stakeholders whose opinions and concerns are further evaluated by our analysts and shared with USCIS. At the same time, we have completed with counsel from the DHS Office of Science and Technology the formulation of a comprehensive functional description of a Virtual Ombudsman system and its adherence to departmental information-sharing criteria. Further discussions have commenced with DHS CIO on this project, as the DHS CIO will be the technical controller and procurer of the system pursuant to departmental policy to center IT spending activities with the DHS CIO.

The Virtual Ombudsman System will allow us to better track and report on the number and types of complaints we receive from individuals and employers as they interface with USCIS. These data, in conjunction with feed-back from the Ombudsman's research and travels, will allow us to both measure the effectiveness of virtual ombudsman and to supplement our other efforts to obtain information from stakeholders that is the basis of our substantive recommendations to USCIS for improving the current immigration benefits system. In terms of the metrics and performance standards in the development of the system and the acquisition process, these will be determined by the DHS CIO in accordance with departmental policy to center IT spending activities with the DHS CIO.

PRIVACY OFFICER

Question. OSEM page 27 provides justification for additional positions and FTE to support FOIA work. When can we expect to receive the fiscal year 2006 annual FOIA report?

Answer. The DHS fiscal year 2006 Annual Freedom of Information Act Report was cleared for release by the Department of Justice on March 21, 2007. The report is attached.

Question. When will Congress receive the FOIA annual report for 2006?

Answer. The DHS fiscal year 2006 Annual Freedom of Information Act Report was cleared for release by the Department of Justice on March 21, 2007. The report is attached.

[The information follows:]

FREEDOM OF INFORMATION ACT ANNUAL REPORT FOR FISCAL YEAR 2006

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I. Basic Information Regarding Report

A. Questions regarding this report and requests for a paper copy of the report may be directed to:
Catherine M. Papoi, J.D.
Deputy Chief FOIA Officer
Director, Disclosure & FOIA
Privacy Office
Department of Homeland Security
Washington, DC 20528
Phone: 571-227-4135; Fax: 571-227-1125

B. This report can be downloaded from the DHS FOIA website at www.dhs.gov/foia.

II. How to Make a FOIA Request

A. Names, addresses, and contact numbers for DHS FOIA Officers can be found on our website at www.dhs.gov/foia.

B. Brief description of Agency's response-time ranges:

For a detailed breakdown of each component's response times, see Section VII of this report, Compliance with Time Limits/Status of Pending Requests, on pages 8 and 9.

C. Brief description why requests are not granted:

The most frequent reason why requests are not granted is that the records sought are not Agency records.

The primary reason for not granting requests for which records are located is because the records or information are compiled for law enforcement purposes and the release of such information could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).

III. Definitions of Basic Terms and Acronyms Used in the Report

A. Agency-specific acronyms or other terms.

1.	CBP	United States Customs and Border Protection
2.	CRCL	Office for Civil Rights and Civil Liberties
3.	FEMA	Federal Emergency Management Agency
4.	FLETC	Federal Law Enforcement Training Center
5.	FOIA/PA	Freedom of Information Act / Privacy Act
6.	ICE	Immigration and Customs Enforcement
7.	OIA	Office of Intelligence and Analysis
8.	OIG	Office of Inspector General
9.	OGC	Office of the General Counsel
10.	OPS	Office of Operations Coordination
11.	PREP	Preparedness Directorate
12.	PRIV	Privacy Office
13.	S&T	Science and Technology Directorate
14.	TSA	Transportation and Security Administration
15.	USCG	United States Coast Guard
16.	USCIS	United States Citizenship and Immigration Services
17.	USSS	United States Secret Service
18.	US-VISIT	United States Visitor and Immigrant Status Indicator Technology

B. Basic terms, expressed in common terminology.

1. **Appeal** – A request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
2. **Average number –** The number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
3. **Complex request** – A FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
4. **Denial –** An agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
    a. **No Records** – After a thorough search of agency records, no records were found to be responsive to the FOIA request or within the scope of the FOIA request.
    b. **Fee Related** – Record/request was denied because there were fee issues. For example, the requester was not willing to pay assessable FOIA processing fees or the requester had delinquent fees from previous FOIA requests.
    c. **Not an Agency Record** – Documents requested in a FOIA request that are not maintained, or possibly originated, by the DHS or its components.
5. **Exemption 3 statute** – A separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
6. **Expedited processing –** An agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. **FOIA/PA request** – Freedom of Information Act/Privacy Act request. A FOIA request is generally a request or access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
8. **Glomar response** – When the existence or non-existence of responsive records to a request is neither confirmed nor denied in order to protect law enforcement, privacy, or other appropriate interests.
9. **Initial Denial Authority** – An agency official who is delegated the authority to make release determinations of documents and information contained in documents requested under the FOIA on behalf of the agency.
10. **Initial request** – A request to a federal agency for access to records under the Freedom of Information Act.
11. **Median number** – The middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
12. **Multi-track processing** – A system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing.
13. **Partial release** – An agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or, in a multiple record response, a decision to disclose some

records in their entirety but to withhold others in whole or in part. This is sometimes referred to as a "partial denial" or "partial grant."

14. **Perfected request** – A FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
15. **Perjury statement** – A signed statement executed under the penalty of law, usually associated with a request for the personal records of the requester, attesting that they are the individual who they say they are.
16. **Processed request or appeal** – A request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
17. **Proper request** – A request that fits the definition of a FOIA request: it reasonably describes the agency records being sought and cites a willingness to pay assessable fees or justifies the granting of a fee waiver.
18. **Reasonably Described** – The request is reasonably described if it enables a professional agency employee familiar with the subject area to locate the record with a reasonable amount of effort.
19. **Referral** – Transferring a FOIA request and/or document(s) which are under another agency's purview to another entity for processing. This also includes redirecting a requester to the appropriate agency instead of referring the request.
20. **Release** – An agency decision to disclose all records in full in response to a FOIA request. This sometimes referred to as a "grant."
21. **Remanded** – A request that is returned to the initial denial authority for reconsideration of its release determination and further processing.
22. **Simple Request** – A FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
23. **Time limits** – The time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a perfected FOIA request).

IV. Exemption 3 Statutes

STATUTE	TYPE OF INFORMATION	CASE CITATION
8 U.S.C. 1160(B)(6)	Information on Special Agricultural workers	None
8 U.S.C. 1202(f)	Alien Registration Number	Medina-Hincapie v. Dep't of State, 700 F.2d 737 (D.C. Cir. 1983)
8 U.S.C. 1255A(c)(5)	Legalization Applications	None
8 U.S.C. 1304(B)	Registration of Aliens	None
18 U.S.C. 2510-2550	Intercepted Communications Wiretaps	Lam Lek Chong v. DEA, 929 F.2d 729 (D.C. Cir. 1991)
41 U.S.C. 253b(m)	Prohibition on Release of Contractor Proposals	Hornbostel v. DOI, 305 F. Supp. 2d 21 (D.D.C. 2003)
41 U.S.C. 423 as construed by 48 C.F.R. 42.1503(b)	Sole source selection information	None
46 U.S.C. 114(s)	Captain of the Port Operations	None
46 U.S.C. 4019	Maritime Plans	None
49 U.S.C. 114(s)	Nondisclosure of Security Activities	Electronic Privacy Information Center v. DHS, 384 F. Supp. 2d 100 (D.D.C. 2005)
Rule 6(e) of the Federal Rules of Criminal Procedures	Grand Jury Information	Senate of P.R. v. United States Dep't of Justice, 823 F.2d 574 (D.C. Cir. 1987).

V. Initial FOIA/PA Access Requests

A. Numbers of Initial Requests

	Number of Requests Pending at End of Preceding Year	Number of Requests Received in Current Year	Number of Requests Processed in Current Year	Pending End of FY 2006
CBP	717	7,663	7,643	737
FEMA	155	776	644	287
FLETC	83	1,609	1,601	91
ICE	3,727	9,133	5,396	7,464
OGC	3	9	10	2
OIG	138*	120	154	104
OPS	N/A**	4	3	1
PREP***	11	235	166****	80
PRIV	282*	998	1,212	68
S&T	37*	16	38	15
TSA	40*	1,036	989	87
USCG	1,637	6,311	5,507	2,441
USCIS	74,941	109,034	87,637	96,338
USSS	758	838	843	753
US-VISIT	15	89	100	4
TOTALS	**82,544**	**137,871**	**111,943**	**108,472**

* Corrected amount from component reporting error in FY '05 FOIA Report.

** Requests for OPS were processed by PREP until OPS stood-up their own FOIA Office in July '06.

*** PREP was formerly IAIP.

**** In FY '06, PREP processed FOIA requests for the Office of Intelligence and Analysis and OPS until OPS stood-up their own FOIA Office in July '06.

B. Disposition of Initial Requests

	Number of Total Grants	Number of Partial Grants	Number of Denials	No Records	Referral	Request Withdrawn	Fee-Related Reason	Records Not Reasonably Described	Not a Proper Request	Not an Agency Record	Duplicate Request	Other non-processing Reason*
CBP	2,777	2,222	422	798	621	233	117	86	193	71	103	0
FEMA	168	174	16	69	86	64	1	0	58	4	4	0
FLETC	1,517	36	8	22	3	13	0	0	0	0	2	0
ICE	125	828	272	61	75	129	3	0	116	25	36	3,726
OGC	1	2	1	2	1	1	0	0	0	0	1	1
OIG	5	76	23	23	6	6	0	3	0	1	6	5
OPS	1	0	0	2	0	0	0	0	0	0	0	0
PREP	23	48	9	29	34	11	1	1	6	0	1	3
PRIV	30	120	19	87	684	52	1	60	94	23	14	28
S&T	1	0	0	0	0	37	0	0	0	0	0	0
TSA	190	283	141	102	35	23	13	7	6	2	19	168
USCG	3,854	585	42	410	409	82	19	7	19	12	26	42
USCIS	4,524	48,665	98	7,359	6,257	930	114	269	310	9,364	9,580	167
USSS	48	154	75	187	1	56	40	1	1	36	0	244
US-VISIT	32	29	0	9	20	3	0	2	3	0	2	0
TOTALS	**13,296**	**53,222**	**1126**	**9,160**	**8,232**	**1640**	**309**	**436**	**806**	**9,538**	**9,794**	**4,384**

* See following page for individual component explanations

*** Explanation of Disposition of Initial FOIA/PA Requests:**
Other Non-Processing Reasons

	Number of Times	Reason(s)
ICE	3,726	250-requester is a fugitive from justice; 3,476-failure to respond to request for necessary processing information
OGC	1	Referred in error
OIG	5	Administrative closure
PREP	3	Unable to locate requester
PRIV	28	3-requester must send to component of interest; 3-this office was copied; 16-publicly available; 4-referred in error; 2-unable to locate requester
TSA	168	Failure to respond to request for necessary processing information
USCG	42	39-administrative closure; 3-publicly available
USCIS	167	87-old records; 80-unable to locate requester
USSS	244	217-failure to provide required information; 26-unable to locate requester; 1-requested a video which was damaged/could not be released

Exemptions Claimed Under the Freedom of Information Act

	(1)	(2)	(3)	(4)	(5)	(6)	(7)(A)	(7)(B)	(7)(C)	(7)(D)	(7)(E)	(7)(F)	(8)	(9)
CBP	0	1,938	0	123	266	526	27	5	1,660	203	513	2	0	0
FEMA	1	63	7	45	57	148	0	0	0	0	0	0	0	0
FLETC	0	5	0	11	1	27	0	0	10	0	7	0	0	0
ICE	1	813	0	9	164	539	22	0	788	24	224	32	0	0
OGC	0	1	0	0	3	0	3	0	3	3	3	0	0	0
OIG	2	21	1	3	9	75	8	0	84	6	2	1	0	0
OPS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PREP	0	8	0	34	11	41	0	0	4	0	1	6	0	0
PRIV	0	103	6	54	40	95	0	0	11	0	10	1	0	0
S&T	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TSA	1	218	193	46	87	182	18	0	68	0	0	90	0	0
USCG	0	11	19	26	69	386	34	6	250	56	14	2	0	0
USCIS	38	33,353	117	41	32,960	28,427	958	56	45,077	169	24,554	15	0	0
USSS	3	120	22	0	27	55	2	0	142	29	70	0	0	0
US-VISIT	0	22	1	14	11	22	1	0	1	0	1	0	0	0
TOTALS	**46**	**36,676**	**366**	**406**	**33,705**	**30,523**	**1073**	**67**	**48,098**	**490**	**25,399**	**149**	**0**	**0**

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Number of appeals
1. Number of appeals received during fiscal year 1,346
2. Number of appeals processed during fiscal year 950

B. Disposition of appeals
1. Number completely upheld 282
2. Number partially reversed 95
3. Number completely reversed 29
   a. Number of times each FOIA exemption was used (counting each exemption once per appeal):
      1) Exemption 1 0
      2) Exemption 2 91
      3) Exemption 3 18
      4) Exemption 4 8
      5) Exemption 5 124
      6) Exemption 6 135
      7) Exemption 7 (A) 75
      8) Exemption 7(B) 0
      9) Exemption 7(C) 207
      10) Exemption 7(D) 69
      11) Exemption 7(E) 109
      12) Exemption 7(F) 1
      13) Exemption 8 0
      14) Exemption 9 0

4. Other reasons for nondisclosure (total) 544
   a. No records 34
   b. Referrals 14
   c. Request withdrawn 80
   d. Fee-related reason 5
   e. Records not reasonably describe 75
   f. Not a proper FOIA request 114
   g. Not an agency record 1
   h. Duplicate request 18
   i. Other (specify) 203
      1) Remanded for further processing or reconsideration and release
      2) Administratively Closed
      3) Moot (appealed before expiration of processing deadline, which was met)

VII. Compliance With Time Limits/Status of Pending Requests

A. Median Processing Time for Requests Processed During the Year

	Simple Requests		Complex Requests		Requests Accorded Expedited Processing	
	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process	Number of Requests Processed	Median Number of Days to Process
CBP	6,188	14	667	40.5	788	7
FEMA	268	16	354	80	22	179
FLETC	1601	17	0	0	0	0
ICE	0	0	5,396*	90	0	0
OGC	0	0	10	90	0	0
OIG	55	219	99	232	0	0
OPS	3	21.5	0	0	0	0
PREP	0	0	166	51	0	0
PRIV	847	6	362	137	3	233
S&T	37	365	1	30	0	0
TSA	37	20	935	17	17	30
USCG	4,759	12	627	47	121	11
USCIS	66,645	185	20,714	77	278	21
USSS	0	0	843*	**	0	0
US-VISIT	98	2	2	185	0	0
TOTALS	**80,538**	**N/A**	**30,176**	**N/A**	**1,229**	**N/A**

* ICE and USSS did not track requests in FY '06 to indicate Simple, Complex, or Expedited processing; however, a new tracking system will track this information beginning FY '07.

** USSS did not track processing time; however, a new tracking system will track this information beginning in FY '07.

B. Status of Pending Requests

	Number of Requests Pending at End of Fiscal Year	Median Number of Days Pending
CBP	737	36
FEMA	287	157
FLETC	91	13
ICE	7,464	90
OGC	2	73
OIG	104	134
OPS	1	6.5
PREP	80	88
PRIV	68	22
S&T	15	35
TSA	87	23
USCG	2,441	*
USCIS	96,338	147
USSS	753	359
US-VISIT	4	31
TOTALS	**108,472**	**N/A**

* Processing time unavailable.

VIII. Comparisons with Previous Years
Other statistics significant to components

DHS received 1,674* requests for expedited processing; DHS granted 1,229 of those requests.

* FEMA, ICE, OGC, and USCG did not track these numbers.

IX. Costs/FOIA Staffing

	Staffing Levels			Total Costs (Including Staff and All Resources)		
	Number of Full Time Personnel	Number of Personnel with Part Time or Occasional FOIA Duties (In Total Work-Years)	Total Number of Personnel (In Work-Years)	FOIA Processing (Including Appeals Estimated)	Litigation-Related Activities (Estimated)	TOTAL
CBP	16	309	325	$1,135,691	$113,425	$1,249,116
FEMA	3	14	17	$542,804	$57,901	$600,705
FLETC	0	2.5	2.5	$193,019	$0	$193,019
ICE	11	27	38	$1,863,932	$245,000	$2,108,932
OGC	0	1	1	$107,521	$8,300	$115,821
OIG	2	2	4	$221,437	$0	$221,437
OPS	1	0	1	$32,500	$0	$32,500
PREP	1	2	3	$386,100	$0	$386,100
PRIV	6	0	6	$463,473	$0	$463,473
S&T	1	0	1	$107,521	$0	$107,521
TSA	9	0	9	$547,130	$66,000	$613,130
USCG	22	431*	453	$1,708,729	0	$1,708,729
USCIS	155	0	155	$18,400,000	$62,337	$18,462,337
USSS	12	1.85	13.85	$1,379,644	$74,741	$1,454,385
US-VISIT	2	0	2	$294,870	$0	$294,870
TOTALS	**241**	**789.90**	**1030.90**	**$27,384,371**	**$627,704**	**$28,012,075**

* Every USCG employee is potentially a processor of FOIA requests; this number reflects that currently 431 USCG employees process FOIA requests in an ancillary capacity.

X. Fees

A. Total amount of fees collected by agency for processing requests $323,575

B. Percentage of total 1.16%

XI. FOIA Regulations (Including Fee Schedule)

The Department of Homeland Security FOIA Implementing Regulation is codified at 6 CFR §5 and can be found at 68 Fed. Reg. 4056 (January 27, 2003) and at www.dhs.gov/foia.

XII. Report on FOIA Executive Order Implementation

A. Description of supplementation of agency improvement plan
DHS submitted a revised operational improvement plan to the Department of Justice on January 19, 2007 (*see attached*).

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area

1. **Backlog Reduction:** DHS met all milestones.

Items to Institute	Milestone	Accomplished prior to target date?
Initiate hiring additional personnel in applicable components	12/31/06	Ongoing
DHS FOIA designees visit USCIS National Records Center and submit a draft performance modification plan to the DHS Chief FOIA Officer	12/31/06	Yes
Evaluate the precision and veracity of the USCIS data analysis and cost estimate, which targets backlog elimination	12/31/06	Yes
USCIS initiates implementation of the Ombudsman's operational recommendations	12/31/06	Yes
DHS Chief FOIA Officer, USCIS, and ICE meet with the American Immigration Lawyers Association to discuss file processing, including customer service enhancements	12/31/06	Yes
ICE initiates creation of centralized headquarters FOIA office	12/31/06	Yes
All DHS components submit weekly and monthly data to DHS Chief FOIA Officer	12/31/06	Ongoing

2. **Education and Training:** DHS met all milestones.

Items to Institute	Milestone	Accomplished prior to target date?
DHS Chief FOIA Officer institutes semi-annual FOIA Officer meetings	12/31/06	Yes
DHS FOIA Requester Service Center and component public liaisons address all pending customer concerns or disputes	12/31/06	Yes
DHS FOIA Requester Service Center and component public liaisons acknowledge all incoming customer concerns or disputes within five business days of receipt	12/31/06	Yes
DHS collects, reviews and assesses all existing disclosure policy within the components	12/31/06	Yes

3. **Increase Public Knowledge and Awareness of DHS FOIA:** DHS met the milestones.

Items to Institute	Milestone	Accomplished prior to target date?
Public knowledge and awareness of DHS disclosure operations increasing	12/31/06	Yes
Privacy Office offers workshops	12/31/06	Ongoing
DHS Chief FOIA Officer meets and encourages communications with the requester community.	12/31/06	Yes

4. **Technology Improvements to Enhance FOIA Processing and Information Delivery:** DHS met all milestones.

Items to Institute	Milestone	Accomplished prior to target date?
DHS identifies a web-based case management program with electronic tracking capabilities	12/31/06	Yes
DHS identifies redaction program	12/31/06	Yes
Components with existing web sites reassess their FOIA web site and initiate any necessary improvements to improve customer service	12/31/06	Yes

C. Identification and discussion of any deficiency in meeting plan milestones
Not applicable.

D. Additional narrative statements regarding Executive Order-related activities
See attachment G for further information.

E. Concise descriptions of FOIA exemptions
1. **Exemption 1** – Protects information that is properly classified in the interest of national security pursuant to Executive Order 12958.
2. **Exemption 2**
   a. **2(high)** – Protects information applicable to internal administrative and personnel matters, such as telephone numbers, contact information, lead contacts for certain schedule activities or appointments, to the extent that disclosure would risk circumvention of an agency regulation or statute, impede the effectiveness of an agency's activities, or reveal sensitive information that may put the security and safety of an agency activity or employee at risk.
   b. **2(low)** – Protects records that are related to internal matters of a relatively trivial nature, such as internal administrative tracking.
3. **Exemption 3** – Protects information exempted from release by statute.
4. **Exemption 4** – Protects trade secrets and commercial or financial information which could harm the competitive posture or business interests of a company.
5. **Exemption 5** – Protects the integrity of the deliberative or policy-making processes within the agency by exempting from mandatory disclosure opinion, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters.
6. **Exemption 6** – Protects information that would constitute a clearly unwarranted invasion of personal privacy of the individuals involved.
7. **Exemption 7** – Protects records or information compiled for law enforcement purposes the release of which could reasonably be expected:

a. **7(A) –** to interfere with enforcement proceedings.
b. **7(B) –** would deprive a person of a right to a fair trial or an impartial adjudication.
c. **7(C) –** to constitute an unwarranted invasion of the personal privacy of a third party/parties (in some instances by revealing an investigative interest in them).
d. **7(D)** – to disclose the identity/identities of confidential sources.
e. **7(E) –** would disclose techniques and procedures for law enforcement investigations or prosecutions.
f. **7(F) –** could reasonably be expected to endanger the life or physical safety of an individual.

8. **Exemption 8** – Protects information that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
9. **Exemption 9** – Protects geological and geophysical information and data, including maps, concerning wells.

F. Additional statistics

	Time Range of Requests Pending on 2/1/2007		Time Range of Consultations Pending with Other Agencies on 2/1/2007	
CBP	9/12/2000	2/1/2007	*	*
FEMA	10/14/2003	2/1/2007	*	*
FLETC	1/11/2007	2/1/2007	0	0
ICE	6/9/2003	2/1/2007	*	*
OGC	8/8/2006	2/1/2007	*	*
OIG	10/8/2003	2/1/2007	*	*
OPS	11/15/2006	2/1/2007	0	0
PREP	2/18/2006	2/1/2007	0	0
PRIV	8/10/2006	2/1/2007	0	0
S&T	7/1/2006	2/1/2007	*	*
TSA	2/17/2006	2/1/2007	*	*
USCG	**	**	*	*
USCIS	11/18/2001	2/1/2007	0	0
USSS	11/19/1998	2/1/2007	*	*
US-VISIT	5/25/2006	2/1/2007	0	0
TOTALS	**108,472**	**N/A**	**0**	**0**

* Component did not track these numbers.
** Date of USCG's oldest request is not verifiable.

G. Attachment: Agency Operational Improvement Plan

Department of Homeland Security

Freedom of Information Act Operational Review and Improvement Plan Report

2006

In July 2006, the Department of Homeland Security (DHS) produced a Freedom of Information Act (FOIA) report regarding the status of our FOIA program.

That report detailed a wholly unacceptable backlog of FOIA requests that were not being answered by DHS components in a timely manner. This revised report is the first installment in a systematic assessment of the root causes of this backlog. It identifies the components with the largest problems, and presents preliminary plans for backlog reduction and elimination. This latest report follows a mandate from the Secretary to improve performance and chart a course to eliminate the backlog.

The plans presented in this report are still insufficiently aggressive. This report meets a government-wide reporting requirement, but it will also form the basis of a determined program of investments and management accountability within DHS to do better. The public deserves no less.

Michael P. Jackson

Deputy Secretary

A. OVERVIEW OF CURRENT DHS FREEDOM OF INFORMATION ACT PROGRAM

DHS is responsible for leading the unified national effort to secure America by preventing and deterring terrorist attacks and protecting against, and responding to, threats and hazards to the Nation. DHS ensures safe and secure borders, welcomes lawful immigrants and visitors, and promotes the free flow of people and commerce across the borders of the United States. To accomplish its mission, DHS is organized into directorates and components, which are described more fully in Appendix A. Utilizing the organizational structure of the Department, the DHS Freedom of Information Act (FOIA) and Privacy Act (PA)[1] operations are centralized for purposes of policy and programmatic oversight and decentralized for purposes of operational implementation.

Under a Departmental Management Order, the Chief Privacy Officer (CPO) for DHS serves as the Chief Freedom of Information Act Officer (hereinafter Chief FOIA Officer) for the Department and has agency-wide policy responsibility for efficient and appropriate FOIA compliance. Subsequent to the July 2006 report, Hugo Teufel III, was appointed as the Chief Privacy and FOIA Officer. Mr. Teufel adopted an aggressive stance to diagnose and assist in resolving numerous department-wide managerial and operational program challenges.

To elevate the importance of FOIA at the Department level, Mr. Teufel established a new direct report within the Privacy Office, the position of Deputy Chief Freedom of Information Act Officer. This position will assure vigorous disclosure program oversight and absolute statutory compliance within all of the DHS offices and components. The Deputy Chief FOIA Officer also performs the supervisory functions carried out by the former Director of Departmental Disclosure, who led the headquarters FOIA operation and team. Mr. Teufel has also added two full-time equivalent (FTE) employee FOIA subject matter experts to the office. The first position administers the headquarters request processing, multi-component request coordination, and component backlog recovery plan development. The second position is dedicated to disclosure policy development, technology improvements, education and training.

Within the components, FOIA officers are responsible for compliance with DHS FOIA policy guidance and operationally determining whether to establish a centralized or decentralized FOIA program at the component or office level. The DHS organizational chart is provided in Appendix B. The names and contact information of DHS FOIA officers are provided in Appendix C.

As a relatively new department of significant size and scope, DHS's programs and policies have been, and continue to be, the subject of numerous FOIA requests because of high public interest in its operations. In Fiscal Year (FY) 2003, incoming FOIA requests totaled 161,117. In FY2004 requests rose to 168,882; and in FY2005, incoming requests numbered 163,016. Preliminary estimates indicate that incoming FY2006 requests outnumbered those received in FY2005. Despite the challenges discovered during the

[1] Further references to FOIA should be interpreted as encompassing all disclosure requests, including PA requests.

operational review, DHS FOIA staff completed a substantial workload of 126,126 FOIA requests and 885 appeals during FY2005. The vast majority of these were answered through the release of part or all of the records requested.

B. OPERATIONAL REVIEW

Based upon the components' March 2006 reviews of their FOIA operations, DHS accurately focused on the most significant, pervasive department-wide operational challenges. As stated in the July 2006 report, the components and offices were directed to thoroughly re-examine operations and draft revised comprehensive improvement plans specifically addressing existing backlogs, education and training, and technology. In order to formulate a comprehensive snapshot of overall disclosure operations, DHS also surveyed the components and offices on specific standard issues relating to FOIA operations, such as staffing levels, electronic processing capabilities, training opportunities and requirements, impediments other than staffing that contribute to backlogs, and the type of information requested most frequently.

1. Backlogs

The revised submissions indicate that six[2] (see Table 1) of the 19 DHS components with direct FOIA response and denial authority maintain a case backlog of over one hundred[3] FOIA requests not answered within the statutory 20-day response window. Successfully preventing or managing a backlog is largely dependent on the leadership's support, effective disclosure program management, and sufficient resources. The DHS FOIA programs[4] possessing these commonalities are able to minimize or entirely prevent case backlogs.

Table 1. The Six DHS Components with the Largest Backlogs

Component	Existing Backlog as of 9/15/2006	Requests Received 2004	Requests Received 2005
USCIS	88,361	149,868	138,678
ICE	7,346	2,088	4,147
USCG	906	7,579	7,020
USSS	730	779	715
CBP	524	4,697	7,784
FEMA	236	361	455

[2] The six components are U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, Federal Emergency Management Agency, U.S. Coast Guard and U.S. Secret Service.

[3] The remaining components maintain a small unavoidable revolving backlog of fewer than 100, due to the constant influx of requests. The majority of cases in these components are closed within 30 days of receipt.

[4] Transportation Security Administration, DHS Headquarters, US-VISIT and FLETC do not have case backlogs.

Lack of resources is the prevailing rationale presented for existing backlogs. The resource shortage refers to not only funding for staffing, but also to the difficulty of locating and retaining trained Federal and contract FOIA professionals because of the high demand for qualified FOIA processors government-wide. In addition to resource constraints, many components also indicate that the slow response to FOIA document search requests within the component's various program offices is a significant contributor to delayed response times. Complex cases that require consulting with other components and agencies also prolong processing. Several components note that FOIA-related efforts are often viewed by the program offices as an administrative burden. Insufficient FOIA program support from senior leadership allows for the perpetuation of the "administrative-burden" paradigm, as opposed to promoting FOIA as a priority program. In components that process at the local and field level where FOIA processing is a collateral duty, the time available to process requests is limited, therefore resulting in slower processing rates and a resulting backlog.

a. United States Citizenship and Immigration Services (USCIS)

USCIS maintains the most troublesome component FOIA backlog. At the end of FY2006, USCIS has a daunting backlog of more than 88,361 requests. It is important to acknowledge that USCIS receives the vast majority of all FOIA requests sent to the Department[5]. Across the entire Federal government, USCIS receives the fourth-highest number of requests annually. Additionally, USCIS stood up within DHS in 2003, bringing with it an existing 25,515 request backlog from the former Immigration and Naturalization Service. With over 100,000 incoming requests annually, USCIS is the source of nearly all of the growth[6] in the FOIA backlog since the Department came to fruition (see Table 2).

The majority of USCIS's FOIA requests come from individuals and their representatives seeking information contained within USCIS's Alien Files (A-files). The information garnered from such requests, we presume, are used to apply for immigration benefits or to represent clients in proceedings pending before an immigration judge. As such, the use of the FOIA process, as a means of discovery in connection with immigration enforcement and court proceedings, and as an information source for genealogy studies are significant contributors to the growing backlog problem. USCIS is positively addressing these two unique challenges by taking requests for genealogy information out of the FOIA process and including it in a newly established administrative information process while establishing a third FOIA processing track for litigation-related information requests. Currently, only "simple" and "complex" tracks are used. The separate litigation-related third track will drastically improve customer service, especially for groups such as the American Immigration Lawyers Association (AILA) that rely on USCIS to provide documents necessary for immigration proceedings.

Another processing hurdle USCIS faces is the sharing of the existing 55 million hardcopy A-files with U.S. Immigration and Customs Enforcement (ICE). Because the A-files

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[5] CIS accounted for 138,678 of the total 163,016 requests DHS received in FY 2005.

[6] The DHS FOIA backlog increased by 81 percent between FY 2004 and FY 2005.

contain both benefit and enforcement documents, an individual's file is either with USCIS or ICE at any given time. When either ICE or USCIS receives a FOIA request for the contents of a file, that component must locate the file and determine which program should have request processing responsibility. This convoluted process of locating, referring, and processing A-file documents accounts for the high backlog numbers at both USCIS and at ICE. ICE and USCIS have convened a working group to establish a streamlined approach to processing both ICE and USCIS documents that are located in the A-files. ICE recently developed a guide delineating what sensitive information is protected in ICE documents, allowing USCIS to process any ICE records in the A-file. This process eliminates referring records to ICE for review and determination of releasability, which results in unnecessary processing delay. Both components are also assessing digitization of A-files, which will allow both components to electronically access any file. This alternative negates the issue of file custody, thereby eliminating the time spent locating and transferring a file.

Table 2. USCIS ANNUAL REPORT FIGURES[7]

Fiscal Year	Requests Received	Requests Processed	Available Personnel	Backlog Carried Over from Previous Year
FY1999	168,944	158,913	176	12,615
FY2000	166,283	163,881	177	22,646
FY2001	126,658	123,334	211	25,048
FY2002	130,511	133,368	256	28,372
FY2003	144,559	144,748	246	25,515
FY2004	149,868	133,997	253	25,326
FY2005	138,678	104,934	265	41,197
FY2006	109,294	87,967	206	74,941

From the standpoint of numbers, the Department's greatest concern is the USCIS backlog. The DHS USCIS Ombudsman shares this deep concern and independently conducted an investigation of USCIS FOIA operations in 2006. His office issued a formal recommendation to the USCIS Director which is provided in Appendix D. The 17 recommendations address updating the USCIS FOIA processing technology. Additionally, the recommendations institute oversight mechanisms to adequately monitor the backlog, provide managerial accountability, implement adequate staff training, review resource allocation, assess decision to centralize processing, enhance website usefulness, amend policy guidance, and process evaluations.

USCIS evaluated all of the recommendations and responded in a memorandum provided in Appendix E. USCIS indicates they agree with all but two of the recommendations. In

[7] FY1999 through FY2002 represent the annual FOIA figures for Immigration and Naturalization Service, part of which became USCIS in 2003 when DHS stood up.

addition, in early October 2006, DHS Chief FOIA Officer and the CIS Ombudsman, along with senior staff, traveled to the National Records Center (NRC) in Missouri, where all USCIS A-file FOIA requests are processed. The tour of the NRC and the subsequent meeting between USCIS FOIA officials and the DHS leadership provided a greater understanding of the fundamental managerial and operational changes that need to occur in order to significantly reduce the nearly 90,000 request backlog. The DHS Chief FOIA Officer recently obtained from USCIS resource estimates regarding eliminating the backlog. USCIS currently employees 206 FOIA FTEs and estimates required hiring of at least 211 additional processors to eliminate the USCIS backlog by December 31, 2007.

b. United States Immigration and Customs Enforcement (ICE)

ICE carries the second largest FOIA backlog at DHS with approximately 10,000 pending requests. As detailed previously, the ICE processing problems were inextricably tied to the USCIS processing difficulties because they share the existing 55 million hardcopy A-files. The inefficient processing of these records contributed to the high backlog numbers at both USCIS and at ICE. Some of the current ICE efforts to eliminate this problem include participation in the ICE/USCIS A-file working group, recently publishing a guide delineating what sensitive information is protected in ICE documents that allows USCIS to process any ICE records in the A-file, and moving forward with the A-file digitization effort. Additionally, ICE is creating a centralized headquarters FOIA office responsible for receiving, tracking and processing all ICE FOIA/PA requests. A newly designed processing approach implements the use of two distinct tracks. One track will have personnel assigned to reducing the backlog of any requests received prior to September 30, 2006, using the first in first out (FIFO) process. The second track will be dedicated to responding to newly received requests within the statutory timeframe. Headquarters will refer any requests related to sensitive investigative matters directly to the ICE Office of Investigations for processing. Efforts underway to prevent future backlogs include implementation of a FOIA case tracking and case management system, web site enhancements permitting the electronic submission of FOIA requests and status notifications, and the addition of approximately 15 new personnel to meet the demands of the ICE FOIA program.

c. United States Coast Guard (USCG)

USCG faces the challenges inherent to a highly decentralized FOIA processing program. All USCG field offices process FOIA requests and some field offices are staffed by a single collateral duty individual on a rotational and temporary basis. Assigning FOIA responsibilities as a collateral duty is problematic for some field offices because the FOIA workload competes with operational workloads. Some of the current standard operating procedures hinder backlog elimination, such as precluding closure of open investigation-related requests. In addition, USCG and the majority of other DHS components spend large amounts of time processing procurement releases that must comply with Executive Order 12600, *Predisclosure Notification Procedures for Confidential Commercial Information*. The requisite submitter's notice and related negotiations between the component and the submitter can take weeks or months. In the future, USCG anticipates requiring vendors to produce releasable versions of their

contract upon execution. USCG will proactively post those contracts in their electronic reading room.

d. United States Secret Service (USSS)

USSS processes a significant number of classified or sensitive and complex documents. The close coordination among the FOIA staff, the subject matter expert, and the DHS Security Office ensures that any declassification and subsequent release of information complies with the standards of Executive Order 12958, DHS directives and guidelines, and the DHS FOIA regulations. The requisite caution is time-consuming and often a lengthy process due to competing workloads and priorities. Determining classification and declassification responsibilities is a DHS-specific challenge when processing documents that retain classification from a legacy organization pre-dating the creation of DHS. Another DHS-specific issue is the limited availability of qualified staff knowledgeable of the strict processing standards for critical infrastructure and sensitive law enforcement information. In order to accommodate the unique nature of these requests, USSS is considering a separate expedited process for qualifying requests and potentially other processing flows that may streamline its FOIA operations. The DHS components with minimal backlogs are also evaluating implementation of additional processing tracks to accommodate requests unique to each component's mission.

e. United States Customs and Border Protection (CBP)

CBP is currently developing a plan to centralize the tracking and processing of headquarters requests. Once CBP establishes processing accountability and an operational framework, its FOIA program will be significantly more efficient. Presently, there is a Memorandum of Understanding (MOU) between USCIS and CBP for USCIS to process all information requests pertaining to the Border Patrol. As USCIS must urgently address its backlog, CBP is evaluating terminating the MOU to allow USCIS to focus on and rectify its processing difficulties. CBP is also concerned that the small Border Patrol backlog that USCIS has amassed in the past few months may continue to grow, unnecessarily exposing CBP to potential constructive denial-litigation.

f. The Federal Emergency Management Agency (FEMA)

In August 2005, FEMA confronted the task of responding to the sudden influx of 266 FOIA requests due to Hurricane Katrina. With only one FTE FOIA processor, FEMA struggled to meet its statutory responsibilities. Considering the unique situation, FEMA handled the processing challenges well. Unpredictable fluctuations in FOIA requests from events such as Hurricane Katrina can result in temporary backlog issues for some DHS components. The components must meet the statutory mandate to process FOIA requests, although the number of personnel available to assist in the task may be inadequate. All components must develop a contingency plan for handling disclosure during an unexpected or urgent situation, in order to meet statutory obligations and prevent a case backlog. At the Departmental level, options that allow for staffing flexibility, such as immediate detail of employees to a component in need, must exist. Consequently, FEMA established a disclosure action plan to implement in case of another national disaster.

All components report weekly on significant FOIA requests they receive. The DHS compiles the information and shares the list with all DHS components and other interested DHS parties. This reporting requirement necessitates the components reviewing all incoming requests on a weekly basis, therefore preventing procrastination, accumulation of unopened requests, and additional backlog. Recently, the DHS FOIA Officer instituted a monthly statistical data submission requirement, which includes a breakdown of open cases listing the age of the request.

2. Education and Training

As indicated in the July 2006 report, DHS can make improvements both with requester-oriented education and with employee training. An educated requester is able to properly direct the initial perfected request, which eliminates unnecessary referrals and cuts down on response times. Specialists in many components are hesitant to contact requesters that submit broadly drafted requests. FOIA specialists should be encouraged to do so. A request with an overly broad scope can paralyze a small program office while trying to collect responsive records. Requesters are often willing to amend or narrow the scope of their request when told that specificity will result in a faster, less expensive search. Many component reviews indicate limited usage of available resources, such as web sites, for public education. Use of such resources would assist the Department in achieving its communication goals and garnering public support through greater understanding of DHS programs. A Departmental FOIA reference guide is required under 5 U.S.C. §552(g). Re-drafting the guide published in the electronic reading room will assist prospective FOIA requesters who may be unfamiliar with the Department or the FOIA process.

In addition, DHS should also make requesters aware of other useful FOIA resources, such as the comprehensive DOJ FOIA Guide. To further the Department's efforts to educate and learn from the requester community, the Chief FOIA Officer meets regularly with representatives from the privacy and disclosure communities and encourages feedback from requesters.

Department-wide employee "FOIA 101" training information on the statutory responsibilities of a Federal employee should be mandatory. When entering service within the Department, employees must be educated about the importance of FOIA and informed of their mandatory participation in the DHS FOIA program. All components indicate that retrieving documents from the various offices and obtaining satisfactory statements from the program officials is a time-consuming, burdensome activity.

Additionally, specialized training is essential for DHS FOIA processing professionals. Education and training for the Department's FOIA professionals ensures a consistent interpretation of common aspects of the FOIA administrative process, such as determinations on fee waivers and requests for expedition. Standardization of processing operations guarantees consistent interpretation of FOIA, therefore benefiting the requester community through a greater uniformity of treatment. Some components offer training to their processing professionals. However others rely on training offered by the Department of Justice (DOJ) or by other industry organizations. All FOIA professionals should receive training annually to maintain currency with processing guidance, pending FOIA-related legislation and recent case law.

Finally, the DHS Chief FOIA Officer or his designee should implement processing policy to ensure consistent interpretation of key aspects of FOIA and, in particular, DHS-specific issues, such as classified record processing, multi-component referrals, and legacy agency administrative challenges. The processing guidance should cover all areas that currently receive varying treatment such as fee waivers and expedition determinations, encouraging consistent Departmental treatment of FOIA issues and decrease the potential problems faced during litigation of these matters. The Chief FOIA Officer must further clarify the Department's position on the implementation of FOIA by revising and finalizing the interim DHS FOIA regulations.

The Department must assure that all levels of DHS FOIA education and training stringently emphasize the fundamental FOIA underpinning: customer service. The FOIA requesters are the Department's customers and must be treated with courtesy and respect.

3. Technology

The use of technology for processing FOIA requests varies greatly throughout the Department, with nearly every component using a different FOIA electronic processing system. Most of the technology consists of word processing programs for correspondence, a database program for tracking requests, off-the-shelf redaction programs, or manipulation of administrative program features to obtain the same processing and redaction results. Several components have advanced FOIA processing systems, while others are using outdated programs that actually slow processing down. USCIS uses a processing program that was designed in 1999 and is not web-based. Considering the high volume of FOIA requests received, USCIS should be developing and utilizing a first class updated processing system.

The current disparity of electronic processing systems impedes case information sharing and therefore increases processing times. Most components indicate support for implementing a department-wide, automated, web-based system for processing requests. The system of choice would electronically scan requests and responsive documents and allow for electronic redaction. The program must also create a database of all FOIA/PA requests and releases and produce standardized communications, letters, and reports that would require minimal individualized adjustment. The essential feature of the program would be the ability to provide a requester a real-time case status update. Web-based access would increase processing accuracy by allowing file scanning at the local or field level and processing by experienced full-time FOIA processors at a central location. Such a system would reduce the workload at the local and field level to conducting a search for responsive records and scanning and providing any records found. This would also avoid the record custodian having to release custody of the files. Without adequate technology, the processing of FOIA requests and the excising of sensitive information remains a labor intensive and time consuming process. The Chief FOIA Officer is working with the Department's Executive Secretary and Chief Information Officer on a system that could be employed Department-wide.

Ten DHS FOIA programs have their own FOIA web sites. Many of the components' websites also provide additional component-specific information about FOIA and their FOIA processes. Each component should use the electronic reading room on its web site for affirmative disclosure, as required by the Act. This would include documents that

have been the subject of multiple FOIA requests or are expected to receive multiple FOIA requests, statements of department policy, or administrative materials that affect the public. In addition, DHS should encourage proactive disclosure as a means to disseminate records to the public without submitting a FOIA request. Some web sites have provisions for receiving FOIA payments electronically and others have provisions for receiving FOIA requests electronically. One component, Customs and Border Protection (CBP), also reported having a web page on its intranet web site (not accessible by non-CBP employees) that includes a help box for employees to obtain FOIA advice.

C. IMPROVEMENT PLAN

This revised collective improvement plan focuses on eliminating backlogs, education and training, and technological improvements for better customer service. The plan addresses the components of greatest concern, but every DHS component is expected to make improvements. Select components have requested funding for some of the large-scale and more costly improvements and for some components significant improvement may not be possible without additional resources. Nevertheless, all components are committed to Department-wide improvement.

1. Backlog

GOAL: backlog eliminated by December 31, 2007.

IMPROVEMENT STEPS:

- Of the six components with high backlogs, CBP, FEMA, USCIS and ICE currently have authority to hire additional FOIA personnel. These components initiated hiring actions prior to December 31, 2006.
- CBP, FEMA, USCIS and ICE will complete the hiring of all additional FOIA personnel by December 31, 2007.
- The DHS Chief FOIA Officer dispatched a team of FOIA experts to the NRC for a week to comprehensively assess USCIS A-file FOIA processing, identify any deficiencies, determine the best way to institute critical operational changes, and the team drafted a suggested performance modification plan for the DHS Chief FOIA Officer prior to December 31, 2006.
- The DHS Chief FOIA Officer will review the performance modification plan and seek appropriate actions by June 30, 2007.
- The DHS Chief FOIA Officer requested an evaluation of the precision and veracity of the USCIS data analysis and cost estimate, which targets eliminating the backlog, prior to December 31, 2006.
- USCIS initiated implementation of the Ombudsman's operational recommendations prior to December 31, 2006.
- USCIS will finalize the Ombudsman and Chief FOIA Officer operational recommendations by December 31, 2007.

- USCIS will finalize and institute the immigration litigation-related third processing track by June 30, 2007.
- The DHS Chief FOIA Officer, USCIS and ICE met with AILA to discuss A-file processing, including customer service enhancements, prior to December 31, 2006.
- USCIS will finalize and establish the alternate administrative process to address genealogy related requests by June 30, 2007.
- USCIS will initiate processing ICE records found in the A-files in accordance with ICE guidance by June 30, 2007.
- USCIS and ICE will establish a target date to finalize the A-file digitization plan by December 31, 2007.
- ICE initiated creation of centralized headquarters FOIA Office by December 31, 2006.
- ICE will finalize establishment of centralized headquarters FOIA Office by June 30, 2007.
- ICE will initiate new two-track processing approach by December 31, 2007.
- ICE will finalize and establish the two-track processing approach June 30, 2007.
- USCG will seek allocation of 16 billets to USCG headquarters by June 30, 2007.
- USCG faces the challenge of a highly decentralized FOIA program; therefore, it is currently assessing the feasibility of centralizing FOIA operations. USCG will complete assessment by December 31, 2007.
- USCG is assessing revising the standard operating procedures for handling procurement-related and open investigation requests. USCG will complete assessment by June 30, 2007.
- USCG will implement new standard operating procedures as deemed appropriate by December 31, 2007.
- USSS will develop at least one separate expedited track for qualifying requests to streamline its FOIA operations by June 30, 2007.
- CBP will finalize the centralization plan for its headquarters request tracking and processing by June 30, 2007.
- CBP will finish the centralization of its headquarters request tracking and processing by December 31, 2007.
- CBP will make a determination on the USCIS MOU termination by June 30, 2007.
- All DHS components and offices will evaluate potentially beneficial operational changes such as centralized processing, implementation of

additional processing tracks to accommodate requests unique to each component's mission, and preparation of procurement related documents, by June 30, 2007.

- All DHS components and offices will finalize and implement operational improvements by December 31, 2007.
- The DHS Chief FOIA Officer will assess the feasibility of assembling a "rapid-response" FOIA specialist team of contractors and/or Federal employees for deployment on an as-needed basis to a component facing a disclosure crisis. A feasibility review will be completed by June 30, 2007.
- The DHS Chief FOIA Officer will develop a rapid-response plan for addressing all types of disclosure crises by December 31, 2007.
- All DHS components currently submit weekly and monthly data to the DHS Chief FOIA Officer.

MEASUREMENTS OF SUCCESS:

- Achieving optimal staffing levels in all components, as determined by a thorough manpower review.
- Implementing the recommendations from the DHS Chief FOIA Officer and the CIS Ombudsman at USCIS.
- Implementing the operational immigration litigation-related third processing track.
- Implementing an established alternate administrative process for genealogy documents.
- USCIS processing ICE A-file records without referral.
- Establishing the A-file digitization target date.
- Implementing the components' operations and procedures assessments and resulting modifications.
- Establishing centralized headquarters ICE FOIA Office.
- Implementing the two-track processing approach at ICE.
- Establishing the disclosure crisis plan.
- All components fulfill weekly and monthly reporting requirements.
- There is a decrease in open cases reported to DHS FOIA each month.

2. Education and Training

GOAL: Improve DHS employee FOIA training and customer service by December 31, 2007.

IMPROVEMENT STEPS:

- Provide a renewed emphasis throughout the Department on the importance of FOIA, conveyed from the top down, and establish the message that all employees must be active participants in the DHS FOIA program. All senior component leaders will be encouraged to issue memoranda to employees indicating their expectation of compliance with FOIA obligations. Memoranda will be issued by June 30, 2007.
- All components and offices will make available "FOIA 101" information for all employees detailing FOIA obligations and stressing customer service by June 30, 2007.
- All FOIA professionals who expend more than 50 percent of their work time to FOIA must take annual FOIA training offered by the Department of Justice (DOJ), Office of Information Privacy (OIP), or an equivalent by December 31, 2007.
- The DHS FOIA Officer instituted semi-annual FOIA officer meetings prior to December 31, 2006.
- The DHS FOIA Requester Service Center and component public liaisons addressed all pending customer concerns or disputes prior to December 31, 2006.
- The DHS FOIA Requester Service Center and component public liaisons must acknowledge all incoming customer concerns or disputes within five business days of receipt.
- To assure that all responses are consistent and contain statutorily required information, all components and offices will draft and implement the use of letter templates containing standardized language by June 30, 2007.
- DHS will finalize DHS FOIA regulations by December 31, 2007.
- All non-exempt DHS components and offices must fully comply with the final DHS regulations by December 31, 2007.
- DHS collected, reviewed, and assessed all existing disclosure policy within the components prior to December 31, 2006.
- DHS will resolve any conflicting guidance and draft Departmental guidance on necessary issues by December 31, 2007.

MEASUREMENTS OF SUCCESS:

- All employees receive communication from leadership indicating expectation of compliance with FOIA obligations.

- All DHS employees can access "FOIA 101" information.
- All FOIA professionals are successfully completing annual FOIA training.
- All FOIA officers are attending the semi-annual meeting hosted by the DHS Chief FOIA Officer.
- Resolving satisfactorily every concern received by the DHS FOIA Requester Service Center and component public liaisons.
- All component processors are using standard templates.
- Finalize DHS FOIA regulations.
- All applicable components and offices are complying with DHS FOIA regulations.
- The DHS disclosure policy is not in conflict with component or office policy.
- The DHS disclosure policy is issued on common FOIA processing issues.

GOAL: Increase public knowledge and awareness of DHS FOIA by December 31, 2007.

IMPROVEMENT STEPS:

- Continue to educate the requester community and increase public awareness of FOIA generally through Privacy Office sponsored workshops.
- Revise the online DHS FOIA Reference Guide by June 30, 2007.
- Provide a link to the DOJ FOIA Guide from the DHS FOIA web page by June 30, 2007.
- The DHS Chief FOIA Officer will continue to meet and encourage communications with the requester community.

MEASUREMENTS OF SUCCESS:

- Increasing the public attendance at workshops significantly.
- Publishing the revised DHS FOIA Reference Guide in the DHS electronic reading room.
- Provide a link to the DOJ FOIA Guide on the DHS FOIA web page.

3. Technology Improvements to Enhance FOIA Processing and Information Delivery

GOAL: Identify, implement and encourage Department-wide use of FOIA tracking and processing technology by December 31, 2007.

IMPROVEMENT STEPS:

- DHS identified a web-based case management program with electronic tracking capabilities prior to December 31, 2006.

- Applicable components tasked to hire FOIA personnel.
- DHS FOIA designees visited the National Records Center and submitted a draft performance modification plan to the DHS Chief FOIA Officer.
- DHS Chief FOIA Officer requested completion of an assessment of the USCIS data analysis and cost estimate targeting eliminating the 2007 backlog.
- USCIS initiated the institution of the Ombudsman's operational recommendations.
- The DHS Chief FOIA Officer met with AILA to discuss A-file processing.
- The DHS Chief FOIA Officer meets semi-annually with component FOIA officers.
- The public is becoming more knowledgeable and aware of DHS disclosure operations.
- The DHS FOIA Requester Service Center and FOIA public liaisons for every FOIA component program resolve all customer concerns or disputes.
- DHS collected and reviewed all existing component FOIA policies.
- Privacy Office offers workshops.
- DHS identified web-based FOIA case management and redaction software.
- Components with existing web sites reassessed their FOIA website and initiated any necessary improvements to improve customer service.

2. Items to be Completed by June 30, 2007

- USCIS will implement the new processing final rules pertaining to genealogy and immigration litigation-related requests and initiate processing ICE records in accordance with ICE guidance.
- USCG will submit for allocation of 16 billets for USCG headquarters.
- All components will initiate evaluations of disclosure operations, to include processing centralization, processing-track modifications and internal processing procedures.
- USCIS is instituting the NRC performance modification plan.
- The DHS Chief FOIA Officer reports any data discrepancies or concerns regarding the USCIS data analysis and cost estimate targeting 2007 backlog elimination and USCIS incorporates modifications into its backlog elimination plan.
- Senior component leaders will issue memos regarding FOIA responsibilities.
- "FOIA 101" information will be available to all DHS employees.
- Components will draft and implement the use of response letter templates.

- All components determine appropriate modifications to disclosure operations, including processing centralization, processing-track modifications and internal processing procedures.
- DHS will publish the Revised Online DHS FOIA Reference Guide.
- The DHS FOIA web site will provide a link to the DOJ FOIA Guide.
- All DHS components will have a web site or a link to the DHS FOIA webpage from their component's public web site.
- Each component will proactively disclose documents on its web site.
- Components will be in full compliance with statutorily mandated affirmative disclosure requirements.

3. Items to be Completed by December 31, 2007

- DHS will eliminate its request backlog.
- Applicable components complete all FOIA personnel hiring actions.
- Improved DHS employee FOIA training available.
- Improved customer service through the liaisons.
- USCIS and ICE will determine a target date for completing the A-file digitization project.
- Programs will finalize operational changes deemed necessary, including processing centralization, processing-track modifications, and internal processing procedures.
- USCIS will institute the Ombudsman's operational recommendations.
- Working with the Office of the General Counsel, the DHS Chief FOIA Officer will finalize a plan on management of disclosure-crisis.
- DHS FOIA professionals who devote more than 50 percent of their time to FOIA will attend annual FOIA training offered through the U.S. Department of Justice or other similar program.
- DHS will finalize FOIA regulations.
- All applicable DHS components will be in full compliance with the DHS FOIA regulations.
- DHS will resolve any conflicting component FOIA policy.
- DHS completes the FOIA processing software assessment and issues Department-wide implementation recommendation.
- The DHS Chief FOIA Officer will issue a final determination on establishing a quick-response FOIA processing team for deployment on an as-needed basis.

APPENDIX A: COMPOSITION OF THE DEPARTMENT OF HOMELAND SECURITY

The Office of the Secretary oversees activities with other federal, state, local, and private entities as part of a collaborative effort to strengthen our borders, provide for intelligence analysis and infrastructure protection, improve the use of science and technology to counter weapons of mass destruction, and to create a comprehensive response and recovery system. The Office of the Secretary includes multiple offices that contribute to the overall Homeland Security mission. These are:

The Privacy Office works to minimize the impact on the individual's privacy, particularly the individual's personal information and dignity, while achieving the mission of the Department of Homeland Security.

The office for Civil Rights and Civil Liberties provides legal and policy advice to Department leadership on civil rights and civil liberties issues, investigates and resolves complaints, and provides leadership to Equal Employment Opportunity Programs.

The Office of Inspector General is responsible for conducting and supervising audits, investigations, and inspections relating to the programs and operations of the Department, recommending ways for the Department to carry out its responsibilities in the most effective, efficient, and economical manner possible.

The Citizenship and Immigration Services Ombudsman provides recommendations for resolving individual and employer problems with the United States Citizenship and Immigration Services in order to ensure national security and the integrity of the legal immigration system, increase efficiencies in administering citizenship and immigration services, and improve customer service.

The Office of Legislative and Intergovernmental Affairs serves as primary liaison to members of Congress and their staffs, the White House and Executive Branch, and to other federal agencies and governmental entities that have roles in assuring national security.

The office of the Federal Coordinator for Recovery and Rebuilding of the Gulf Coast Region was created to help assist the region with long-term planning and coordinating the federal government's response to rebuild the Gulf Coast region devastated by Hurricanes Katrina and Rita.

The Office of the General Counsel is responsible for all legal activities within DHS, to ensure full implementation of DHS' statutory responsibilities and all policies set forth by the Secretary and all officials of DHS. All DHS sub-unit and agency legal offices report up to the DHS Office of General Counsel.

The Office of Counternarcotics Enforcement provides expert advice to the Secretary and coordinate Departmental efforts to secure borders against flow of illegal drugs and to protect the United States against drug related criminal enterprises.

The Office of Public Affairs is responsible for oversight and management of all external and internal communications for the Department of Homeland Security. The Office of Public Affairs also develops and manages various public education programs, including the Ready campaign to increase citizen preparedness.

Department Components:

The Directorate for Preparedness works with State, local, and private sector partners to identify threats, determine vulnerabilities, and target resources where risk is greatest, thereby safeguarding our borders, seaports, bridges and highways, and critical information systems.

The Science and Technology Directorate is the primary research and development arm of the Department. It provides federal, state and local officials with the technology and capabilities to protect the homeland.

The Management Directorate is responsible for Department budgets and appropriations, expenditure of funds, accounting and finance, procurement; human resources, information technology systems, facilities and equipment, and the identification and tracking of performance measurements.

The Office of Policy Directorate is the primary policy formulation and coordination component for the Department of Homeland Security. It provides a centralized, coordinated focus to the development of Department-wide, long-range planning to protect the United States.

The Federal Emergency Management Directorate prepares the Nation for hazards, manages Federal response and recovery efforts following any national incident, and administers the National Flood Insurance Program.

The Office of Intelligence and Analysis is responsible for using information and intelligence from multiple sources to identify and assess current and future threats to the United States.

The Office of Operations Coordination is responsible for monitoring the security of the United States on a daily basis and coordinating activities within the Department and with governors, Homeland Security Advisors, law enforcement partners, and critical infrastructure operators in all 50 states and more than 50 major urban areas nationwide.

The Domestic Nuclear Detection Office works to enhance the nuclear detection efforts of federal, state, territorial, tribal, and local governments, and the private sector and to ensure a coordinated response to such threats.

The Transportation Security Administration protects the Nation's transportation systems to ensure freedom of movement for people and commerce.

United States Customs and Border Protection is responsible for protecting our Nation's borders in order to prevent terrorists and terrorist weapons from entering the United States, while facilitating the flow of legitimate trade and travel.

United States Immigration and Customs Enforcement, the largest investigative arm of the Department of Homeland Security, is responsible for identifying and shutting down vulnerabilities in the nation's border, economic, transportation and infrastructure security.

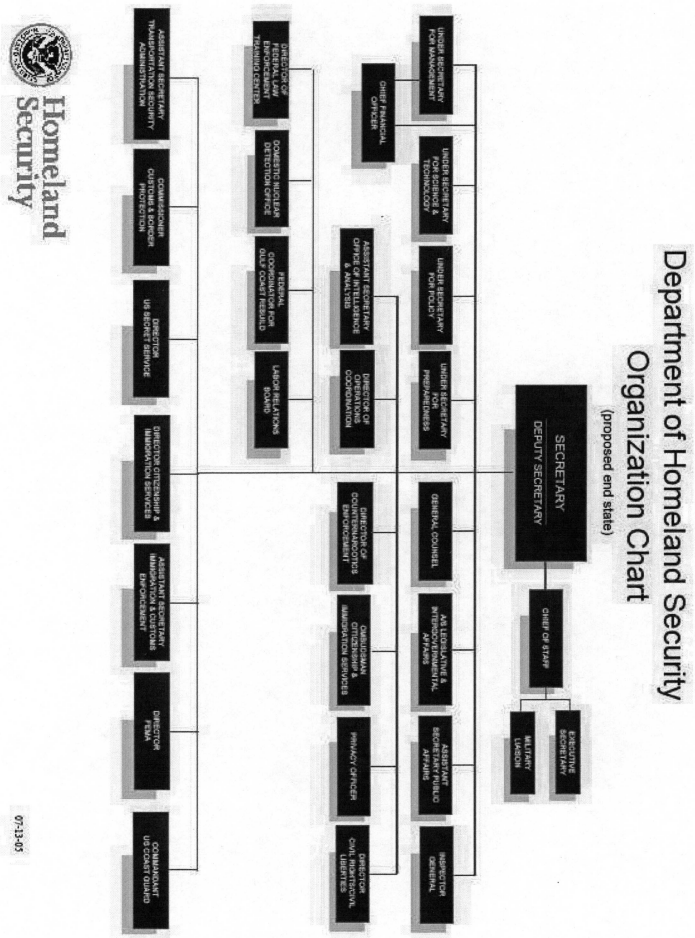
The Federal Law Enforcement Training Center provides career-long training to law enforcement professionals to help them fulfill their responsibilities safely and proficiently.

United States Citizenship and Immigration Services is responsible for the administration of immigration and naturalization adjudication functions and establishing immigration services policies and priorities.

The United States Coast Guard protects the public, the environment, and U.S. economic interests in the Nation's ports and waterways, along the coast, on international waters, or in any maritime region as required to support national security.

The United States Secret Service protects the President and other high-level officials and investigates counterfeiting and other financial crimes, including financial institution fraud, identity theft, computer fraud; and computer-based attacks on our nation's financial, banking, and telecommunications infrastructure.

APPENDIX B: DHS ORGANIZATIONAL CHART



APPENDIX C: NAMES, ADDRESSES, AND CONTACT NUMBERS FOR DHS FOIA OFFICERS

Department of Homeland Security
Catherine Papoi
Ph: 571-227-3813; Fax: 571-227-3813
Director, Disclosure & FOIA
Deputy Chief FOIA Officer
601 South 12th Street, DHS-D3
Arlington, VA 22202

Emergency Preparedness & Response
Federal Emergency Management Agency
Jeff Ovall
Ph: 202-646-3051; Fax: 202-646-4536
FOIA Officer
500 C Street, SW
Washington, D.C. 20472

United States Coast Guard
Donald Taylor
Ph: 202-267-6929; Fax: 202-267-4814
United States Coast Guard
2100 Second Street, SW
Washington, D.C. 20593

United States Secret Service
Latita Huff
Ph: 202-406-5838; Fax: 202-406-5154
Disclosure Officer
245 Murray Drive, Bldg. 410
Washington, D.C. 20223

U.S. Immigration & Customs Enforcement
Katrina Pavlik
Ph: 202-616-7498; Fax: 202-616-7612
425 I Street, N.W.
Washington, D.C. 20536-0001

Preparedness Directorate
Sandy Ford Page
Ph: 202-282-9077; Fax: 202-282-9069
Department of Homeland Security
3801 Nebraska Ave, N.W.
Nebraska Avenue Complex, Bldg 19
Washington, D.C. 20393

Federal Law Enforcement Training Center
Marty Zimmerman-Pate
Ph: 912-267-3103; Fax: 912-267-3113
OBP
Building #94
Glynco, GA 31524

U.S. Citizenship and Immigration Services
Brian Welsh
Ph: 816 350-5570; Fax: 202-272-8331
FOIA Officer
P.O. Box 648010
Lees Summit, MO 64064-8010

Transportation Security Administration
Anastasia Taylor
Ph: 571-227-2300; Fax: 571-227-1406
West Bldg, 11th Floor
601 South 12th Street
Arlington, VA 22202-4220

Customs and Border Protection
Shari Suzuki
Ph: 202-572-8720; Fax: 202-572-8727
FOIA Appeals, Policy & Litigation Branch,
1300 Pennsylvania Avenue, NW (Mint Annex)
Washington, D.C. 20229

Office of the Inspector General
Richard Reback
Ph: 202-254-4100; Fax: 202-254-4285
Department of Homeland Security
Washington, D.C. 20528

Office of the General Counsel
Michael Russell
Ph: 202-447-3526; Fax: 202-447-3111
Department of Homeland Security
Washington, D.C. 20528

Science and Technology Directorate
Cynthia Christian
Ph: 202-254-5710; Fax: 202-254-6178
Department of Homeland Security
1120 Vermont Avenue
Washington, D.C. 20528

Office of Operations Coordination
Reginald Hudson
Ph: 202-282-8769; Fax: 202-282-9069
Department of Homeland Security
3801 Nebraska Ave, N.W.
Nebraska Avenue Complex
Washington, D.C. 20393

Office of Civil Rights and Civil Liberties
James McNeely
Ph: 202-772-9856; Fax: 202-773-9738
Department of Homeland Security
Room 5608-9
Washington, D.C. 20528

Management Directorate
Shila Ressler
Ph: 202-447-3099; Fax: 202-447-3713
3801 Nebraska Avenue, N.W.
Nebraska Avenue Complex
Washington, D.C. 20393

US-VISIT
Sophia Young
Ph: 202-298-5200; Fax: 202-298-5201
Department of Homeland Security
Washington, D.C. 20528

Office of Intelligence and Analysis
Reginald Hudson
Ph: 220-282-8769; Fax: 202-282-9069
Department of Homeland Security
3801 Nebraska Avenue, N.W.
Nebraska Avenue Complex
Washington, D.C. 20393

Policy Directorate
Patti Miller
Ph: 202-282-9549; Fax: 202-282-8502
Department of Homeland Security
3801 Nebraska Avenue, N.W.
Nebraska Avenue Complex
Washington, D.C. 20393

APPENDIX D: RECOMMENDATION FROM THE CIS OMBUDSMAN TO THE DIRECTOR, USCIS

To:	Dr. Emilio T. Gonzalez, Director, U.S. Citizenship and Immigration Services
Cc:	Michael P. Jackson, Deputy Secretary, Department of Homeland Security
From:	Prakash I. Khatri, CIS Ombudsman
Date:	July 12, 2006
Re:	Recommendation to USCIS to improve Freedom of Information Act operations while ensuring that information is provided timely by implementing seventeen actions and requirements which will result in a substantially reduced backlog.

I. RECOMMENDATION

Recommendation to USCIS to improve Freedom of Information Act operations while ensuring that information is provided timely by implementing seventeen actions and requirements which will result in a substantially reduced backlog.

II. BACKGROUND

A. General Information on the Freedom of Information Act (FOIA)

The Freedom of Information Act (FOIA), 5 U.S.C. § 552, was enacted in 1966 and generally provides that any person has the right, enforceable in court, to request access to federal agency records or information. All agencies of the Executive Branch of the United States Government are required to disclose records upon receiving a written request for them, except for those records (or portions of them) that are protected from public disclosure by one of the nine exemptions or three special law enforcement record exclusions of the FOIA. NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 136 (1975).

The purpose of FOIA is to make federal agencies accountable for information disclosure policies and practices. While the FOIA does not grant an absolute right to examine government documents, it does establish the right to request records and to receive a response to the request. If a record cannot be released, the requester is entitled to be formally advised of the reason for the denial. The requester has a right to appeal the denial and to challenge it in court.

Under the FOIA statute, all federal agencies must respond to a FOIA request within twenty business days, excluding Saturdays, Sundays, and legal holidays. This time period does not begin until the request is actually received by the FOIA office that maintains the records sought. An agency is not required to send out the releasable documents by the last business day; it can send a letter informing of its decision and then send the documents within a reasonable time afterward. Under the FOIA, a component may extend the initial response time for an additional ten business days when: (1) the component needs to collect responsive records from field offices; (2) the request involves a "voluminous" amount of records that must be located, compiled, and reviewed; or (3)

the component needs to consult with another agency or other components that have a substantial interest in the responsive information. When such a time extension is needed, the component may notify the requester in writing and offer the opportunity to modify or limit the request.

In March 2005, Congress introduced the Faster FOIA Act of 2005 that would establish a 16 member commission responsible for finding ways to reduce delays. S. 589. The Senate Judiciary Committee has approved the legislation, but still awaits full Senate consideration. On December 14, 2005, President George W. Bush issued Executive Order 13392 entitled Improving Agency Disclosure of Information in a move prompted by pending legislation. 70 Fed. Reg. 75373. On December 30, 2005, the Office of Management and Budget (OMB) issued a Memorandum for Heads of Department and Agencies that called for agencies to name a Chief FOIA Officer, to review agency FOIA operations and compile a plan to improve agency FOIA operations. M-06-04.

The Executive Order called on federal agencies to name a Chief FOIA Officer at the Assistant Secretary Level or equivalent by January 13, 2006. This individual's name should be posted on the agency's website. The Chief FOIA Officer should conduct a review of agency FOIA operations within certain timelines, and draft a plan with "concrete milestones for FY06 and FY07." The findings and the improvement plan should be sent to the Department of Justice (DOJ) and OMB and posted on agency websites by June 14, 2006. These improvement plans should not only "seek additional funding for FOIA operations," but actually address FOIA operations by making employees responsible for aiding FOIA Offices in processing documents and for reassigning existing resources to FOIA operations[8]. These plans should actually improve FOIA operations and supply FOIA employees with the financial and managerial support to process requests in a timely manner.

The Executive Order also called on federal agencies to include information on how well they have met the milestones of the plan in their FOIA reports to DOJ for FY 2006 and FY 2007. Agencies should establish a FOIA Requester Service Center that "will enable FOIA requesters to seek information concerning the status of their FOIA request and appropriate information about the agency's FOIA response." Agencies should also designate public liaisons who "will serve as supervisory officials to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the Center, following an initial response from the Center staff."

B. USCIS Administration of FOIA and Privacy Act (PA)

The United States Citizenship and Immigration Services (USCIS) implemented a FOIA centralized processing program in 1997 called the FOIA and Privacy Act Information Processing System (FIPS). FIPS was created as an imaging, workflow, and case tracking system that provides online processing, redaction and release (on paper or CD) of documents for efficient movement of cases to ensure compliances with all

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[8] Pursuant to Executive Order 13392, USCIS submitted its FOIA Operations Review Report through the Director of Departmental Disclosure & FOIA for the Chief Freedom of Information Act Officer on March 17, 2006.

mandates and rapid release of documents requested. FIPS was deployed for 260 users at 48 locations across the country and supports all the required processing in two shifts (20 hours per day) for more than 130,000 requests per year.[9]

The USCIS National Records Center (NRC) opened on November 15, 1999, and processes applicants' direct FOIA requests for alien records as well as requests received by USCIS field offices. Because FIPS can be accessed from any location, the NRC processes the primary FOIA/PA workload, while USCIS FOIA/PA in Burlington, Vermont (Vermont) processes personnel-related and contract related requests, and USCIS Headquarters (HQ) processes sensitive or high-profile records. The NRC indicated in January 2006 that they are processing 4,000 to 6,000 FOIA requests per month. The expectation is that processing times will be reduced due to processing streamlining, total dedication of FOIA/PA staff to processing, and the ability to electronically shift workload and files. However, the USCIS process of FOIA is multi-leveled. Although the FOIA request is submitted to USCIS, the request may involve other agencies, such as DOJ, Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP). USCIS does not have jurisdiction over other agencies, and has limited, if any, access to their databases. Thus, the acquisition of information between agencies causes delay and results in an unmet statutory mandate to process FOIA requests within 20 days.

C. DHS Privacy Office Analysis of USCIS FOIA/PA Requests for FY 2005

In April 2006, the Department of Homeland Security's (DHS) Privacy Office released its Freedom of Information Act Annual Report for Fiscal Year (FY) 2005.[10] During FY 2005, 126,126 DHS FOIA and Privacy Act requests were processed as compared to 152,027 requests processed in FY 2004, reflecting a 17% decrease in requests processed. The decrease in DHS processing rates is due to several factors including complex requests, working FOIA searches into operational workload requirements, varying levels of technology used in FOIA processing and experienced staff turnover.[11]

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[9] IMC Develops Award-winning FOIA Case Management System
http://www.imc.com/content.aspx?content_id=31

[10] Department of Homeland Security FOIA Annual Report for 2005, published April 2006.

[11] Id, p. 11, chart a, annual workload, staffing levels, and estimated processing cost comparisons.

Annual Workload, Staffing Levels, and Estimated Processing Cost Comparisons				
	FY 2003	**FY 2004**	**FY 2005**	**Percentage of change FY2004-FY2005**
Requests Received + FY carryover	189,860	197,728	208,717	5.6%
Requests Processed	160,902	152,027	126,126	-17.0%
Expedited Requests Processed	187	692	1,016	46.8%
End of Year Pending Requests	29,007	45,701	82,591	80.7%
Staffing Levels (full time)	334	340.1	345	1.4%
Estimated Processing Costs (total)	$21,924,851	$21,148,318	$28,824,858	36.3%

The following charts are developed from DHS Component FOIA/PA Statistical Charts to compare USCIS FOIA/PA agency requests to DHS FOIA/PA requests in an entirety:

Process and Receipt of FOIA Requests						
FOIA/PA Components	**Pending End of 2004**	**Received FY 2005**	**Requests available for processing FY 2005**	**Processed FY 2005**	**Pending End of FY 2005**	**Median Number of Days Pending**
DHS TOTAL	45,701	163,016	208,717	126,126	82,591	n/a
USCIS	**41,197**	**138,678**	**179,875**	**104,934**	**74,941**	**73**

The estimated costs for the decentralized DHS FOIA Program preclude an accurate accounting of search, duplication, administrative, transferal and transmitting costs.[12]

[12] Id, p. 12, chart c, Processing Costs.

FOIA Processing Costs					
FOIA Components	**Processing Costs**				
	Processing (including Appeals)	Litigation Related Activities	Total Costs	Estimated Part-time FOIA/PA Support	Estimated Total Costs
DHS TOTAL	17,992,169	481,784	18,473,953	10,350,905	28,824,858
USCIS	**11,352,633**	**67,755**	**11,420,388**	**0**	**11,420,388**

USCIS maximized FOIA/PA resources and increased uniformity of processing by centralizing the entire workload from 46 offices to 3 (NRC; USCISHQ; USCIS FOIA/PA Office, Burlington, Vermont).[13]

Disposition of Initial Requests				
FOIA/PA Components	**Full Release**	**Partial Release**	**Denied**	**No Records**
DHS TOTAL	28,631	48,564	894	11,855
USCIS	**19,851**	**43,921**	**221**	**9,908**

Median Response Times						
FOIA/PA Components	**Simple Requests**		**Complex Requests**		**Expedited Requests**	
	Processed	Median Days to Process	Processed	Median Days to Process	Processed	Median Days to Process
DHS TOTAL	95,993		29,117		1,016	
USCIS	**85,307**	**45**	**19,532**	**55**	**95**	**15**

[13] Id, p. 17, DHS Component FOIA/PA Statistical Charts, chart b, Disposition of Initial Requests.

FOIA/PA Staffing Level			
FOIA/PA Components	**FY 05 FOIA Staffing Levels**		
	Full-Time Employee (federal & contractor)	Part-time FOIA/PA Admin Support	Total Work Years
DHS TOTAL	345	276.6	621.6
USCIS	**265**	**0**	**265**

The existing USCIS FOIA program results show that FOIA processing is given low priority without clearly delineated accountability; thus backlogs develop or litigation ensues because of errors in processing. Oversight, insufficient resources, and budget problems have led to deficiencies such as:

- Lack of management support and accountability for the FOIA program;
- Outdated USCIS procedures and regulations implementing the FOIA;
- Lack of frequent and useful training for new and existing FOIA employees; and
- Lack of effective leadership of the national FOIA program addressing oversight, training, and policy, coordination/centralization of complex FOIA requests and billing, and determinations on requests for expedited processing and fee waivers.

Managers do not set production goals for employees. FOIA procedures do not require federal agencies to penalize employees for missing statutory deadlines. There is an absence of serious consequence either for an individual federal employee responding to a FOIA request or the federal agency. While an overhaul of the FOIA program is not required, changes should be made immediately to ensure USCIS compliance under the FOIA and the Executive Order.

III. JUSTIFICATION

A. Accountability

Accountability and effective prioritization are lacking. Accountability throughout USCIS is imperative for compliance with FOIA. There should be increased efforts to reduce the backlog of outstanding FOIA requests. USCIS Office of Record Services (ORS) should be designated as the lead office to oversee and administer FOIA because of its current responsibilities for FOIA policy, records management, and Privacy Act matters. Supervisors should be held responsible for ensuring compliance with the statutory requirements of FOIA. Structurally, new roles and responsibilities should be integrated into the FOIA program, and the role and importance of personnel with FOIA responsibilities should be enhanced.

i. ***Systems Issues (#1 and #2)***

1. **Develop a web-enabled USCIS-wide FOIA Tracking System that meets statutory requirements of E-FOIA and provides document management and workflow for simultaneous reviews and multi-track assignment of FOIA requests.**

Reason: FIPS is not web-enabled.[14] The E-FOIA amendments provide for increased accountability in the tracking of USCIS FOIA requests and for a process to manage those requests on a first-in, first-out basis. This accounting should be reported in the Annual FOIA Report to Congress. E-FOIA also requires that the Annual Report and certain categories of records, including those requested frequently, be placed in the Electronic Reading Room. USCIS has no system that meets these requirements and that generates an accurate report within a reasonable period of time. FIPS should incorporate a comprehensive FOIA tracking system, and USCIS FOIA staff should be vigilant about tracking and systematically processing all FOIA requests. There should also be identification elements to correctly verify FOIA requestors conducting personal status checks in compliance with Privacy Act issues.

2. **Replace all remaining USCIS stand-alone FOIA systems, after either importing existing electronic files into the new USCIS-wide FOIA system or establishing a link from the new system to the old system to make full use of the existing technology and electronic records. Give FOIA Officers, FOIA Management, and other FOIA personnel, access to the new FOIA system as needed.**

Reason: FIPS may be the USCIS FOIA/PA system, but it is unclear whether employees use the system to enter and respond to all requests, or if managers can track the status of requests and check employee responses times. Due to the large volume of FOIA requests that USCIS receives and its backlog of unanswered requests, many program offices have expended funds for developing their own FOIA systems to track requests.[15] An efficient and effective centralized FOIA system would provide for accurate tracking and reporting of requests. USCIS recently centralized the primary FOIA workload from 46 offices to 3 (NRC; USCISHQ; Vermont). As of the date of this recommendation, only 4 field offices (Omaha, NE; El Paso, TX; San Antonio, TX, and Halingen, TX) remain to have their FOIA workload be centralized.

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[14] USCIS ORS "FIPS Demonstration" to CISO, November 10, 2005.

[15] GAO Exit Conference Review of USCIS Management of A-File Automation Project, January 27, 2006.

ii. ***Reports and Pending Backlog (#3, #4, and #5)***

1. **Provide FOIA Supervisors in each program with a copy of a monthly list of overdue FOIA requests and a bi-weekly list of pending requests, with a copy of both lists sent to the Senior Management of the FOIA/PA program.**

Reason: FIPS generates reports that give overdue and outstanding FOIA requests.[16] However, it is unclear how often these reports are generated and submitted. The monthly report will serve as a reminder of requests that are overdue (i.e., an initial response was not sent within the 20-day time period and no formal extension of time or alternative due date was obtained from the requester). The bi-weekly report will serve as a forecast of requests that have not yet reached their due date, but which USCIS needs to answer. Both reports will be passed on to the appropriate Senior Manager for the affected program for action.

2. **Require FOIA management to review the list of overdue FOIA requests, verify the number of outstanding requests, and commit efficient resources to reduce the backlog. The status of this backlog-reduction effort should be reported to the ORS FOIA Office monthly.**

Reason: USCIS has a significant backlog of initial FOIA requests. USCIS indicated developments of a FOIA backlog reduction plan, but has not provided the CISO with any concrete details regarding these developments.[17] FOIA supervisors are aware of outstanding requests and allocate resources as necessary, but it is unclear whether these resources are efficiently and effectively resolving the pervasive problems. HQFOIA/PA and ORS are aware of the status of pending FOIA/PA requests nationwide, but it is unclear whether their backlog-reduction efforts are reported consistently to ORS. Failure to answer requests within the statutory time limits exposes USCIS to litigation and unfavorable publicity.

3. **Require each FOIA supervisor to review the bi-weekly list of pending FOIA requests and address other FOIA issues with the same high priority given to controlled correspondence and congressional inquiries.**

Reason: FOIA/PA supervisors address FOIA/PA requests according to the standards and guidelines provided by DHS and DOJ as well as specified in the FOIA.[18] However, it is unclear whether the same high priority is given. It is imperative that USCIS establish at least the sensitivity to

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[16] USCIS ORS "FIPS Demonstration" to CISO, November 10, 2005.

[17] USCIS Briefing on FOIA to CISO, August 17, 2005; CISO Issues List to USCIS, November 7, 2005; GAO Exit Conference Review of USCIS Management of A-File Automation Project, January 27, 2006.

[18] USCIS Response to CISO First Request For Information List on FOIA, September 16, 2005.

responding timely to FOIA requests as it does for controlled correspondence and congressional inquiries. Offices should be held accountable for responses to FOIA requests as they are held accountable for controlled and congressional correspondences.

iii. Performance Issues (#6 and #7)

1. Add clearly-defined FOIA responsibilities to the performance standards as a critical element of all USCIS managers and supervisors.

Reason: The responsible parties (District Directors, Deputy District Directors, record supervisors) all have FOIA and PA reflected in their Performance Work Plans.[19] However, it is unclear whether these production duties have strict accountability and target dates. Incorporating strict FOIA responsibilities into the performance standards of USCIS managers, supervisors and FOIA staff ensures that appropriate attention will be given to compliance with the requirements of FOIA. This increases the importance that USCIS has placed on FOIA compliance by clearly stating the performance expected of all USCIS employees.

2. Revise job position descriptions for FOIA Officers and personnel to define the specific skills required to effectively perform the duties of the position (e.g., ability to communicate effectively in writing and orally, ability to make sound decisions and resolve complex issues, and ability to conduct legal research).

Reason: These skills are a part of the knowledge, skills, and abilities for the journeymen level FOIA/PA staff.[20] However, a strong base line of uniform skills and knowledge should be established for all FOIA personnel. FOIA duties should only be assigned to employees who have received FOIA training and possess the institutional USCIS knowledge, experience, and communication skills to successfully fulfill these duties. Placing highly trained and skilled persons in FOIA roles provides resources to resolve complex issues while ensuring compliance with FOIA.

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[19] USCIS Briefing on FOIA to CISO, August 17, 2005.

[20] http://www.usajobs.opm.gov/, Vacancy Announcements for FOIA/Paralegal Specialist, last checked May 2006.

iv. Actions to improve FOIA training, upgrade IT, and address accountability (#8, #9, and #10)

1. Designate ORS as the lead office to administer and oversee USCIS National FOIA/PA program – to include issuing USCIS-wide guidance, procedures, policies, and operations consistent with DHS FOIA/PA, updating websites, and conducting periodic audits/ inspections of FOIA processes in the program, NRC, HQ, and Vermont.

Reason: The USCIS FOIA/PA Program is organizationally situated under ORS.[21] The USCIS FOIA/PA Program receives guidance, regulations, and policy from DHS and DOJ[22], and ensures that the policy from those organizations is interpreted and disseminated throughout USCIS. However, there should be increased accountability for the FOIA program and assurances that this accountability is at the highest levels. When it was created, ORS was given the responsibility for oversight of FOIA policy (but not FOIA operations), records management, Privacy Act, and information resource management programs. ORS should have the responsibility to coordinate the USCIS National FOIA/PA program and provide central management control and accountability.

2. Require management to submit a written verification to the ORS FOIA Office that FOIA Supervisors have received FOIA training and that they possess the skills and expertise required of the position. Where the FOIA Supervisor has not received FOIA training, the office must demonstrate that the Supervisor will obtain appropriate training within a reasonable period of time.

Reason: All FOIA/PA supervisors are responsible for the requirements of the FOIA.[23] However, it is unclear whether ORS receives actual verification that FOIA supervisors adhere to the 20-day response period. This increases management accountability by ensuring critical assessment of employees' abilities prior to assigning FOIA duties. Management should ensure that personnel with FOIA job responsibilities adhere to FOIA regulations and possess the skills needed to effectively perform the duties of the position. Knowledgeable and trained personnel should significantly improve the overall efficiency and timeliness of the program's FOIA activities.

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[21] "USCIS Approach to Records Management" Presentation to CISO, October 19, 2005.

[22] DOJ FOIA Reference Guide, http://www.uscis.gov/graphics/aboutus/foia, last modified May 2, 2006.

[23] USCIS Briefing on FOIA to CISO, August 17, 2005.

3. **USCIS shall conduct a needs analysis of all FOIA programs to consider the staff and monetary resources needed to comply with the recommendations of this and various congressional reports, to reduce the backlog of outstanding FOIA requests, and to improve overall response times. Every office should have staffing levels sufficient to allow for timely processing of requests.**

Reason: USCIS indicated that an updated analysis[24] is being conducted in the development of the backlog reduction plan. Pursuant to Executive Order 13392, USCIS submitted its FOIA Operations Review Report through the Director of Departmental Disclosure & FOIA for the Chief Freedom of Information Act Officer on March 17, 2006. The report includes an assessment of USCIS FOIA operations, and includes the use of information technology, practices with respect to requests for expedited processing, implementation of multi-track processing, and availability of public information through websites and other means. The report also identifies ways to eliminate or reduce the FOIA backlog[25]. USCIS should use this report and this recommendation to develop a comprehensive FOIA backlog reduction plan to streamline this enormous operation and make it more responsive to its requesters and to the American People.

B. Centralization

FOIA policy and operations in HQ should be consolidated and joined organizationally with the USCIS records management program and its Privacy Officer function in ORS. A web-enabled tracking and coordinating system should be developed, which will correct problems encountered with the current system, and comply with E-FOIA. The transition to the new system should be managed in accordance with standard information technology practices. Complex FOIA requests, expedited processing, fee waiver determinations, and billing should have central oversight and a lead office designated as the point of contact with the requester.

1. **Consolidate HQ FOIA Policy Branch with HQ FOIA Operations Branch. Move entire FOIA Program to ORS and the HQ FOIA Supervisors to the units within the programs that provide the information resource management functions, such as records management and computer support services.**

Reason: Although NRC and Burlington currently report to HQ FOIA, USCIS indicated that FOIA/PA will not consider any organizational changes at this time because the FOIA/PA Program is part of the USCIS Domestic Operations Program.[26] However, with the separation of the FOIA policy unit from FOIA Operations, there is no clear responsibility

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[24] USCIS Response to CISO Second Request For Information List on FOIA, December 14, 2005.

[25] USCIS FOIA Operations Review Report, March 17, 2006

[26] USCIS Response to CISO Second Request For Information List on FOIA, December 14, 2005.

for managing the USCIS FOIA program. It is unclear how USCIS operations interact with the FOIA program to respond to the backlogged requests. Severe coordination problems have resulted from the separation. FOIA personnel responsible for the day-to-day processing of requests have indicated that they lack clear direction and guidance on many issues. The separation of functions has resulted in a lack of consistency and an inability to address issues in a timely manner.

2. Shift all Regional FOIA Officers and FOIA Supervisors within programs to the FOIA offices that provide the information resource management functions, such as records management and computer support services.

Reason: In the DHS FOIA 2004 Annual Report[27], USCIS indicated that it was poised to implement a FOIA centralized processing system. The centralization project was proposed in July 2001 and approved 2002. After USCIS transferred to DHS, the DHS Privacy Officer endorsed the June 2002 proposal. However, the centralization still remains to be completed. To effectively administer USCIS responsibilities under FOIA for identifying and managing records, and under E-FOIA for posting certain categories of records to the USCIS website, there should be a partnership between the FOIA personnel, records management, and information resources management staff with the Privacy Act to ensure compliance with that statute and regulations.

3. Require all USCIS programs with FOIA web sites to provide a link to NRC/ HQ/ Vermont web pages for submission of electronic FOIA requests.

Reason: This will provide the public with an efficient and convenient way to electronically send in a request to the appropriate source for a response.[28]

C. Update/Amend Current Policies, Regulations, and Guidance

Policies, regulations, and guidance should be frequently updated or developed to provide reliable USCIS-wide resources and address commonly encountered problems, particularly for electronic records. A FOIA training program should be uniformly developed and implemented for all employees to ensure effective compliance with FOIA and E-FOIA.

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[27] Department of Homeland Security FOIA Annual Report for 2004, published April 2005, p. 8.

[28] USCIS ORS "FIPS Demonstration" to CISO, November 10, 2005.

i. ***Training (#14 and #15)***

1. **Develop an Annual Mandatory comprehensive and uniform National FOIA Training Program for all USCIS employees to include training for USCIS program staff on their FOIA responsibilities.**

Reason: USCIS indicated that there is a national training program available for its program staff: there are four courses on the virtual university and classroom instruction bi-annually, and Program Office staff has training on responsibilities under the FOIA and the PA.[29] However, USCIS should have workshops on FOIA exemptions that emphasize the criteria for making information-disclosure determinations and address procedural issues. There should be workshops on the Privacy Act of 1974, addressing definitions, restrictions on disclosure, requests for record access and amendment, and fair information practices.

USCIS officials who need periodic updates on FOIA case law and policy guidance developments should attend government wide FOIA programs. USCIS should hold agency wide FOIA conferences for all employees with specific emphasis on USCIS related issues, such as critical discretion when disclosing applicant immigration status information. A national training program ensures compliance with the FOIA, consistency in the application of its exemptions and in the responses to requests, and a clear understanding of USCIS records practices for the purpose of locating and providing responsive FOIA records. USCIS FOIA staff should have a thorough knowledge of FOIA resource materials, background and legislative history, disclosure mandates, exemptions to mandatory disclosure, administrative considerations, and the relationship of the FOIA to the Privacy Act of 1974. All USCIS staff should have a required annual certification of FOIA training and course completion, similar to the DHS employee required annual certification of Security training.

2. **Develop new standard operating procedures (FOIA Manual) that focuses on processing complex requests, multiple-office or multiple-region requests, centralized billing, and decisions on fee waivers and expedited processing; performing searches within offices, reviewing responsive records, and certifying/ documenting these steps; and for separating the releasable from withheld FOIA records at the time of initial processing to comply with FOIA and records management guidelines. Post these procedures on the USCIS intranet websites for reference by all employees.**

Reason: USCIS indicated that it has an online FOIA/PA handbook, but this is an old reference guide from when legacy INS belonged to DOJ.[30]

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[29] USCIS Response to CISO Second Request For Information List on FOIA, December 14, 2005.

[30] DOJ FOIA Reference Guide, http://www.uscis.gov/graphics/aboutus/foia, last modified March 2, 2006.

USCIS also has not developed any reference guides to govern FOIA operations, but instead uses the DOJ guide as its basis. To be consistent, all USCIS FOIA programs should require the most recent standard operating procedures and guidelines. This is important in a decentralized FOIA operation where the searches and substantive reviews are made within the program offices by persons who are experts in the subject area of the requested records, but who may know little or nothing about the FOIA. This procedure would establish some basic requirements every employee should know before answering a FOIA request.

ii. ***Processing (#16 and #17)***

1. **Require each program to develop a plan to process FOIA requests within its respective offices that conforms with DHS and USCIS guidelines.**

Reason: This action will coordinate requests with consistent application of FOIA provisions, and compliance with DHS and USCIS guidelines.[31]

2. **Require that all USCIS FOIA denial letters and "no records" responses include the procedures and deadline for filing an appeal, and be sent to the FOIA requester by certified mail with return receipt requested to confirm receipt of the decision letter.**

Reason: USCIS currently outlines in each letter that the requester has the right to appeal a decision and provides the deadlines for such an appeal.[32] However, USCIS does not send its responses by certified mail or confirm a dated receipt of response, and thus is forced to accept FOIA appeals beyond the 30-day deadline. This requested process may significantly reduce the number of FOIA appeals.

IV. BENEFITS FOR USCIS AND DHS

A. Customer Service

i. ***Timely Receipt of Information*** - Improved customer service will be realized when USCIS can deliver the FOIA product in a manner that is consistent with law and regulation and meets the requirements and expectations of the customer.

ii. ***Reduced Cost- a. financially (less litigation); b. time (additional contact, follow-up, and paperwork)*** - Many lawsuits are brought, not because of a denial of the request, but because USCIS failed to communicate with the requesters on a timely basis on where the request is in the FOIA process. As of November 30, 2005, USCIS has 13 FOIA cases in different stages of litigation[33]. DOJ

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[31] USCIS Response to CISO First Request For Information List on FOIA, September 16, 2005.

[32] USCIS Response to CISO Second Request For Information List on FOIA, December 14, 2005.

[33] Id.

attorneys should not have to defend lawsuits where the information fits that category.

iii. ***Improved communication between USCIS and customer (more contact creates less frustration)*** - USCIS' failure of adequate communication with FOIA requesters on a timely basis is the single biggest frustration that people have with the FOIA. Customer service will vastly improve when USCIS creates a FOIA designated officer to mediate disputes between FOIA requesters and agencies.

B. USCIS and DHS Efficiency

iv. ***Reduce backlog*** - Actions to improve USCIS FOIA operations will substantially reduce the backlog by not allowing USCIS to utilize certain FOIA exemptions when it fails to respond to requests within the statutorily mandated response time.

v. ***Decrease cost- litigation*** - While any improvements in the USCIS FOIA system will cost money initially, substantial money will be saved by decreased litigation costs over the long run.

vi. ***Streamlined process and consistency in responses*** – USCIS will streamline responses by creating a database to contact requesters on a thirty day cycle that reports the status of the FOIA request.

vii. ***Increased efficiency because of skilled and trained FOIA officers***- Comprehensive education and training of USCIS FOIA staff will develop proficient expertise in FOIA operations that will increase performance accountability, and thus, improve efficiency.

viii. ***Improved technology increases operational efficiency*** –The implementation of the seventeen actions will improve operational efficiency and significantly streamline the USCIS FOIA/PA Program, thereby strengthening the efficacy of the overall Departmental Disclosure and FOIA operations in the DHS Privacy Office.

B. National Security

Adoption of this recommendation will not adversely impact national security.

APPENDIX E: USCIS RESPONSE TO THE USCIS OMBUDSMAN RECOMMENDATIONS

To: Prakash Khatri
USCIS Ombudsman

From: Dr. Emilio T. Gonzalez /s/
Director, USCIS

Date: October 5, 2006

Subject: Response to Recommendation #30, To Improve Freedom of Information Act Operations

This is in response to your office's recommendation to improve Freedom of Information (FOIA) operations, by implementing 17 actions and requirements. In your recommendation, you state the following:

> "The existing USCIS FOIA program results show that FOIA processing is given low priority without clearly delineated accountability; thus backlogs develop or litigation ensues because of errors in processing. Oversight, insufficient resources, and budget problems have led to deficiencies..."

In 2003, when USCIS was formed, we recognized that our FOIA process was inefficient and developed a more centralized and accountable process. We are absolutely confident in the capabilities of the primary central location, the National Records Center (NRC) and their approach to streamlined, automated, accountable, FOIA processing. There is no doubt they can timely and very expediently manage the approximately 120,000 current FOIA cases received annually by USCIS. The main issue for us now is the backlog of approximately 82,000 cases.

Specific Recommendations:

Of your 17 specific recommendations, 10 have previously been accomplished by the USCIS FOIA Program, largely due to the centralization of the work; four represent work we have already started and are on track to complete; one is no longer applicable, again, due to centralization; and finally, two of the recommendations we do not agree with. In summary, we view this as a positive indication that USCIS initiatives towards FOIA

improvements are being recognized by others as things that needed to be done and are supportive of our efforts. Each recommendation is addressed below:

1. Develop a web-enabled USCIS-wide FOIA Tracking System that meets statutory requirements of E-FOIA and provides document management and workflow for simultaneous reviews and multi-track assignment of FOIA requests.

   USCIS Response: USCIS' electronic system, Freedom of Information and Privacy Acts Processing System (FIPS), is not presently a web enabled system, but does meet the statutory requirements for E-FOIA and reporting requirement to Congress and Executive Branch components. As with many older technologies, we are in the process of converting them where appropriate to web-enabled technologies. In the case of FIPS, it is a valuable and critical tool in the processing of FOIA and we have a request for investment pending before our Senior Review Board for the transition to a web-enabled FIPS system. We anticipate that the request will be approved and FIPS will be web-enabled by the end of Fiscal Year (FY) 2007.

2. Replace all remaining USCIS stand-alone FOIA systems, after either importing existing electronic files into the new USCIS-wide FOIA system or establishing a link from the new system to the old system to make full use of the existing technology and electronic records. Give FOIA Officers, FOIA Management, and other FOIA personnel, access to the new FOIA system as needed.

   USCIS Response: FIPS is USCIS' only FOIA/PA processing system. There are no stand-alone FOIA systems. Prior to the decision to centralize FOIA, each field office had its own FIPS access, but it was tied to the main FIPS server. As the USCIS FOIA/PA program is now centralized, there is no need for FIPS stations or access at the field offices. The access to FIPS at the central locations is widely available to those who need it, from FOIA officers, to supervisors and for management reports.

3. Provide FOIA Supervisors in each program with a copy of a monthly list of overdue FOIA requests and a bi-weekly list of pending requests, with a copy of both lists sent to the Senior Management of the FOIA/PA program.

   USCIS Response: Since centralization is almost complete, the majority of the requests are processed by the National Records Center (NRC). The NRC, using FIPS report engine, does generate monthly reports (at times more often) informing the various Program and field offices of the status of the requests for responsive records. The reports are sent to the program heads and the regional records managers.

4. Require FOIA management to review the list of overdue FOIA requests, verify the number of outstanding requests, and commit efficient resources to reduce the backlog. The status of this backlog-reduction effort should be reported to the ORS FOIA Office monthly.

USCIS Response: The NRC does track all FOIA processing, including backlog work. USCIS is committing additional resources where it is financially able to do so in conjunction with other agency priorities. We recently had a staffing model created for the FOIA/PA program to determine how many resources were required to deal with the backlog and how many were needed to keep up with receipts.

USCIS is not currently funded for any of the FOIA work, since approximately 98% of the agency's budget is derived from fee revenue. Since we do not currently charge applicants for FOIA as part of any fee, and we do not get appropriated funds for this purpose, any funding USCIS is able to divert to FOIA, is at the expense of some other activity. We have requested a fee for FOIA requests as part of the FY08 fee review process.

5. Require each FOIA supervisor to review the bi-weekly list of pending FOIA requests and address other FOIA issues with the same high priority given to controlled correspondence and congressional inquiries.

   USCIS Response: As previously stated, USCIS has improved the FOIA process and is giving it a much higher priority than was done in previous years. If the program begins to receive a fee for the service given, it will greatly enhance the ability of the program to respond timely to requests.

6. Add clearly-defined FOIA responsibilities to the performance standards as a critical element of all USCIS managers and supervisors.

   USCIS Response: This will be accomplished as management prepares its cascading goals under MAXHr.

7. Revise job position descriptions for FOIA Officers and personnel to define the specific skills required to effectively perform the duties of the position (e.g., ability to communicate effectively in writing and orally, ability to make sound decisions and resolve complex issues, and ability to conduct legal research).

   USCIS Response: This has been accomplished.

8. Designate ORS as the lead office to administer and oversee USCIS National FOIA/PA program – to include issuing USCIS-wide guidance, procedures, policies, and operations consistent with DHS FOIA/PA, updating websites, and conducting periodic audits/inspections of FOIA processes in the program, NRC, HQ, and Vermont.

   USCIS Response: This has been accomplished as part of the centralization of FOIA under the Records Division and primarily at the NRC and Headquarters components.

9. Require management to submit a written verification to the ORS FOIA Office that FOIA Supervisors have received FOIA training and that they possess the skills and expertise required of the position. Where the FOIA Supervisor has not received FOIA training, the office must demonstrate that the Supervisor will obtain appropriate training within a reasonable period of time.

USCIS Response: The FOIA/PA Program office has conducted training throughout the year. FOIA and PA training have been afforded to both the FOIA/PA professionals and the non-FOIA/PA professionals. Additionally, USCIS will be issuing periodic electronic broadcasts reminding the workforce of its responsibilities under the PA.

10. USCIS shall conduct needs analysis of all FOIA programs to consider the staff and monetary resources needed to comply with the recommendations of this and various congressional reports, to reduce the backlog of outstanding FOIA requests, and to improve overall response times. Every office should have staffing levels sufficient to allow for timely processing of requests.

    USCIS Response: This has been accomplished as part of the centralization of FOIA under the Records Division and primarily at the NRC and Headquarters components.

11. Consolidate HQ FOIA Policy Branch with HQ FOIA Operations Branch. Move entire FOIA Program to ORS and the HQ FOIA Supervisors to the units within the programs that provide the information resource management functions, such as records management and computer support services.

    USCIS Response: This has been accomplished as part of the centralization of FOIA under the Records Division and primarily at the NRC and Headquarters components.

12. Shift all Regional FOIA Officers and FOIA Supervisors within programs to the FOIA offices that provide the information resource management functions, such as records management and computer support services.

    USCIS Response: This has been accomplished as part of the centralization of FOIA under the Records Division and primarily at the NRC and Headquarters components.

13. Require all USCIS programs with FOIA web sites to provide a link to NRC/ HQ/ Vermont web pages for submission of electronic FOIA requests.

    USCIS Response: FOIA has a web link on the main USCIS web-page. USCIS HQ will ensure that there is a connection with the NRC web page. Vermont does not have a separate webpage.

14. Develop an Annual Mandatory comprehensive and uniform National FOIA Training Program for all USCIS employees to include training for USCIS program staff on their FOIA responsibilities.

    USCIS Response: This has been accomplished as part of the centralization of FOIA under the Records Division and primarily at the NRC and Headquarters components. Training is updated periodically and we will continue to refine as improvements are made to automation.

15. Develop new standard operating procedures (FOIA Manual) that focuses on processing complex requests, multiple-office or multiple-region requests, centralized billing, and decisions on fee waivers and expedited processing; performing searches within offices, reviewing responsive records, and

certifying/documenting these steps; and for separating the releasable from withheld FOIA records at the time of initial processing to comply with FOIA and records management guidelines. Post these procedures on the USCIS intranet websites for reference by all employees.

USCIS Response: USCIS does use the Department of Justice (DOJ) reference guide as the basis for the processing. Each FOIA/PA office receives sufficient copies of the DOJ reference guide on a biannual basis as they are produced. USCIS also has an on-line handbook (available on the Intranet) that is being updated. Each student who attends the formal classroom training receives a student guide that incorporates the requirements stated above. The instructor provides the students with a phone number and name of individuals who can answer their questions on a daily basis or as needed. Training is updated periodically and we will continue to refine as improvements are made.

16. Require each program to develop a plan to process FOIA requests within its respective offices that conforms to DHS and USCIS guidelines.

    USCIS Response: Under the centralization plan, all FOIA/PA requests will be processed at the NRC, HQ and Vermont. Only the 4 service centers remain to be centralized. These offices have staffs dedicated exclusively to the processing of FOIA/PA requests. All CIS FOIA requests are processed by one of these offices.

17. Require that all USCIS FOIA denial letters and "no records" responses include the procedures and deadline for filing an appeal, and be sent to the FOIA requester by certified mail with return receipt requested to confirm receipt of the decision letter.

    USCIS Response: This requirement will be cost prohibitive given the number of requests that the agency receives, an average of approximately 120,000 cases annually. Had we provided this service to-date this fiscal year, we would have incurred an over $190,000 expense just to receipt acknowledge those requests that might result in an appeal or litigation. Given that less than 2% of our requests are appealed (and these are primarily because the client feels we have not disclosed sufficient information), this expense is cost-prohibitive.

We also concur with your assessment of the benefits to be realized for USCIS and all our customers in terms of increased customer service, reduced costs, improved communication, increased efficiency, improved technology and decreased (hopefully eliminated) litigation.

Freedom of Information Act
Revised Operational Improvement Plan

In conclusion, our main issue is the backlog. We are confident of the team, technology, and leadership going forward, but it is the backlog that remains the chokepoint. We recognize this problem and are taking steps to address it as quickly as possible, as evidenced above. Process and technology improvements alone will not suffice to eliminate the backlog - resources and funding are also needed. We are hopeful that this issue will also be resolved in the near future.

If you have any questions, or would like to discuss this further, please contact Dominick Gentile, Chief, Records Division at 202 272 8686.

Question. How many threshold analyses need to be submitted and reviewed before a determination is made that a formal privacy impact assessment should be performed for a given project?

Answer. A Privacy Threshold Analysis (PTA) is submitted to the Privacy Office for review. If sufficient information is contained in the PTA, the Privacy Office will make a determination whether a PIA is required. Sometimes additional information

is required to make an appropriate determination, but the majority of the PTAs are validated based on the initial information provided.

Question. The Winter 2006 Newsletter article regarding the first Privacy Office workshop indicated panelists identified ways to strengthen compliance with the Privacy Act through the development of sound privacy guidance. Please provide an overview of the panelists' recommendations. (Ref: Winter 2006, Page (2).

Answer. The Privacy Office has published a summary of its first Public Workshop Privacy and Technology: Government Use of Commercial Data for Homeland Security, held on September 8 and 9, 2005. The summary is available on the DHS Privacy Office website at http://www.dhs.gov/xlibrary/assets/privacy/privacy_wkshop_09–2005_highlights.pdf and is provided as an attachment to this response. The recommendations of the panelists are discussed on pp. 4–7 of the attached summary.

Question. At the conclusion of the first Privacy Office workshop—the panel was tasked with recommending a roadmap on the fair information privacy principles of transparency, collection limitation, accountability, redress and due process rights. What is the status of this roadmap? (Ref: Winter 2006, Page (2).

Answer. The Privacy Act articulates concepts of how the Federal Government should treat individuals and their information. These concepts are known as the Fair Information Principles (FIPs). The FIPs impose duties upon Federal agencies regarding the collection, use, dissemination, and maintenance of personally identifiable information. The Privacy Act applies specifically to records that hold personally identifiable information, in a system of records under the control of an agency, about individuals who are U.S. citizens and legal permanent residents. DHS policy extends the protections contained in the Privacy Act to all systems that maintain information on not only U.S. Citizens and Legal Permanent Residents, but visitors as well.

Furthermore, the Privacy Act applies to any personally identifiable information controlled by DHS, no matter if DHS maintains information in a classified system, if DHS handles information about government officials, or if the system is run by a contractor.

DHS applies the Fair Information Principles underlying the Privacy Act to the full breadth and diversity of the information and interactions of DHS. The DHS Fair Information Principles account for the nature and purpose of the information being collected in relation to DHS's mission to preserve, protect, and secure.

The following is a brief summary of how the Privacy Office applies these principles:

—Principle of Transparency
—Principle of Individual Participation
—Principle of Purpose Specification
—Principle of Minimization
—Principle of Use Limitation
—Principle of Data Quality and Integrity
—Principle of Security
—Principle of Accountability and Auditing

Principle of Transparency

DHS implements the Principle of Transparency through the publishing of Privacy Impact Assessments, System of Records Notices, and Privacy Act notices.

Principle of Individual Participation

DHS implements the Principle of Individual Participation by providing the public and individuals notice of access and redress programs through the publishing of the Privacy Impact Assessment, System of Records Notice, and Privacy Act Statements (also known as (e)(3) Notices). DHS implements this through DHS redress processes and through DHS Privacy Act and FOIA programs that provide for access to an individual's personally identifiable information.

Principle of Purpose Specification

DHS implements the Principle of Purpose Specification by ensuring that the purpose of a program is specified through out the development of the underlying system.

Principle of Minimization

DHS implements the Principle of Minimization of personally identifiable information by ensuring that only relevant and necessary information is collected for the underlying system.

Principle of Use Limitation

DHS implements the Principle of Use Limitation by requiring a program to document why the program needs particular data elements and through the System of Records Notice, where the program describes the purposes for the collection and the type of sharing anticipated. These Notices must be completed prior to the system becoming operational.

Principle of Data Quality and Integrity

DHS implements the Principle of Data Quality and Integrity by requiring programs have standard operating procedures outlining the regulation of information collection, storage integrity and how to review information for compliance with the relevant and necessary standard. These procedures should be documented in the Privacy Impact Assessment and System of Records Notice. Programs should develop and implement records retention schedules.

Principle of Security

DHS implements the Principle of Security through the Certification and Accreditation process outlined by Federal Information Security Management Act and the Chief Information Security Officer.

Principle of Accountability and Auditing

DHS implements the Principle of Security throughout the life cycle of a program. First, during the development of the program, the program must identify the needs for certain audit capabilities and training requirements. These will be captured in the C&A and the Privacy Impact Assessment. Second, on a daily basis, personnel are required to be vigilant in their handling of personally identifiable information to ensure that the information is not subject to loss, unauthorized access, destruction, use, modification, or disclosure.

As demonstrated above, the Privacy Office relies on these Fair Information Principles in all of its efforts to build privacy protections into the operations of the Department. Whether discussing the privacy considerations associated with implementation of the REAL ID Act, international agreements addressing Passenger Name Records, Western Hemisphere Travel Initiative, DHS Traveler Redress Inquiry Program, or the Information Sharing Environment, the Privacy Office relies on the FIPs as the roadmap for analysis and implementation of privacy protections. In short, every activity of the Office is considered through the lens of the FIPs.

The fall 2005 Workshop on Privacy and Technology: Government Use of Commercial Data for Homeland Security, described in the Winter 2006 newsletter, helped to focus the Privacy Office on the special concerns surrounding the use of commercial data. On December 6, 2006, the DHS Data Privacy and Integrity Advisory Committee issued a paper on The Use of Commercial Data, which has become the basis of a supplement to our PIA template for all instances in which programs use commercial data. Building on a FIPs analysis, this paper provided useful guidance on the specific issues related to the collection and use of commercial data.

In addition, the Office has drafted a guidance memorandum outlining its articulation of the FIPs and intends to submit it for Department clearance later this spring. This guidance will further educate the Department on how to embed these foundational principles into the planning and operation of the Department.

Question. Please provide an update on the new electronic learning course entitled: "Privacy Awareness". Has it been fully deployed? (Ref: Winter 2006, Page 4)

Answer. The Privacy Office has developed and distributed an e-learning privacy training course entitled "Privacy Awareness," which expands upon the basic concepts presented in the orientation to develop an understanding in the essentials of the Privacy Act and E-Government Act. This training permits DHS employees and contractors to recognize situations in which privacy issues arise and how best to mitigate risks to privacy in the development and operation of a program. This course is available across DHS and has been or will soon be incorporated into the various training programs, including privacy training programs conducted by the U.S. Coast Guard and the Transportation Security Administration, along with and specific programs in the Department. The course is currently being integrated into DHScovery, which is the learning management system completing development at the Department. In addition, the Privacy Office has shared this training course with other Federal agencies, including the Office of Personnel Management, the Department of State, the Department of the Treasury, and the Department of the Interior.

Question. Please comment on the level of commitment and concern by the Canadian and Mexican governments in supporting identity theft initiatives. Supporting evidence to include number of issues jointly resolved would be beneficial. (Ref: Spring 2006, Page 3)

Answer. International aspects of identity theft have been handled by the Federal Trade Commission (FTC). The DHS Privacy Office has had no discussions or contacts with either the Canadian or Mexican governments on identity theft. The FTC would likely have agreements or a history of contacts with the Canadian and Mexican governments pertinent to this issue.

Question. Please provide an update as to where the Privacy Office is at in developing privacy technology guidance for integration into the preparation process leading up to the Enterprise Architecture Center of Excellence (EACOE) review. When will the review take place?

Answer. The DHS Privacy Office is currently working on an overall Privacy Technology Implementation Guide Framework document which will provide privacy guidance for all uses and reviews of technology across the Department. This Framework document will be used to create specific privacy guidance for individual programs and technologies, including the technology investment process managed through the EACOE.

Once the DHS Privacy Office completes the Privacy Technology Implementation Guide Framework and the specific version Privacy Technology Implementation Guide for the Department technology investment review process, the DHS Privacy Office will integrate that guidance into its current role within the ongoing EACOE review process.

UNDER SECRETARY FOR MANAGEMENT

Question. GAO Report 07–310 documented areas deemed to be of "high risk". GAO writes on page 45: DHS has not institutionalized a strategic framework for information management to, among other things, guide technology investments; and DHS human capital and acquisition systems will require continued attention to help prevent waste and ensure that DHS can allocate its resources efficiently and effectively." What is your response?

Answer. The Department has many substantial challenges to overcome in its effort to improve its financial management processes. Chief Financial Officer David Norquist and I are working to make measurable, demonstrable progress in the following areas:

—To improve systems and processes eventually leading to sustainable clean audit opinions.
—To provide assurance about our internal controls over financial reporting via a sound internal controls program.
—To provide greater visibility into DHS' financial activity through timely accurate and useful financial related data.
—To provide efficient financial management services.

Success in these areas rests upon a framework of people, policies, processes, systems and assurance. We have efforts underway in each of these areas which include: aggressive hiring and development programs; the "Internal Controls over Financial Reporting (ICOFR) Playbook"—a corrective action plan that addresses identified audit weaknesses; the development of a comprehensive set of financial management policies which represent the best practices of the Federal Government; and a plan to continue the migration and reduction in the number of our financial management systems.

Of particular importance are internal controls. Sound internal controls are essential to effectively meeting the Department's mission. DHS must have a process in place by which it can test whether our internal controls are well designed and operating effectively on a continuous basis. This means that management must move away from reliance on what outside auditors determine is wrong, and be able to independently prevent and address issues before they become problems.

DHS CONTRACTING OUT

Question. Mr. Secretary, the Homeland Security Department is a contractor's dream. A bi-partisan study by the House Committee on Government Reform last year found that procurement spending "surged" between 2003 and 2005 from $3.5 billion to $10 billion. Your Undersecretary for Management recently testified that the amount was now $12 billion.

While the contractor "fat cats" get fatter, reports stream in on DHS contractors run amok. Since the last time you testified before the Committee, 82 independent reports on major DHS programs have been written—most citing wasteful spending or mismanagement. The latest problem is the contract to recapitalize the Coast Guard, called Deepwater. A systems engineer who worked on the contract referred to Deepwater as the "fleecing of America." Deepwater is just one example of a larger, systemic problem at the Department.

You owe the American taxpayers a solution. Please tell me and the American taxpayers what are you doing to fix this problem? I'm also concerned about the Department's reliance on contractors to perform work that is inherently governmental. Are you aware, Mr. Secretary, that 60 percent of your intelligence office is staffed by contractors? Are you aware these contractors cost 60 percent more than a Federal employee? One contractor, I am told, is paid $490 per hour. How is that allowed to happen?

Answer. The Department takes its responsibilities of being good stewards of the taxpayers' dollars seriously and is committed to obtaining the required goods and services in support of the DHS mission using sound procurement practices. To that end, the Chief Procurement Officer has established the following priorities to enhancing the Department's acquisition function:

—To build the DHS acquisition workforce to enhance the Department's acquisition program;
—To establish an acquisition system whereby each requirement has a well defined mission and a management team that includes professionals with the requisite skills to achieve mission results;
—To ensure more effective buying across the eight contracting offices through the use of strategic sourcing and supplier management; and
—To strengthen contract administration to ensure that products and services purchased meet contract requirements and mission need.

These four goals were communicated to contracting offices through the component heads to ensure alignment and focus on these high priority items. Progress in these four areas will significantly strengthen the Department's ability to perform its mission and implement acquisition programs successfully.

We are aware that contractors are expensive. The fiscal year 2008 Budget provides for conversion of certain contractor "billets" to Federal positions and, in addition, the Department's long range plans include further conversion to Federal positions in the out years.

FINANCIAL MANAGEMENT

Question. Seven recent audits have highlighted financial weaknesses and exposed alarming examples of waste, fraud, and abuse. For example, as of September 30, 2006, the Department could not reconcile $3.5 billion of transactions and balances with our trading partners. One report, released by the Office of the Inspector General last November, documented ten material weaknesses, two other reportable conditions in internal control, and instances of noncompliance with eight, that's right—eight—laws and regulations.

When will the Department receive a clean financial audit? What steps are you taking to produce a clean financial audit.

Answer. An audit opinion is dependent upon execution of corrective action plans. Currently corrective actions are scheduled to be completed by 2010.

To resolve the internal control weaknesses, the Department issued its first ever Department-wide corrective action plan in a document entitled the Internal Controls Over Financial Reporting (ICOFR) Playbook. The ICOFR Playbook outlines the additional steps the Department will take to resolve material weaknesses and build management assurances.

Substantial progress was achieved in our fiscal year 2006 financial statement audit. Two components, U.S. Customs and Border Protection (CBP) and the Federal Law Enforcement Training Center (FLETC) received favorable audit outcomes. CBP obtained an unqualified opinion on all financial statements and FLETC achieved an unqualified opinion on its first ever balance sheet audit. Significant progress has also been achieved in reducing conditions that comprise the Department's material weakness structure. For example, most significantly the U.S. Immigration and Customs Enforcement (ICE) eliminated five of its seven component-level material weakness conditions.

OFFICE OF SECURITY

Question. Explain why this office is investigating threats to foreign intelligence, terrorism, or criminal activities within or directed against DHS. Why are these issues not referred to the Office of the Inspector General, the FBI, or the Justice Department (Ref: USM–9)?

Answer. The Office of Security is responsible for protecting the Department's personnel, information, and property. To that end, the Office conducts audits, inspections, and investigations involving alleged crimes against DHS or its employees and allegations of illegal activities by DHS personnel. These activities are closely coordinated with the investigations of fraud, waste, and abuse conducted by the Office of

Inspector General. In practice, if the Inspector General declines to investigate allegations involving DHS Components that do not have investigative authorities or capabilities, it refers those allegations to the Office of Security. For issues involving foreign intelligence or terrorism threats, the Office works closely with the Federal Bureau of Investigation (FBI) through the assigned FBI detailees, and refers investigations as appropriate.

CHIEF PROCUREMENT OFFICER

Question. When will Congress receive the Procurement Oversight Plan and an assessment of the adequacy of the numbers and training of those personnel?

Answer. The Department is in the final review of the Procurement Oversight Plan before sending it to the Hill. For fiscal year 2007 the Acquisition Oversight Office is authorized ten billets by the Chief Procurement Officer. As of March 1, 2007 there are five personnel in place performing the oversight function in accordance with the plan. The personnel on board have an average of 18 years of relevant procurement experience, and are all certified as Level III Acquisition professionals by virtue of their training and experience. Of the remaining billets, four people have been tendered offers of employment and are pending the clearance process before coming aboard. The DHS Acquisition Oversight Directorate currently has one vacant position. As with the current on-board personnel, all are experienced, senior procurement professionals, fully trained and certified in their current agencies. Upon arrival, they will each apply for DHS certification as Level III Acquisition Professionals. The DHS certification requirements include continuous education in order to maintain certification. The authorized billets for fiscal year 2007 are sufficient to address the initial oversight program in DHS. As the program progresses the workload will be continuously assessed and the CPO will address workload and personnel requirements as they arise.

CHIEF HUMAN CAPITAL OFFICER

Question. Has the compensation committee been established? What were the results and observations of the initial phase converting select employees to the market-based compensation system?

Answer. The Department has not established the Homeland Security Compensation Committee (HSCC). A draft committee charter, proposed members, and training requirements have been developed for consideration. The HSCC will be established prior to the implementation of classification and pay administration changes.

To date, the Department has not converted employees to the new pay system. We are considering implementing a pilot for a small group of employees to evaluate the effectiveness of the planned classification and pay system changes and will be happy to report out on observations and results at the conclusion of the pilot.

Question. What retention incentives are being considered for Department-wide adoption?

Answer. Department-wide policy establishes parameters within which the Components may establish their own plans for the use of retention incentive programs. All components of the Department are delegated authority to offer any of the retention incentives, such as student loan repayment, that are available under Title 5 United States Code. The extent to which the incentive programs are implemented depends upon each Component's funds availability and staffing needs.

Question. Provide a summary of the nine required training activities to be deployed on the Learning Management System DHScovery. Why are the standards and model being developed after the three programs are scheduled for deployment?

Answer. The nine required training courses/activities to be deployed on the Learning Management System are Federally mandated to ensure that all DHS personnel comply with Federal laws and regulations, Executive Orders, DHS rules and regulations, and other applicable guidance in reference to any and all mandatory training requirements for U.S. Government employees. These courses are:

—IT Security Awareness
—Prevention of Sexual Harassment
—Privacy Act/FOIA
—Constitution Day
—No FEAR Act/Whistleblower
—Thrift Savings Plan
—Ethics
—General Security Refresher
—Leadership Training Program

Two of the three (Prevention of Sexual Harassment and Constitution Day) will be deployed by the end of fiscal year 2007 on the DHScovery Learning Management

System. The "No FEAR/Whistleblower Training" has recently been delivered for fiscal year 2007 through the DHS portal.

The answer as to "why standards and content models are being developed after three programs are scheduled for deployment" requires clarification. The DHS Advanced Distributed Learning (ADL) Policies & Standards Guide Version 3.0 dated May 2006 was developed in collaboration through the DHS Training Leaders Council (TLC) ADL Working Group and will remain a dynamic document to meet the needs of the department and changing technology. The intent is to deliver all nine courses enterprise-wide through the Learning Management System with a training schedule that cycles on a fiscal year basis with each course available every year. DHS components have the option of supplementing the online course offerings with traditional classroom instructor-led courses as logistical requirements permit.

All courses should adhere to generally accepted principles of sound instructional systems design (ISD) as the universal standard while the Policies & Standards Guide ensures ADL content is designed and developed to platform and Department specifications. The DHS ADL Program Office continues to work with subject matter experts and components through the ADL Working Group to ensure that the courses meet Section 508 Compliance criteria as well as SCORM (Shareable Content Object Reference Model) specifications.

Question. Provide an update on the SES Candidate Development Program. Has it been submitted to OPM and been approved?

Answer. OPM Approval: The SES Candidate Development Program (CDP) was submitted to OPM for review in November, 2003, and received OPM's approval February 4, 2004.

Candidate Selection.—Candidates were selected by a panel of DHS executives. Selection to this program was highly competitive, resulting in 15 Candidates being selected from applicants across the Department and other Federal agencies.

Program Participants.—The resulting inaugural CDP includes two non-DHS participants (State Department and DOD) and 13 DHS participants from a cross-section of DHS: US SIT, DNDO, FLETC, ICE, CBP, TSA, USCG, USM/CFO, USM.CPO, HQ Policy, Science and Technology, and HITRAC.

Competency Assessment and Benchmarking.—Candidates completed an executive level simulation-driven Assessment Center process conducted by (OPM) to identify relative strengths and weaknesses of each Candidate's initial leadership skill. Additionally, each Candidate received 360 feedback from peers and supervisors. In combination, these assessments established individual Candidate development goals.

Program Activities.——

Development of broad ECQ competencies	Federal Executive Institute, ''Leadership for a Democratic Society''
	Federal Executive Institute, ''Partnering with the Legislature: Working with Congress''
	Treasury Executive Institute, ''Gettysburg, Lessons from the Battlefield''
SES Mentoring	Each Candidate is assigned a member of the DHS SES for the duration of the 18 month program
Executive Development Plan (EDP)	Working with the mentor, each candidate will identify training, conferences, meetings, or other activities selected to meet specific individual development goals
	Each candidate will receive a ''DHS learning account'' to fund developmental activities targeted to address individual needs
Rotational or developmental assignment (DA)	Each candidate will complete a 4-month Headquarters-based assignment designed to put the candidate in a senior-level ''deputy'' capacity
	Assignment performance will be assessed by the DA supervisor against position performance goals, standards, and execution of ECQs
E-learning	Each Candidate will select and complete 1 e-course per ECQ based on individual development needs

SES Certification.—Candidates will progressively develop their portfolio of activities and program results for submission to, and certification by, OPM at the end of the 18-month program. Upon certification, successful candidates will be eligible for non-competitive assignment to the SES.

Orientation Program.—This event marks the beginning the Candidates' development period. During the Orientation, candidates will receive briefings from guest

speakers and DHS senior leaders, meet their mentors, participate in OPM-facilitated training with their mentors to establish a successful mentoring partnership, and begin developing their Executive Development Plans.

CHIEF ADMINISTRATIVE OFFICER

Question. The fiscal year 2008 request includes 139 FTE for Departmental Operations. Presumably, if approved, the bulk of these FTE would be working at the NAC. Is there enough room and infrastructure at the NAC to accommodate this FTE increase?

Answer. No, there is not enough room to accommodate this full request at the NAC, nor is it envisioned all of these elements would be housed there.

OSEM growth will need to be accommodated at the NAC and it is anticipated that re-shuffling of existing NAC elements and some reconfiguration will be needed to accommodate this growth.

For the remaining elements, the best fit would be to house these personnel with their elements which currently reside off-NAC. Some reconfiguration work off-NAC will be accomplished to handle a portion of this growth, and it is anticipated new space would need to be acquired to accommodate this added increase in personnel.

During fiscal year 2008, plans are to update the DHS HQ Occupancy Plan to determine best options for housing at DHS locations, keeping an eye on leasing terms and relocation plans to St. Elizabeths.

Question. USM page 5 requests an increase of $2.357 million for "facilities, property, equipment and material resources; safety, health and environmental programs." Please provide further justification for this budget increase. Congress was briefed that the new NPPD would be responsible for coordinating safety, health and environmental programs across the Department.

Answer. See the table below for a breakout of the increase.

New Personnel, 8 FTE (16 FTP) Salary and Benefits	$1,000,000
Inflation on existing S&B	193,000
Rent increase in excess of inflation	1,164,000
Total budget Request for fiscal year 2008	2,357,000

Safety, health and environmental programs are managed Department-wide by the DHS Chief Administrative Officer (CAO). They have been the responsibility of the CAO since the inception of the Department. The statement about NPPD's coordinating role in environmental, safety and health is not accurate. NPPD does have a coordinating role in specific issues, for example, IP Sector.

Question. Provide an update on money obligated/expended for the following NAC projects: perimeter fencing, security card access/recognition at building entry points, and renovations for buildings 17 and 19.

Answer. Fiscal year 2005 and 2006 appropriations have been obligated via a Reimbursable Work Authorization to GSA. Fiscal year 2007 appropriations of $8.2 million have not been fully committed as of March 2007.

Campus-Wide Physical Security Upgrades.—A number of vital security upgrades have been identified for several buildings and the perimeter of the campus. The design contract has been awarded; the concept of operations is defined: and the program requirements are complete. Final design work and construction documents are anticipated to be complete by the 4th quarter of fiscal year 2007; however elements of this project are expected to be awarded sooner. It is planned that construction work on the command center will be started in early spring. We are evaluating the entire construction phasing of this project to determine which elements can be awarded separately in order to improve the physical security of the NAC. Project elements include a vehicle screening facility, visitor processing center, employee processing facility, new lighting, cameras, sensors, guard booths, bollards, fencing and roadway modifications.

Building Security Access Control.—In order to control access control to individual buildings, card swipes and a control system was installed throughout the NAC. This work is complete.

NAC 17.—Ground floor, 1st floor, 2nd floor work is complete. Design of the space reconfiguration for 3rd floor is complete and construction has begun. GSA is planning to repair the NAC 17 roof. Move in after roof repair and 3rd floor construction is estimated to be completed in the 4th quarter of fiscal year 2007.

NAC 19.—The design of the basement of NAC 19, to convert industrial warehouse space to intelligence and analysis collaboration space, is underway. The basement project for NAC 19 includes upgrade of all mechanical and electrical systems to sup-

port the completely renovated NAC 19 and to support NAC 18. This project includes the demolition of NAC 61. Construction is expected to be complete by the 2nd quarter of fiscal year 2008.

The construction of SCIF office space in Building 19 1st and 2nd floors and is complete. Tenants have moved in.

CHIEF FINANCIAL OFFICER

Question. There are several agencies that have noteworthy problems that have prevented the Department from receiving a clean financial audit. The Coast Guard seems to have the most number of areas that have to be corrected. How are you sharing the best practices of financially "sound" agencies to improve the performance of the Coast Guard and other agencies?

Answer. DHS is committed to sharing best practices. Throughout the summer of 2006, the DHS CFO sponsored a series of Corrective Action Plan workshops designed to help USCG and other DHS Components identify crosscutting root causes of internal control deficiencies focusing on the areas of people, policies, processes, and systems. These workshops led to the establishment of the Department's first ever Department-wide corrective action plan in a document entitled the Internal Controls Over Financial Reporting (ICOFR) Playbook. The ICOFR Playbook outlines the additional steps the Department will take to resolve material weaknesses and build management assurances.

To help improve the performance of the Coast Guard and other agencies, corrective action plan efforts are formally monitored on a monthly basis by the DHS CFO, Office of Management and Budget (OMB), and the Office of Inspector General. On a quarterly basis, progress will be reported to the Office of the Secretary to hold both Component and Departmental Management accountable for results.

Question. The Inspector General's recent report on the National Security Cutter (OIG–07–23) referred to a comment by the U.S. Coast Guard on page 38 of the report that the DHS Office of the Chief Financial Officer and the Office of General Counsel currently are working on Department-wide guidance and process procedures concerning relations between the DHS OIG and DHS components. Why is this necessary? DHS Management Directive 0810.1 already requires all DHS employees to "cooperate full" with the DHS IG. The IG requested departmental support and enforcement of the existing procedures. What is DHS doing to respond to that request?

Answer. As indicated, Management Directive 0810.1 directs DHS employees to "[c]ooperate fully by disclosing complete and accurate information pertaining to matters under investigation or review" by the Office of Inspector General (OIG). The directive further requires the component agencies to "provide prompt access for auditors, inspectors, investigators, and other personnel authorized by the OIG to any files, records, reports, or other information that may be requested either orally or in writing" and encourages employees to "inform the investigating entity of other areas or activities they believe require special attention." DHS supports this Management Directive and strongly encourages compliance by DHS personnel.

The current Management Directive 0810.1 provides full guidance and appropriate procedures. We are nevertheless working cooperatively with the IG to find ways to improve the process by which the OIG is given access to information. As is the case when an issue arises, the Departmental GAO/OIG Liaison Officer routinely works to facilitate the process, take appropriate action, and resolve the matter. In addition, the IG meets regularly with senior DHS officials to work through overarching concerns, including the application of this MD. We are also considering efforts to better educate DHS employees regarding the existing Management Directive and to ensure consistency in its execution by DHS component agencies.

DHS will continue to work towards improvement of the processes in order to ensure full cooperation with the Inspector General.

US VISIT AIR EXIT PILOTS

Question. I have heard that the Department of Homeland Security intends to cancel the pilot airport exit portion of US VISIT next month. My staff had been briefed earlier that the pilots—currently underway in 12 airports and 2 seaports—would continue throughout this fiscal year. In its place, the Department plans to create one pilot program with one airline at one airport that places 2 kiosks at a ticket counter to capture biometrics of passengers. That's a far cry from commitments you've made to roll out the remaining portion of the US VISIT airport exit program by the end of the calendar year. What are your intentions with the airport exit portion of US VISIT?

Answer. The Department of Homeland Security (DHS) remains committed to a comprehensive exit deployment. DHS will begin with the integration of the collection of a biometric into the traveler's departure process at the airline check-in counter. The feasibility of maintaining the current air exit pilot process is being evaluated. Additionally, as part of the air solution, an analysis will be completed to determine the approach for integrating the biometric collection with the implementation of other DHS programs that impact the transportation companies, such as Custom and Border Protection's Advance Passenger Information System's Quick Query and the Transportation and Security Administration's Secure Flight.

SECURE FENCE ACT AND FLEXIBILITY

Question. The Secure Fence Act (Public Law 109–367), which President Bush proudly signed into law on October 26, 2006, directs the construction of approximately 700 miles of double layer fencing at specific locations along the Southwest border. In a separate action, as part of the fiscal year 2007 Homeland Security Appropriations Act, Congress appropriated $1.2 billion for border security fencing, infrastructure, and technology. Additionally, we gave you the flexibility to use the funds for border security needs in a manner that you believe will best secure the border.

Please describe your goals for using the flexibility we have given to you to secure the border and how those goals relate to the requirements of the Secure Fence Act.

Answer. Tactical infrastructure, such as fencing and vehicle barriers, is a critical part of the DHS strategy to gain effective control of our Nation's borders. However, neither fencing nor technology, alone, will provide the most effective or cost-efficient means of securing the border. One of the core elements of the DHS strategy is obtaining and deploying the right combination of personnel, technology, and infrastructure at the border.

By the end of calendar year 2008, DHS will deploy 370 miles of primary fencing. Through SBInet, DHS will also deploy an integrated, optimized solution, to include tactical infrastructure, technology, and response platforms. This solution may involve ground sensors, cameras, radars, roads, barriers, and fences—all integrated to provide maximum security. Developing and fielding the appropriate combination of technology and tactical infrastructure will depend on the requirements and needs of the selected areas of deployment, encompassing several geographically diverse border areas.

U.S. Customs and Border Protection (CBP) recently submitted a refined SBInet Expenditure Plan to Congress, reflecting the Department of Homeland Security's continued efforts to secure the border through the proper mix of technology, personnel, and tactical infrastructure. The enclosed chart depicts the revised plan, which was modified to reflect the Congressional intent, as expressed in the Secure Fence Act. This acceleration of physical infrastructure construction reinforces the Administration's commitment to the ultimate goal of securing the border.

[Dollars in thousands]

WBS	Name/Effort	Fiscal Year 2005 Annual Approp	Fiscal Year 2006 Supplemental	Fiscal Year 2007 Enacted	Dec 4 Exp Plan Totals	Feb 4 Exp Plan Totals	Fiscal Year 2008 Budget Request
1	Mission Engineering				$71,866	$77,400	$46,000
	Management Task Order	$36,800		$13,066	49,866	60,000	30,000
	Mission Engineering					1,400	2,000
	1.2 Advanced Technology Development				10,000	10,000	10,000
	Advanced Technology		$5,000		5,000	5,000	10,000
	FenceLab		5,000		5,000	5,000	
	1.3 Systems Engineering		6,000	6,000	12,000	6,000	4,000
	Systems Engineering Support		6,000	6,000	12,000	6,000	4,000
2	Prime Mission Product—Technology				354,000	304,800	554,100
	TUCSON			150,000	150,000	110,000	45,000
	Project 28		20,000		20,000	20,000	
	YUMA		39,000	25,000	64,000	45,000	25,000
	EL PASO					20,000	210,000
	RIO GRANDE VALLEY					20,000	132,000
	FOLLOW-ON SECTOR DESIGNS						41,900
	TEXAS Mobile System			20,000	20,000	20,000	
	Common Operating Picture Phase 1 (Design)			12,000	12,000	12,000	
	Common Operating Picture Spiral 1			88,000	88,000	57,800	30,200
	Communication Upgrades/Interfaces						70,000
3	3.1 Infrastructure and Facilities				947,757	997,223	204,400
	Tactical Infrastructure				947,757	997,223	204,400

BORDER PATROL ON THE NORTHERN BORDER

Question. The fiscal year 2007 Homeland Security Appropriations Act directed that a number equaling 10 percent of the newly hired Border Patrol agents be stationed on the Northern Border in this fiscal year. Are you adhering to that direction? How many additional Border Patrol agents will be stationed on the Northern Border in fiscal year 2007?

Answer. In fiscal year 2007, the Office of Border Patrol plans to hire approximately 2,500 Border Patrol Agents. CBP is currently in the process of moving approximately 100 agents to the Northern Border, with an additional 150 to follow by the end of calendar year 2007.

Question. If your request for new agents is fully funded, what do you envision will be the total number of agents on the Northern Border by the end of fiscal year 2008?

Answer. Approximately 1,195 agents will be assigned to the Northern Border Sectors by the end of fiscal year 2008.

NORTHERN BORDER AIRWINGS

Question. Are the existing Northern Border air wings operating on a 24/7 basis? If not, what are the current levels of operation and are there plans to bring them up to a 24/7 level of operations? If so, when? Is the lack of a 24/7 operation the result of limited aircraft, personnel, and/or other issues? How much additional funding would be required to achieve 24/7 operations?

Answer. The three existing Northern Border air wing locations include Plattsburgh, Bellingham and Great Falls. Currently, none of the three are operating on a 24/7 basis.

The current levels of operations for the Northern Border air wing sites are as follows:

Plattsburgh and Bellingham are currently conducting operations 5 days per week, 16 hours per day, Monday through Friday and 8 hours per day Saturday and Sunday. CBP Air and Marine plans to bring them both up to 16 hours per day, 7 days per week in fiscal year 2008 with the addition of Air Interdiction Agents (Pilots) in fiscal year 2007.

Great Falls is currently conducting operations 5 days per week, 8 hours per day, Monday through Friday. CBP Air and Marine plans to bring them up to 16 hours per day, 7 days per week in June or July of this year with the completion of their new hire basic training requirements.

All three currently opened Northern Border air wing locations may be able to increase to 7×24 operations in mid fiscal year 2008, depending upon pilot hiring and training remaining consistent with current projected levels.

The following tables detail staffing, aircraft, and marine vessels needed to fully develop CBPs Northern Border air and marine. sites:

CBP Air and Marine
Northern Border End-State
($M NOA)

Staffing (Salaries & Expenses Account) - Includes air units reporting to the branches shown

	Pers	Cost Est	
Bellingham, WA	23	3.7	
Plattsburgh, NY	43	9.2	
Great Falls, MT	4	0.6	
Grand Forks, ND	17	2.8	
Detroit, MI	49	10.0	(Includes the 24 pers planned for activation in FY08)
Totals	**136**	**26.3**	

Aircraft (Operations & Maintenance (O&M) Procurements Account) - Above those already funded/on contract

Type	Qty	Cost Est	Contract?	
Multi-role Patrol Aircraft (DHC-8)	4-6	112.0 -168.(	Yes	(Reassessing NB requirements)
Light Observation Helo (EC-120)	5	12.0	Yes	
Medium Lift Helo (UH-60M)	4	136.0	Jun '07	(Joint acquisition with US Army)
C-550 Interceptor Sensor Upgrade	4	20.0	Jul '07	(RFI closed on Jan 28 / RFP in development)
Total		**280.0-336.0**		

Marine Vessels (O&M Procurements)

Type	Qty	Cost Est	Contract?
Interceptor Class	**10**	**4.0**	Yes

Detroit Activation	Included in the FY 2008 request ($11.0M in O&M; $6.1M in S&E)	

Base O&M	10.0	(For FY08 and beyond - to support increased air ops along the entire NB)

Summary:	($M)	
Salaries & Expenses	26.3	
O&M Procurements	284.0	(Lower end aircraft estimate)
O&M (Base)	10.0	

CBP A&M's Strategic End State calls for 24/7 operations at all of our Primary air wing locations; the current lack of 24/7 operations is directly attributed to a lack of personnel. According to the CBP A&M position model, it requires 2.1 persons per seat per shift to operate A&M aircraft. An example of this would be a C550 Interceptor that requires 3 Agents to operate (Pilot, Co-Pilot and Sensor Operator). By shift this equates to the following:

Shift—Persons
7×8 —6.3 (7)
7×16—12.6 (13)
7×24—18.9 (19)

However, as A&M continues its Northern Border expansion with Grand Fork's opening this fiscal year, followed by Detroit in the summer of fiscal year 2008, limited aircraft numbers will also become an issue that impedes 24/7 operations. Northern Border standup aircraft are currently being drawn from a slight excess in select Southern Border locations. This process is reaching its limit as little further drawdown can be accomplished without incurring a detrimental impact on the Southern Border missions. CBP A&M has various new aircraft acquisitions currently in progress with funds made available by Congress in fiscal year's 2006 & 2007. However, the procurement lead time for law-enforcement-configured aircraft can vary from 10 months to over 2 years, depending on type and competition from commercial users and/or other government agencies.

SAFE PORT ACT REQUIREMENTS

Question. What funds, and in which account(s), are included in the fiscal year 2008 budget request to meet the requirements of Sections 122, 123, 126, 203, 205, and the sections in Subtitles B and C of Title II of Public Law 109–347, the SAFE PORTS Act? If funds were not requested for any of these authorizations, please explain why for each section.

Answer. Congress passed the SAFE PORTS Act on September 30, 2006 and the President signed the bill into law on November 13. CBP has either met, or is on track to meet, all of the provisions mentioned in the question above. Moreover, CBP is already including needs arising from the SAFE PORTS Act provisions as we deliberate in the fiscal year 2009 budget process. The following is an update of the provisions:

Sec. 122. Inspection of Car Ferries Entering From Abroad

This section requires CBP to develop a plan for inspecting passengers and vehicles before boarding ferries bound to the United States. The plan has been completed and CBP is preparing notifications to Congress. No additional fiscal year 2008 funding is required.

Sec. 123. Random Searches of Containers

This section requires CBP to develop and implement a plan to conduct random searches of containers. CBP has a program in place to conduct random searches of containers and will provide a report to Congress by the due date of August 13, 2007. No additional fiscal year 2008 funding is required.

Sec. 126. Border Patrol unit for United States Virgin Islands

Office of Border Patrol (OBP) does not plan to establish a Border Patrol Station in the United States Virgin Islands (USVI) at this time. OBP's Ramey Sector is an integral part of the DHS/DOJ Caribbean Border Interagency Group (CBIG), which uses an integrated federated approach towards border security. The USVI is in the Ramey Sector's area of responsibility and its security levels are measured through close interagency partnerships and intelligence sharing. By developing joint operations to meet traditional and emerging threats, OBP and CBIG mitigate the threats in the USVI. OBP will continue to monitor the USVI through CBIG and will staff operations there as needed. Any additional budget or staffing requirements are addressed by OBP Ramey Sector's Operational Requirements Based Budget Plan (ORBBP). No additional fiscal year 2008 funding is required.

Sec. 203. Automated Targeting System

This section authorizes CBP's Automated Targeting System (ATS) and includes additional requirements. For fiscal year 2008, CBP requests $27,580,000 in PPA: "Systems for Targeting." This funding will be sufficient to fulfill the requirements of Section 203 for fiscal year 2008.

Sec. 205. Container Security Initiative

This section authorizes CBPs Container Security Initiative. For fiscal year 2008, CBP requests $156,130,000 in PPA: "Container Security Initiative." These funds are sufficient to fulfill the requirements in Section 205 for fiscal year 2008, and CBP is on target to produce the report to Congress required by this section by the due date of September 30, 2007.

Title II, Subtitle B—Customs—Trade Partnership Against Terrorism (C–TPAT)

This subtitle authorizes CBP's C–TPAT program. For fiscal year 2008, CBP requests $55,560,000 in PPA "C–TPAT." This funding is sufficient to fulfill most of the requirements of Title II, Subtitle B for fiscal year 2008.

Title II, Subtitle C—Miscellaneous Provisions

This subtitle includes provisions establishing a pilot integrated scanning system (Section 231), screening and scanning of cargo containers (Section 232), international cooperation and coordination Section 233), foreign port assessments (Section 234), pilot program to improve the security of empty containers (Section 235), and information sharing relating to supply chain security cooperation (Section 236).

Sections 231, 232, and 233—In the fiscal year 2008 Budget Request CBP requests an enhancement of $15,000,000 and 17 positions for the Secure Freight Initiative (SFI) in PPA: "Container Security Initiative." This funding is sufficient to fulfill the requirements of Section 231 for fiscal year 2008. Additional funding in this same PPA is sufficient to fulfill the requirements of Section 232 and 233 for fiscal year 2008.

Section 234—Foreign Port Assessments.

No funding was requested in 2008 to meet requirements from the SAFE PORTS Act. [NOTE—Response provided by Coast Guard]

Section 235—CBP has completed an action plan for the 1-year pilot and will be implementing the pilot this spring. Funding requested for PPA: "Inspections, Trade and Travel Facilitation at the Ports of Entry" is sufficient to fulfill the requirements of this section.

Section 236—Funding requested in fiscal year 2008 for PPA "C–TPAT" is sufficient to fulfill the requirements of this section for fiscal year 2008.

NATIONAL GUARD ON THE SOUTHWEST BORDER

Question. When do you anticipate reducing the number of National Guard troops supporting Operation Jump Start? If the troops like the work they are doing, are

performing their jobs well, and are placing no additional financial burden on DHS, why make any reductions?

Answer. The anticipated drawdown date is between July 15 and September 1 of 2007. During this period, as previously planned and as agreed to with DOD, the National Guard force is scheduled to be reduced to a total of 3,000 National Guard troops.

Phases of the Operation:

First Year Deployment—The initial commitment was up to 6,000 military personnel for the first 12 months of Operation Jump Start (July 15, 2006–July 15, 2007).

Second Year Deployment—The second phase is scheduled to commence on July 15, 2007. There will be up to 3,000 military personnel for the second year of Operation Jump Start (July 15, 2007–July 15, 2008).

On May 15, 2006, President Bush announced his plan to deploy up to 6,000 National Guard personnel for a period of up to 2 years, in support of U.S. Customs and Border Protection's (CBP) comprehensive strategy for gaining control of our Southern border. The plan was not intended as a long-term solution. Instead, it was designed to provide temporary mission-enhancing, though non-law enforcement, capabilities while CBP's own resources were increased. Throughout this period, CBP has continued to recruit, hire, and train [new] Border Patrol agents, with an anticipated total personnel increase of 6,000 by the end of calendar year 2008. Additionally, tactical infrastructure and technology are being added to the Southwest border through SBInet and other programs.

MASTER PLAN

Question. When will we receive the CBP Construction Master Plan?

Answer. The CBP Construction Master Plan is currently being revised to support the deployment of 6000 new Border Patrol Agents through fiscal year 2009. Projects in the construction plan need to be adjusted to emphasize rapid response facility solutions that support the schedule and dispersed locations in the agent deployment plan. It is anticipated that an updated CBP Construction Plan will be available in the near future.

C–TPAT

Question. There was no increase in positions in the budget for the Customs-Trade Partnership Against Terrorism. With only 157 Supply Chain Security Specialists, how can you ensure rigorous compliance with, and regular validation of, the more than 6,300 partners in over 50 counties? How long does it take before a partner enters the program and receives C–TPAT benefits before the initial validation occurs? And once validated, how often are partners re-validated? Are these validations unannounced? Why was no increase in positions requested in the budget?

Answer. With a current staffing level of 157, the C–TPAT program will be able to meet the established performance levels of the SAFE PORTS Act for fiscal year 2008. Due to current available technology and operational processes combined with the fact that only 400 companies were validated in the years of 2002, 2003 and 2004 and now require revalidation; the work volume is consistent with current staffing.

A partner that applies to the program will have its complete application reviewed within 90 days of submission. Once that review as well as vetting is complete, they are certified and the partner attains only Tier 1 benefits. Within 1 year of certification, the partner is then validated and is then eligible for Tier 2 or Tier 3 consideration.

Under the SAFE PORTS Act, partners are to be revalidated every 4 years. The 2007 Appropriations Act calls for revalidations every 3 years. Accordingly, the C–TPAT program will validate partners once every 3 years.

No. Validation notices are sent to the partner at least 30 days in advance.

The fiscal year 2008 Budget Request includes sufficient resources for the C–TPAT program to meet the established performance levels of the SAFE PORTS Act for fiscal year 2008.

COLLECTION OF OVERDUE DUTIES

Question. What prevents CBP from collecting overdue duties on goods entering the United States, especially from China? Would more duties be collected if additional staff and resources were provided and dedicated to this activity? Absent the responsibilities and actions of other Departments (i.e. Commerce), what more can CBP do unilaterally to increase the collection of duties (and/or increase the pressure on other Federal Departments to step up and do their share)?

Answer. Most uncollected duties are antidumping or countervailing duties rather than regular Customs duties. The underlying reason U.S. Customs and Border Protection (CBP) has difficulty collecting these types of duties is that they are assessed 1 to 3 years after the merchandise enters the United States. Under this U.S. antidumping system, the Department of Commerce (DOC) conducts an investigation and calculates an estimated antidumping and/or countervailing duty rate, which importers must pay to enter their goods into the United States. DOC then conducts a review of these entries, usually 1 to 3 years after the goods have entered, and calculates an actual/final assessment duty rate, which can and does fluctuate widely from the estimated duty rate. When the final duty rate is greater than the estimated duty rate, CBP must issue a bill to the importer for the difference. Unfortunately, the importer is all too often unable or unwilling to pay the bill issued by CBP and declares bankruptcy or simply disappears.

In order to protect the revenue and minimize revenue loss, CBP requires companies to maintain a bond, which acts as an insurance policy against non-payment of duties. However, importers are usually only bonded for the minimum amount of $50,000, so any additional antidumping or countervailing duties owed over and above this amount are usually uncollectible. To collect above the bond amount, CBP can go after assets. However, in most cases, the importers of these goods are either unable to be located or do not have adequate assets to cover the liability.

Since uncollected antidumping duties are most often the result of companies declaring bankruptcy or simply disappearing, it is very unlikely that more duties would be collected if additional staff and resources were provided and dedicated to duty collection.

CBP has taken steps to protect the revenue, including monitoring more closely whether the value of imported merchandise differs from the estimate of such value provided by the importer on the bond application. CBP revised its continuous bond policy to address the risk to the revenue posed by a potential change in the applicable rate of duty between the Commerce order rate and the final assessment rate. CBP also published a Federal Register Notice in October 2006 regarding the process used to determine bond amounts for importations involving elevated collection risks.

INSPECTION OF CONTAINERIZED CARGO

Question. How many cargo containers arrive in this country each year? How many are physically inspected? How many are screened? How many and what percent are screened for nuclear materials?

Answer. 11,615,595 vessel containers arrived the United States in fiscal year 2006. There were 11,323,070 in fiscal year 2005 9,796,282 in fiscal year 2004.

568,186 or 4.9 percent of all vessel containers arriving the United States in fiscal year 2006 were physically inspected.

Seventy-seven percent or 8,944,008 of all vessel containers arriving the United States in fiscal year 2006 were screened for nuclear materials.

Screening Defined: Scanning of a container using a radiation portal monitor or other radiation detection equipment.

INTERIOR IMMIGRATION ENFORCEMENT

Question. You have stated that three things are needed to achieve true border security. One of those is enforcement of our immigration laws in the interior of the United States I concur. But your budget request does not appear to support this statement. No new funds are requested for vital interior enforcement activities such as more fugitive operations teams or growth in worksite enforcement and alternatives to detention. Is this because you have caught, detained, and removed all of the illegal aliens in the interior of this country?

Answer. In fiscal year 2007 and in fiscal year 2008, Immigration and Customs Enforcement (ICE) is improving its ability to catch, detain, and remove illegal aliens from the interior of the country. In fiscal year 2008, ICE requested an increase of $28.7 million for the Criminal Alien Program. This increase will provide the resources for 22 additional teams to identify and remove criminal aliens from the United States. ICE requested additional resources for its IMAGE program, which helps employers identify authorized workers for its operations. ICE also requested additional funds for its 287 (g) program to train State and local law enforcement officials to assist ICE in the enforcement of immigration laws. And in the fiscal year 2008 request, ICE is requesting an additional 950 detention beds to detain illegal aliens.

ICE/DRO is funded for 75 teams, and during the remainder of the fiscal year will be deploying the remaining 22 teams. As a result of this growth, fiscal year 2008 will be the first full fiscal year when all teams are operational and will enhance

ICE's interior immigration enforcement activities. ICE will evaluate the success of the teams during fiscal year 2008 to determine the impact on the fugitive case backlog and evaluate how to reduce the fugitive population

In March of 2006, ICE/DRO had 18 operational Fugitive Operations Teams deployed. By March 2007, 35 additional teams were deployed, bringing the total number of deployed operational teams to 53, tripling the number of operational teams in just 1 year.

In fiscal year 2007, ICE/DRO is improving its Alternatives to Detention program. It is working with the service providers (private contractors) to modify the existing contracts to upgrade electronic monitoring in EMP and develop contract modifications to existing contracts that will expand enhanced supervision programs with emphasis on intensive case management. These ATD programs are designed to provide Field Office-specific enhanced supervision models that meet the particular requirements of each DRO Field Office. They promote public safety and enforce compliance with court orders. While immigration, district and circuit courts will continue to order the release of aliens from custody, these programs are an integral part of the case management process used to reduce absconder rates. In fiscal year 2008, the modification and upgrades will be fully realized and utilized to evaluate the success of the programs. These evaluations will be the basis for evaluating enhanced supervision programs nationwide, prioritized and based on demographics and size of the non-detained docketed alien population. Implementation will include intensive case management training, expansion of existing contracts, and solicitation for new contracts in participating sites and will enhance ICE's interior immigration enforcement activities.

Question. I know that during fiscal year 2006, your agents achieved 716 criminal arrests involving employers of illegal aliens. This is a major increase from the mere 25 arrests in fiscal year 2002. I also know that you removed over 404,000 illegal aliens last year. I applaud your recent highly visible worksite enforcement actions, but the work is not yet done. There are still between 11 million and 12 million illegal aliens residing in this country. Your budget request just scratches the surface. How can you achieve more robust enforcement if your budget request for fugitive operations, alternatives to detention, and worksite enforcement remains stagnant?

Answer. The Department of Homeland Security (DHS) is grateful for the strong support of Congress in providing the resources necessary to achieve improved enforcement of our immigration laws. The DHS approach to immigration enforcement is a layered one, which begins abroad, extends to our borders and ports of entry, and proceeds inward into the interior of the United States. The front line in this layered approach, located abroad, includes pre-inspection of foreign visitors by U.S. Customs and Border Protection (CBP) at certain foreign airports, DHS Visa Security Program oversight of the issuance of visas by the Department of State, investigative efforts by U.S. Immigration and Customs Enforcement (ICE) Attachs in more than 50 overseas offices, and the Department of State's Bio-Visa program. At our ports and borders, CBP's inspectors and Border Patrol agents prevent aliens from entering the United States illegally, thereby deterring future illegal immigration. Finally, for those aliens who do surreptitiously enter the United States or fail to comply with the terms of their admission to the United States, ICE has a comprehensive interior immigration enforcement strategy that includes efficient detention management, a robust National Fugitive Operations Program, and aggressive worksite enforcement.

For aliens who are apprehended, either attempting to enter the United States illegally or following an immigration violation, ICE has increased its detention capacity during fiscal year 2006 and fiscal year 2007, while using its existing bed space more efficiently. The average length of stay in ICE detention facilities has dropped from 90 days to 40 days. And with aliens subject to expedited removal, that time has dropped even more significantly. Since the end of fiscal year 2005, ICE has increased its bed space by 9,000 detention beds and has requested an additional 950 detention beds for fiscal year 2008.

Another important component of managing our detention capacity is the use of alternatives to detention designed to ensure that aliens appear for their scheduled hearings.

ICE's Alternatives to Detention (ATD) program, which includes both intensive supervision and electronic monitoring elements, allow certain aliens to be closely monitored in a non-custodial setting, thereby ensuring their cooperation with immigration enforcement efforts and optimizing the use of available bed space. The Intensive Supervision Appearance Program (ISAP), a component of ICE's ATD, has demonstrated significant potential in preventing aliens from absconding, as ISAP participants both appear for immigration court hearings and depart the United States when required at greater rates than their non-detained counterparts. Another ATD component, the Electronic Monitoring Program (EMP), which serves as a reporting

and case management tool for aliens released from custody, utilizes telephonic reporting and electronic devices (radio frequency and Global Positioning System (GPS) technology) and assists ICE officers in streamlining non-detained docket case management activities. Since its inception in 2003, the EMP has been used for over 9,000 aliens, the vast majority of whom (98 percent) were monitored under the telephonic report variant of the program.

ICE is working to increase both the profile and efficiency of the ATD program in a number of ways. First, appropriations to the ATD program increased from 28.5 million in fiscal year 2006 to 43.6 million in fiscal year 2007, reflecting more than a 50 percent increase in funding. Second, ICE is looking at optimizing ATD costs and increasing program efficiency through improved contracting and contract renegotiation with ATD service providers. Other initiatives to improve ICE's ATD programs are underway, as well: improving national program management by filling headquarters vacancies; redefining the ISAP supervision model to allow increased flexibility in precise intensity of supervision (e.g., intense, intermediate, regular), thereby enabling ICE personnel to tailor the intensity level to the specific circumstances of an alien's case (e.g., whether immigration court proceedings are still pending and whether the alien has a criminal record); refining contractor case management tasks to focus on alien court appearances, compliance with court orders, and cooperation with ICE efforts to obtain travel documents; exploring additional supervision technologies, such as GPS ankle bracelets; developing a memorandum of understanding with the Executive Office for Immigration Review (EOIR) to fast-track ATD participants through the EOIR immigration hearing process; and re-evaluating the geographical locations of certain ATD programs.

While increased detention efficiencies and innovative initiatives like ATD help to ensure compliance with U.S. immigration laws, DHS recognizes that it is also important to target aliens who have failed to comply with those laws. ICE has the National Fugitive Operations Program (NFOP), dedicated to ensuring that aliens who fail to depart after being lawfully ordered to do so in the context of removal, deportation, or exclusion proceedings, or fail to report to DHS after receiving notice to do so, thereby becoming "fugitive" aliens, are located and removed from the United States. In March 2006, ICE had 18 operational Fugitive Operations Teams (FOTs) deployed nationwide. By March 2007, this number had nearly tripled, with 53 FOTs now locating and arresting fugitive aliens. ICE plans to deploy the remaining 22 teams by the end of fiscal year 2007, bringing the total number of FOTs to 75. In fiscal year 2006, the work of the NFOP resulted in the removal of over 12,000 fugitive aliens from the United States. The number of NFOP enforcement activities have increased as the program has grown; for each of the last 4 fiscal years (fiscal year 2003, fiscal year 2004, fiscal year 2005, and fiscal year 2006), the NFOP conducted 3,390, 10,986, 11,210, and 23,536 fugitive enforcement activities, respectively. To date, in fiscal year 2007, the NFOP has conducted 31,975 fugitive enforcement activities.

ICE's interior enforcement strategy includes an aggressive worksite enforcement component aimed at deterring employers from hiring unauthorized workers and thereby reducing the financial incentive for aliens to enter the United States illegally. Aliens who commit identity fraud in order to work illegally are prosecuted administratively, criminally, or both, and then removed from the United States. Illegal employers are criminally prosecuted and their ill-gotten gains seized. These efforts send a strong message of deterrence and serve to combat the powerful economic incentives to illegal immigration created by the availability of unlawful employment. By reducing these incentives, which draw illegal aliens into the U.S. interior, ICE and CBP will be able to focus their border security resources on other criminal violations at the border. Thus, these worksite enforcement efforts, combined with detention alternatives, fugitive operations, and other initiatives, create a layered, strategic approach to immigration enforcement.

DEFICIENT DETENTION BEDSPACE REQUEST

Question. As the Border Patrol increases its presence and activities along the Northern Border, apprehensions of illegal aliens can be expected to increase. It would seem that to avoid reverting to a policy of "catch and release" of illegal aliens along the Northern Border, additional detention beds will be required.

In fiscal year 2007, Congress funded a healthy ratio of 1,500 new agents and 6,700 new beds. However, the fiscal year 2008 request is for 3,000 new agents but only 950 new beds.

Given the increased presence and level of activity along the Northern Border, to say nothing of the different illegal alien population in the North, as well as further

increases in enforcement of immigration laws in the interior, doesn't that require a more robust number of detention beds?

Answer. In order to determine the number of beds required for detention operations, the U.S. Immigration and Customs Enforcement (ICE) Office of Detention and Removal Operations (DRO) has developed a customized bed space forecasting model, which factors apprehension "input" from the ICE Office of Investigations (OI), U.S. Customs and Border Protection (which includes inspectors at the ports of entry and Border Patrol agents), DRO's Criminal Alien Program and National Fugitive Operations Program, as well as State and local immigration enforcement activity performed under the authority conferred by section 287(g) of the Immigration and Nationality Act. Based on apprehension forecasts provided by these entities, the DRO model calculates detention capacity requirements by timeframe, DRO Field Office location, and key detention category. These apprehending agencies use various methodologies to generate detention capacity forecasts, including historical data, seasonality trends, current and planned staffing levels, length of detention, case type, geographic region, and other criteria. To ensure the accuracy of the detention capacity model, DRO conducts monthly capacity planning meetings with the apprehending agencies to analyze and compare actual apprehensions to forecasted data.

For fiscal year 2008, DRO requested additional resources to provide necessary and appropriate detention capacity to support 600 additional detention beds, contract services and support personnel for the Detention Management program. The fiscal year 2008 bed space request is $31 million, which includes 600 additional beds at $23.2 million and 56 positions at $7.8 million. In addition, DRO has also requested funding to support implementation of the 287(g) program. In fiscal year 2007, a minimum of 33 State and local jurisdictions are expected to participate in the "287(g)" program and are collectively forecasted to produce a minimum of 66,000 apprehensions, with an average length of detention of 33 days. The fiscal year 2008 bed space request for 287(g) program support is for $16.9 million, which includes 350 additional beds at $12.4 million and 33 positions at $4.5 million. Combined, these budgetary requests reflect our predicted detention capacity needs, as derived from the DRO bed space forecasting model

FINDING VISA OVERSTAYS

Question. The Government Accountability Office's Director of Homeland Security and Justice have testified that Immigration and Customs Enforcement "has between 200 and 300 agents out looking for" more than 5 million visa overstays. Immigration and Customs Enforcement employs over 8,000 special agents, yet only between 200 and 300 of them are looking for visa overstays. If we know someone has overstayed his or her visa, should not we be direct more agents to finding these millions of individuals and removing them?

Answer. ICE has a comprehensive strategy to immigration enforcement. For aliens who receive visas and fail to depart as required, ICE targets its investigative resources to locate and apprehend those who pose an elevated national security or public safety threat. The Compliance Enforcement Unit (CEU), created in June 2003, to specifically target such visa violators. Prior to the terrorist attacks of 9/11, no process existed to identify and prioritize visa violators according to risk. The CEU uses nonimmigrant registration and tracking systems, including the Student and Exchange Visitor Information System (SEVIS), the National Security Entry/Exit Registration System (NSEERS), and the U.S. Visitor and Immigrant Status Indicator Technology (US VISIT), to identify overstays and student status violators for field investigation. (Law Enforcement Sensitive Document will be transmitted under separate cover)

SWIFT WORKSITE ENFORCEMENT

Question. How many illegal aliens where arrested in the so called "Swift" worksite enforcement? For all illegal aliens taken into custody in these actions, how many were criminal aliens, how many are still in detention today, how many have been removed, how many were bonded out—as of March 1, 2007? Also, what was the total cost of this one worksite enforcement action—in terms of investigative man hours, overtime, detention and removal costs, and any reimbursements to State, local, or other participating Federal law enforcement agencies?

Answer. As part of "Operation Wagon Train," the December 2006 worksite enforcement initiative that targeted widespread employment violations at Swift & Company, ICE arrested 1,297 aliens who were present in the United States in violation of law. Of this number, 274 have been charged criminally.

Based on its Deportable Alien Control System (DACS), ICE's Office of Detention and Removal Operations reports that, as of March 8, 2007, 158 aliens apprehended

as part of Operation Wagon Train remain in ICE custody, 774 aliens have been removed from the United States and 107 aliens were released on bond pending adjudication of their cases by an immigration judge.

It is not possible for DHS to account for the full cost of Operation Wagon Train itself since many non-DHS entitites were involved in the effort. However, ICE was able to identify the bulk of the costs associated with this operation incurred by its Office of Investigations, Office of Detention and Removal Operations, and Office of the Principal Legal Advisor.

The ICE Office of Investigations incurred costs of approximately $1.9 million for travel, overtime, and IT costs related to Operation Wagon Train. As of March 27, 2007, the ICE Office of Investigations has expended a total of 115,377 man-hours on the Wagon Train investigation.

As of March 8, 2007, the ICE Office of Detention and Removal Operations had incurred approximately $3,891,606 in costs. This total includes $3,079,615 in detention-related costs (32,417 detainee-days × $95 per day detainee cost), $483,734 in general operational expenditures (including employee travel and lodging), and $328,257 in employee overtime costs.

ICE's Office of the Principal Legal Advisor (OPLA), which is responsible for representing DHS in all proceedings before the Executive Office for Immigration Review, including bond hearings presided over by immigration judges, estimates, while it does not discretely track worksite enforcement-related expenditures, its costs exceed $135,000. This total includes $10,835 in travel costs for OPLA attorneys deployed to provide on-site support for the operation, and $124,873 in salary and benefit costs (based upon an estimated total of 1,737 attorney-hours committed to the operation by senior OPLA attorneys). This does not include costs incurred by the Department of Justice in defending ICE's worksite enforcement authority in Federal court during the course of the lawsuits brought by alien advocates in response to Operation Wagon Train.

These three ICE programs collectively spent more than $5.9 million in executing this operation.

FAMILY DETENTION CENTERS

Question. There have been recent negative press reports about the Hutto family detention facility in Texas. Please describe how this facility complies with all DHS, Bureau of Prisons, and Congressional detention standards and guidance as well as what additional steps if any need to be made to bring it fully into compliance with these standards.

Answer. The family detention at the T. Don Hutto Residential Center has been overseen by the National Juvenile Coordination Unit, a headquarters component of the U.S. Immigration and Customs Enforcement (ICE) Office of Detention and Removal Operations (DRO). This Unit has administered the reviews of facilities used to hold alien juveniles and families. In recognition of the unique challenges presented in the area of alien juvenile and family detention, ICE recently created a new headquarters unit dedicated to ensuring that ICE meets the highest standards in providing a safe and humane environment for family detention, the Juvenile and Family Residential Management Unit (JFRMU). The JFRMU, which was formally announced on March 30, 2007, will report directly to senior DRO leadership, have direct management authority of conditions of confinement at ICE's family facilities, and bring a fresh approach to the oversight of juvenile and family detention issues.

As with all DRO detention facilities, facilities used to hold alien juveniles and families are inspected at least once per year to ensure that ICE requirements for appropriate conditions of confinement are being upheld. This is a robust inspections program that provides a series of requirements designed to ensure that inspections of facilities are conducted in a uniform manner and focus on the safety, security, and welfare of ICE detainees. During the annual inspection, ICE uses established procedures and guidance to conduct the facility review.

In order to ensure the highest level of care and treatment for its detainee population, and to ensure independent internal management controls, the ICE Office of Professional Responsibility (OPR) has created a Detention Facilities Inspection Group (DFIG) within its Management Inspections Unit. The DFIG will independently validate detention inspections conducted by DRO by performing quality assurance over the review process, insuring consistency in application of detention standards, and verifying corrective action. OPR oversight will complement existing ICE efforts to provide appropriate conditions of conditions of confinement for all aliens in ICE custody, including alien juveniles and families.

ICE strives for complete compliance with all applicable standards. If a facility is found to be "deficient" or "at risk" in implementing ICE standards, the facility is

required to provide a Plan of Action (POA) that outlines the corrective actions to be taken. DRO inspectors follow up with facility staff to ensure that all actions identified in the POA have been implemented in a timely manner. When warranted, special assessments and quality assurance reviews are also conducted. Special Assessments are on-site evaluations conducted within 1 to 2 days of a triggering event (e.g., escape, disturbance, allegations of staff mistreatment). Quality assurance reviews are on-site visits conducted as an additional quality control measure of the inspection process.

ICE's current standards applicable to the T. Don Hutto facility are tailored to address the needs of that facility's detainee population, from religious services, to recreation, to access to legal services, to educational services for school-aged children. These standards are drawn from the 38 National Detention Standards applicable to all facilities used for ICE detainees and the 151 ICE Juvenile Shelter Care Standards, adopted from the American Correctional Association (ACA) In assessing these sets of standards, ICE determined that some, such as the National Detention Standard on detainee "classification" (i.e., classification based on risk level), were not applicable to a non-secure facility like Hutto, while others, such as the ACA Juvenile Shelter Care Standards on sleeping arrangements and telephone usage, needed to be modified for a family residential facility to preserve family unity and to maintain parental authority (specifically, by allowing family units to sleep in the same room and requiring parental permission for telephone service use by children).

Moving forward to address the evolving nature of family detention, ICE is developing its own juvenile and family detention standards. As with the National Detention Standards, these family standards will incorporate input from the NGO community and will ensure the safe, secure, and humane treatment of aliens in ICE's custody. Taking into account lessons learned from the Hutto facility and the expertise of the NGO community and other professionals, these standards will address the needs of a family detainee population, including education, recreation, nutrition, health care, and custody. These draft standards are currently undergoing review within ICE.

AIR CARGO—COMPLIANCE

Question. TSA does not require cargo inspectors to address all security requirements during each inspection. On the other hand, while the Coast Guard conducts spot checks of port facilities, they also require one inspection each year that addresses all security requirements for port facilities. Shouldn't DHS have a consistent policy for compliance exams? Which approach will you use for chemical facility compliance?

Answer. DHS uses risk based methodologies for the conduct of compliance exams, including both spot checks and in-depth inspections. While this may, at times, lead to the appearance that different policies are being followed, the fundamental principle applied is the same: directing limited resources toward areas of highest threat and vulnerability.

The Coast Guard conducts spot checks of facilities as part of its overall port security and safety missions. In addition, it uses risk based decision making to target facilities for further attention, including increased spot checks and additional facility inspections, as a means of maximizing operational performance within the constraints of USCG resources.

TSA's approach to compliance inspections of air cargo is also risk-based. TSA has prioritized the regulatory air cargo requirements for air carriers and Indirect Air Carriers (IACs, also referred to as freight forwarders or consolidators) and has identified critical security elements for the various regulated parties. In some cases the security programs followed by the air carriers and IACs contain more than 100 pages of specific air cargo mandates; TSA believes applying equivalent scrutiny to each mandate is not an effective or efficient use of agency resources and is not aligned with the Department's risk based approach.

The critical security elements are the regulatory requirements that if found to be non-compliant, pose greater risk to the cargo security supply chain. They include such vital topics as known shipper qualification, access control to vehicles and cargo facilities, and completion of background checks for employees and contractors with access to the restricted areas of an airport. TSA's fiscal year 2007 Compliance Work Plan calls for critical air cargo security elements to be evaluated twice annually for all air carriers and IACs. Critical inspection elements are those security requirements which, if compromised, could more likely lead to an air cargo related incident. Examples of critical air cargo inspection elements are requirements related to known shipper qualification, access control, and cargo screening. Compliance inspections for the remaining security requirements are conducted based on risk analysis

decisions by the local Federal Security Director and as specified by TSA Headquarters.

The Department's initial inspection efforts—following the guidance given in Section 550 of the 2007 DHS Appropriations Act—will focus on chemical sites determined to have the highest risk to national security. The Department has structured its chemical security regime along a four tiered system, with those sites posing the highest risk warranting placement in Tiers 1 and 2, and those of lower risk falling into tiers 3 and 4.

Following this structure, the Department's initial inspection priority will be on the highest risk facilities, or Tier 1 facilities. Each Tier 1 facility will be inspected by the Department, and those inspections will address all of the risk-based performance standards appropriate to that facility. The Department will then begin to expand inspections to include all Tier 2 sites, and then address Tier 3 and 4 sites.

It is important to note that throughout this inspection cycle the Department will be continually evaluating its facility tier structures, and will frequently conduct additional inspections of both legacy and redetermined Tier 1 and 2 sites (initial demarcations will fluctuate due to security enhancements). This consistent inspection approach ensures that those facilities that present the most risk receive the proper evaluation and inspection by the Department, and that the dynamic nature of the chemical sector does not impede the Department's ability to secure these high risk facilities.

AIR CARGO—INTERNATIONAL IN-BOUND CARGO

Question. TSA has 300 air cargo inspectors focusing on domestic air cargo and 10 inspectors focusing on international in-bound air cargo. What are TSA international inspectors responsible for? How many international airports and facilities send air cargo via commercial or all-cargo aircraft to the United States? How often does TSA assess the security of these facilities?

Answer. The 300 Cargo Aviation Security Inspectors were hired to conduct domestic cargo inspections. Ten International Cargo Aviation Security Inspectors (ICASIs) will be hired and assigned to the International program and conduct cargo inspections outside the United States. These 10 positions are in addition to the 300 domestic positions. ICASIs will conduct All-Cargo Air Carrier inspections at last points of departure to the United States. ICASIs will also assist in conducting cargo related inspections on passenger aircraft with last points of departure to the United States.

Approximately 120 international airports and 180 foreign air carriers transport cargo via passenger aircraft and all-cargo aircraft to the United States.

The Transportation Security Administration (TSA) inspects domestic U.S. flag aircraft operators and foreign flag air carriers at foreign airports at least once a year and conducts airport assessments (including cargo facilities) every 1, 2, or 3 years. The frequency of airport assessments is determined by a risk-based methodology. TSA will assess All-Cargo carriers at foreign locations at least once a year.

AIR CARGO—COVERT TESTING

Question. Does TSA have a covert testing program for air cargo? If so, describe how air cargo facilities are tested. Provide the funding level and FTE dedicated to this effort. Does TSA have the authority it needs to effectively assess security at these facilities?

Answer. Yes, the Transportation Security Administration (TSA) does have a covert testing program for air cargo. Current protocols involve TSA staff posing as an unknown shipper and attempting to tender cargo to an Indirect Air Carrier or directly to a passenger air carrier. The testing is coordinated and overseen by the 300 TSA cargo inspectors as part of their routine inspection related activities. Other TSA personnel that are not known to the regulated parties are utilized as "testers" under the direction of the cargo inspectors. Approximately $500,000 was budgeted for the covert testing in fiscal year 2007.

Yes, the Transportation Security Administration's compliance inspection authority under 49 CFR sections 1503.3, 1542.5, 1544.3, 1546.3, and 1548.3, extends to all aspects of the air transportation supply chain. Specifically, this applies to airports, air carriers, indirect air carries, and other entities.

AIR CARGO SCREENING

Question. Currently, a small percentage of air cargo is physically screened and the limited responsibility falls on industry. What are the most prevalent methods of physical screening today for such inspections?

Answer. The most prevalent methods used by industry to screen air cargo are manual search, followed by the use of Explosive Trace Detection and x-ray.

AIR CARGO COMPLIANCE DATABASE

Question. TSA's recent report on air cargo security notes "enhancements to PARIS are planned." This refers to the Performance and Results Information System (PARIS). What changes are planned to enhance the system?

Answer. Recently, the inspection prompts in the Performance and Results Information System (PARIS) were updated to match the new requirements stemming from the air cargo final rule published last year and revised security programs finalized in January 2007. Also, new "critical" prompts were added to the air cargo inspection fields in PARIS that identify the highest priority compliance requirements. Additional planned enhancements include mandating that enforcement reports are linked to a specific inspection record, which will allow for upgraded tracking and analysis of security program violations, as well as synchronization between PARIS and hand held digital devices used by cargo inspectors to conduct their compliance inspections, which will provide for increased efficiency of the cargo inspectors' efforts.

AIR CARGO EXEMPTIONS

Question. TSA's recent report on air cargo security notes that air cargo exemptions have been eliminated. Is that true for all cargo, including international inbound air cargo? What proportion of previously exempted air cargo is now being screened and inspected?

Answer. In October 2006, the Transportation Security Administration enhanced security measures for cargo accepted for transport on domestic and foreign passenger aircraft operating within the United States on routes departing the United States. As a result of these enhancements, previously exempted cargo is subject to screening. Since the enhanced security measures were implemented, 100 percent of previously exempted cargo is subject to screening.

TRAVEL DOCUMENT CHECKERS

Question. The TSA request includes $60 million for 1,425 travel document checkers. Does the budget assume that all 1,425 TDC's will be on-board October 1, 2007?

Answer. Yes, the budget assumes that all 1,425 Travel Document Checker positions (1,329 Full-Time Equivalents) will be on-board by October 1, 2007.

UNITED STATES COAST GUARD

Question. Coast Guard Commandant Thad Allen recently released the Coast Guard's strategic course for the future. It includes current and future challenges and threats in the maritime domain.

The Commandant warns of the current gap in monitoring vessel movements within many ports and inland waterways. While significant focus has been given to nuclear detection in maritime containers, the Commandant stresses that it is equally probable, if not even more likely, that such a device would be loaded on a fishing boat or a recreational craft. Over 6 years ago, terrorists struck the USS Cole in foreign waters. A similar attack in a U.S. port with a nuclear device could kill tens of thousands and cripple the economy; yet, addressing this gap is not a priority in your budget.

What needs to be done to address this threat today?

Answer. The President's fiscal year 2008 budget includes several items which contribute to improving the overall multi-mission capability of the Coast Guard. Specifically, the President's fiscal year 2008 budget request supports the following initiatives to increase specialized forces and intelligence capability to meet the small boat Improvised Explosive Device threats.

—Nationwide Automatic Identification System
—Maritime Security Response Team Shoothouse
—Response Boat-Medium
—Rescue 21
—Deployable Operations Group
—Coast Guard Counterintelligence Service

Addressing the concern of the Coast Guard and the Department about the threat of small vessel attacks in the United States requires continual review of security gaps in information and coordination with small vessel stakeholders which include commercial and recreational vessel operators in U.S. waters. To further such dialogue with these stakeholders, DHS has scheduled a National Small Vessel Security Summit for June to begin a robust conversation to fully understand the gaps in maritime border security and collaboratively develop what is needed to close those gaps. For the future, among the things the Coast Guard is vigorously exploring are:

unambiguous warning capability to determine intent of small craft approaching high value assets; technologies appropriate for use within crowded ports to deter or stop small vessel attacks, including non-lethal options; regulations expanding current requirements for tracking of small vessels; and improved sensors (radars, offshore buoys, etc.).

Question. Since going to Sectors, Coast Guard tours of duty have been decreased from 4 to 3 years. What is the benefit of this policy versus 4 years rotation? Is the Coast Guard losing expertise in certain areas, such as inspectors?

Answer. The intent of this policy was to standardize tour lengths at these units. It will also increase the flow of personnel through specialized billets (e.g., inspections, investigations) to meet both the growth demands in prevention billets at mid-grade levels and the need for Sector skills at senior officer levels. This rotation was suggested by field commanders during a survey conducted by Perot Systems in order to align tour lengths with training expectations. In addition, it gives officers opportunities, through follow-on assignments, to cross-train outside their primary specialty and prevents "burn-out" in highly demanding billets.

Yes, the Coast Guard has noticed some early trends suggesting slight erosion in inspection expertise, especially in the engineering skill set. A lot of this was attributed to an unintended consequence from the creation of the Chief Warrant Officer (CWO) Marine Safety Specialist rating which merged deck and engine inspection expertise. We have taken corrective actions to reverse the trend including restoring the CWO Engineering billets to the Marine Inspection Mission.

Question. The CG has argued in the past that it doesn't have the authority to surge acquisition personnel to AC&I projects requiring additional oversight. Is Deepwater an example of this problem and if so, would the proposed transfer of AC&I personnel to OE fix that problem?

Answer. Yes, Deepwater is an example of this situation, and would benefit from the proposed transfer. This transfer would allow the Coast Guard to view billets (both OE and AC&I) holistically, allowing all directorates to equally request and compete for billets and personnel funding in the budget build process. This will allow the Coast Guard to make a higher level prioritization of personnel resources, placing AC&I priority needs along side operations and support priority needs.

Question. The fiscal year 2007 conference report provided additional funding to increase unannounced inspections at domestic port facilities. The SAFE PORT Act required no less than two inspections with one unannounced check. Will all ports receive an unannounced check that includes all aspects of the Facility Security Plan similar to the annual planned check? If not, how many additional inspectors would be needed for every facility to have a full unannounced spot check with all aspects of the Facility Security Plan? What is the total number of Coast Guard inspectors for MTSA compliance?

Answer. The Coast Guard will conduct an unannounced inspection of each regulated facility under 33 CFR 105 during fiscal year 2007. The SAFE PORTS Act requires the Secretary to conduct at least two inspections annually of maritime facilities, one of which is to be an unannounced inspection of the facility. However, there is no expressed Congressional requirement that both inspections include "all aspects" of the Facility Security Plan as has been customary for the annual announced inspection. The unannounced inspection may include all aspects of the approved Facility Security Plan or focus on specific items based on the security awareness and concerns of the local Captain of the Port (COTP). The Coast Guard does not necessarily believe it would be appropriate or necessary to perform two "all aspect" inspections of every facility every year, and such is not expressly required by law. It is more appropriate for the COTPs to focus resources on facilities they feel are more at risk, based on threats/intelligence, prior poor performance by the facility, or other factors. The COTP has the authority to determine the scope of spot inspections in follow-on inspection cycles. The COTP can also determine whether the annual inspection will serve as the unannounced inspection through evaluation of on-going risk assessment and management activities.

There is no need for additional inspectors because the increase in the complement of facility inspectors made possible through fiscal year 2007 appropriations will be sufficient to meet the mandate of the SAFE PORTS Act.

The Coast Guard has 389 facility inspector billets that support MTSA compliance. The 389 include 39 new positions funded through 2007 appropriations.

Question. The SAFE PORTS Act requires the Coast Guard to establish interagency operation centers for all high-priority ports by October 2009. What is the Coast Guard's schedule to meet this requirement? What is the cost to meet this requirement? What ports does the Coast Guard consider high-priority ports requiring an interagency center? What benefits will these ports provide?

Answer. The Coast Guard has operations centers at each of its 35 Sectors that can be expanded to support joint operations. Presently, the existing infrastructure at these sector command centers is insufficient to meet all of the SAFE PORTS Act requirements. The Coast Guard is in the planning stages for a project called Command 2010, which will install sensors (cameras and radars) in high priority ports, develop and install software to control those sensors and automatically analyze their data, make that data available to appropriate agencies, and enlarge the existing operations centers to accommodate other agencies. The act authorized $60 million annually; however, funding for this purpose has not been appropriated.

The Coast Guard estimates the cost to meet the requirement for establishing interagency operations centers, including Command 2010 implementation, will total $260 million for 24 Coast Guard Sectors, including those high priority ports, as required by the SAFE PORTS Act. Below is a breakdown of the overall costs associated with each of the three cost elements for 24 interagency sector command centers (SCCs).

[Dollars in millions]

Cost Element	Cost	Description
Information System	$35	Develop software that controls the sensors, fuses track information with intelligence and tactical plans, coordinates interagency resources, automates decision making and displays tactical views. This system will be developed in four spirals which will be fielded to an increasing number of locations each year ahead of the sensor installations. Each spiral will add capabilities and incorporate lessons learned from previous spirals.
Sensor Network	155	Deploy cameras, radars and other surveillance equipment in critical areas. These costs include the sensors themselves, the towers and platforms to support the sensors, the associated real property costs, and the communications network of fiber optics and microwave equipment to link the sensors to the Sectors. Costs also include detailed surveys at each port to discover and address each location's unique geography, environment, and existing infrastructure. Work will incorporate to the extent possible existing sensor systems such as Rescue 21, Nationwide AIS, Vessel Traffic Systems, and sensors already fielded by other agencies.
Facility Re-Cap	70	Expand existing SCCs to facilitate multi-agency operations and planning, host port partners on the watch floor, and provide extra capacity for high-tempo and surge operations. SCCs will provide an appropriate security boundary to safeguard intelligence information vital to national security that will be handled there.
TOTAL	260	

The following 24 Coast Guard Sectors encompass the Nation's high priority ports. This list is arranged in alphabetic order by U.S. Coast Guard District and represents potential candidate locations for interagency operations centers.

CG Sector	CG District	Primary Port(s)
Boston	1	Boston, MA
Long Island Sound	1	New Haven & New London, CT
New York	1	New York/New Jersey
Northern New England	1	South Portland, ME
Southeastern New England	1	Providence, RI and Woods Hole, MA
Baltimore	5	Baltimore, MD
Delaware Bay	5	Philadelphia, PA
Hampton Roads	5	Norfolk and Newport News, VA
Charleston	7	Charleston, SC and Savannah, GA
Jacksonville	7	Jacksonville and Kings Bay, FL
Miami	7	Miami and Fort Lauderdale, FL

CG Sector	CG District	Primary Port(s)
Corpus Christi	8	Corpus Christi, TX
Houston/Galveston	8	Houston/Galveston and Freeport, TX
Mobile	8	Mobile, AL
New Orleans	8	New Orleans and Baton Rouge, LA
Buffalo	9	Buffalo, NY
Detroit	9	Detroit, MI
Lake Michigan	9	Chicago, IL
LA/LB	11	Los Angeles and Long Beach, CA
San Diego	11	San Diego, CA
San Francisco	11	Oakland and San Francisco, CA
Portland	13	Portland, OR
Seattle	13	Seattle, Tacoma, Bremerton, Port Angeles, Vancouver, WA
Honolulu	14	Honolulu and Pearl Harbor, HI

Note: These implementation priorities balance a number of factors, including: Marine Safety Risk Assessment Matrix data, port criticality ratings, DOD/DOJ partnership priorities and other business factors such as existing investments in facilities and sensors.

Based on the Coast Guard's experience with interagency operations centers in Charleston, San Diego and Hampton Roads, the following benefits have been observed:

—Cooperative targeting and coordination of intelligence has increased the efficiency of all agencies by allowing the selection of the most appropriate asset to respond to a threat.

—Daily field-level coordination has broken down barriers between agencies and helped to establish regular work relations, which smoothes the transition from normal to crisis operations.

—Collective use of tactical sensors (radars/cameras) has saved time and effort by remotely identifying potential targets or illegal activity before sending an asset.

—Cooperative planning has improved the readiness and efficiency of all response and prevention activities.

—Sharing of law enforcement information among communities has helped reduce criminal activity in the port and cut off potential funding to terrorist groups.

—Eliminates potential seams in coverage and increases the number of units available for dispatch.

The interagency operation center model has been cited as a best practice for increased cooperation and coordination during recent Congressional visits to the interagency operations center at Seahawk Charleston, as well as in the language contained in the SAFE PORTS Act legislation.

INFRASTRUCTURE PROTECTION

Question. Last year a provision of mine, albeit a modified one, was passed into law requiring the Department to regulate chemical site security at chemical plants across the Nation. Your budget submission seeks $25 million to enforce the rules in fiscal year 2008. When the Coast Guard was tasked to regulate security at ports through the Maritime Transportation Security Act, $102 million was requested to enforce that regulation. Why do you believe a quarter of this sum is sufficient to guarantee security at chemical facilities across the Nation?

Answer. In fiscal year 2008, the Department anticipates that staffing will reach full levels, and that the IT system and tools supporting the regulation, both for purposes of government analysis and for private-sector compliance, will move from development and initial operations capability into implementation. The Department intends to closely monitor the costs associated with the implementation and enforcement of its security regime and will use this information to help guide the future resource requirements necessary for its expansion and maintenance.

Question. Why have we not received a plan to finance chemical plant site inspections beginning in fiscal year 2007?

Answer. The Department of Homeland Security is finalizing the plan referenced and will forward it once it is complete

RISK MANAGEMENT AND ANALYSIS

Question. Will establishment of this office harmonize the various risk methodologies used across the department?

Answer. The Office of Risk Management and Analysis (RMA) will focus on synchronizing and integrating risk programs across the Department by developing a common approach/lexicon. This will be accomplished by leveraging and integrating

risk expertise across the Department of Homeland Security's (DHS) components and external stakeholders.

Question. If so, will it change the way current assessments are done and will that lead to significant changes in current requirements and practices? For instance, Coast Guard may use a set of risk tools, which, if modified will yield different results. With these different results, new regulations may be more appropriate.

Answer. The Office of Risk Management and Analysis (RMA) will ensure that a common approach/lexicon can be applied across the Department of Homeland Security.

Managing risk is a primary responsibility of all the components. Making the decisions effectively requires each component to have a better understanding of Department risk goals and how the component risk programs interrelate. As RMA facilitates this process, the USCG may identify ways to improve current risk practices. Equally important, components may recognize, leverage, and implement strategies from other components that may supplement, replace, or otherwise improve their own internal processes.

The Department's components with risk programs will retain operational control of their specific programs.

Question. If the creation of the office does not change the risk mythologies, why establish this office?

Answer. In the area of risk, the Department of Homeland Security's (DHS's) component risk programs are not standardized, integrated, or developed using a common lexicon. This has made it difficult for DHS leadership to prioritize resources. The Office of Risk Management and Analysis (RMA) will focus on synchronizing and integrating individual risk programs across the Department by developing a common approach/lexicon.

WEAPONS OF MASS DESTRUCTION

Question. Mr. Secretary, I think you would agree the gravest terrorist threat facing our Nation is a nuclear weapon. We comfort ourselves by believing terrorists don't have the bomb, but its easy to imagine ways they might get one—suppose one of the unaccounted "suitcase" weapons from the former Soviet Union comes up for sale. Fears of such "loose nukes" has led us toward screening cargo containers entering the country for radiation—a good effort—but perhaps a terrorist who is smart enough to acquire a nuclear bomb is smart enough not to ship it in a container. Perhaps he'll put it in his boat, or fly it on his plane, or stick it to the bottom of a cruise ship, or send it by rail car—all of these paths to our country would avoid the containers that we are working so hard to screen.

Mr. Secretary, your budget dedicates significant resources to screening cargo containers for nuclear materials, but virtually nothing for deterring other delivery systems for bringing nuclear materials into the country. Why is this?

Answer. The Domestic Nuclear Detection Office's (DNDO) architectural analysis concluded that we must finish the work of securing our Nation's ports of entry (POEs). However, we cannot ignore the possibility that a terrorist might attempt to illicitly transport a nuclear device or radioactive material across one of our borders between official POEs. While DNDO's near term focus remains on making further improvements to radiation detection capabilities for the Nation's POEs, the organization is also focusing on developing detection solutions for non-POE applications. Over $100 million of DNDO's fiscal year 2008 budget request is in the area of "other architectural challenges." This money will be used to perform detailed architectural analyses on gaps in the detection architecture and developing solutions for those gaps. The funds will also be used for STC and developing technological solutions for use in non-POE settings. These technologies include mobile and human portable detection systems. Once systems are developed, they must be deployed across the nuclear detection architecture through implementing partners. For instance, DNDO and the U.S. Coast Guard (USCG) have a joint acquisition program that will outfit all boarding parties with preventive rad/nuc detection systems that starts to address the maritime threat. In addition, DNDO is looking to develop solutions for general aviation and areas between our land POEs. The Department has also placed emphasis on protecting the interior of the United States through programs like the Securing the Cities (STC) Initiative. STC will begin with New York City region and will assist the region in developing a coordinated and integrated architecture for detection and interdiction of illicit radiological materials.

Question. If preventing a nuclear attack fails, what concrete actions has DHS taken to prepare our cities to react?

Answer. DHS has been working diligently with cities across the Nation on various aspects of planning our "all hazards" response to catastrophic incidents, including

response to improvised nuclear devices. The response starts with the National Response Plan, which identifies all of the agencies, both governmental and non-governmental, State, local, tribal and private sector responsibilities for dealing with such an attack. The National Incident Management System (NIMS), to which all grantees must subscribe, defines the roles of responders at all levels. All of the Executive Branch departments have engaged in planning around various scenarios in response to various top official exercises and senior official exercises. All of the resources of the various Departments, including the Departments of Energy and Health and Human Services (HHS) will be applied to characterize and initiate a coordinated respond to the threat. The responsibility for providing public health and medical support is the responsibility of HHS, as the lead agency for Emergency Support Function #8—Public Health and Medical Answer. DHS is also engaged in detailed concept and operational planning through the interagency Incident Management Planning Team (IMPT), a part of the Operations Directorate. Identification of specific tasks for appropriate agencies is a key part of the planning process, to include responsibilities for State and local government. DHS has performed a MTA on this threat and has issued an MTD in support of BioShield activities headed by HHS.

Question. Do you know if radio and TV stations in high risk cities such as Washington D.C. have pre-packaged messages in place to broadcast seconds after the explosion to advise the population what and what not to do; to shelter in place or to flee?

Answer. At present, there are no pre-packaged Federal messages to broadcast to the public after such an event as identified in the QFR. There have been discussions within the Federal Government and emergency managers on establishing such a capability; however, it is viewed that each event is dynamic and fluid and the broadcasted message with its commensurate public guidance would have to be tailored to meet each situation as an unique requirement. We have been told that at the State and local level, they have not proceeded on establishing pre-packaged messages until the Federal Government establishes the framework.

Question. What agency is responsible for and has determined whether or not public fallout shelters are necessary or not?

Answer. DHS has no authority to designate buildings as public fallout shelters. The capability to provide this information, and the entity or agency responsible for that capability will be part of the IMPT plan.

Question. What is the state of fallout shelters in the highest risk urban areas?

Answer. The Fallout Shelter program was an element of the U.S. Civil Defense program, authorized by the Federal Civil Defense Act of 1950. As a result of that program Fallout Shelters were identified and evaluated and some were stocked with food and water. Those shelters were marked with special signs to indicate their existence. It has been nearly 20 years since that program was in operation and we do not have information on the state of those shelters.

Question. It appears public education before a nuclear event may be the most critical action to take to help an urban population survive a nuclear explosion.

Has the Department established any sort of baseline understanding of the public's preparedness level for a nuclear event?

Answer. We agreed that public education and public action in the event of a nuclear explosion can affect morbidity and mortality dramatically. The IMPT playbook and incident management plan will address the existing and required capabilities related to public communications.

Question. What office is tasked with educating the public to, for instance, remain indoors, in the basement, etc. after a blast?

Answer. The responsibility for educating the public regarding shelter-in-place will be a capability that is a key part of the plan generated by the IMPT. Subject matter expertise to address the content of public messaging will be coordinated internally through the Office of Health Affairs, the DNDO, the Operations Directorate, the Federal Emergency Management Administration, and the Office of Public Affairs.

Question. What request for fiscal year 2008 was made for this office's educational activities?

Answer. The fiscal year 2008 budget contained no specific request for educational activities for a nuclear threat. However, the budget did contain sufficient funds for the Office of Health Affairs to engage in end-to-end planning in coordination with DNDO and the Operations Directorate to scope out future requirements. The Department has been funded for all-hazards preparedness, including www.ready.gov.

The guidance from the Cold War era advises sheltering in place for 2 weeks for those trapped within the fallout plume.

Question. Does this length of time still seem appropriate today? If not, why?

Answer. The length of time required to shelter-in-place depends on the nature of the attack, the isotope used in the device, and other characteristics of the detona-

tion. In the case of an attack, these characteristics would be assessed quickly, and communication would be made through public emergency management, public safety, and State and Local public health authorities using the joint information center at DHS. Some threats will degrade very quickly, and other may require a period of hours to weeks.

Question. What are DHS' internal guidelines for sheltering in place during a nuclear even, that is, how many days are you prepared to shelter your staff in place assuming no replenishment of food and water?

Answer. Internal guidelines for sheltering in place are in place and are frequently exercised. DHS facilities do not uniformly contain sufficient food and water, at the current time. The new Office of Health Affairs Component Services and Workforce Protection will be addressing these concerns in coordination Office of the Under Secretary for Management.

Question. Clearly, coordination needs to occur between Health and Human Services (HHS), the Department of Defense and other agencies after a nuclear event. Who is "quarterbacking" that effort? For instance, if HHS procures a treatment for Acute Radiation Syndrome, who will assure the drug will be deployed in sufficient quantities and early enough to be useful?

Answer. The responsibility for countermeasure research and development, advanced development, acquisition, storage and distribution is the sole responsibility of the Department of Health and Human Service. The planning for a coordinated effort to mitigate the event will be part of the overall end-to-end plan being developed by DHS.

Question. Mr. Secretary, most of the deaths resulting from a nuclear attack will come from Acute Radiation Syndrome. On March 7, 2007, the Department of Health and Human Services canceled its BioShield solicitation for a treatment for this illness. What are your thoughts on this cancellation and do you believe this will have a chilling effect on other companies developing other such drugs?

Answer. The Department of Health and Human Services uses the material threat determinations and population threat assessments developed by DHS to determine what type of and how much countermeasure should be acquired for various threats based on the limitations imposed by BioShield funding. The preparation for and mitigation of a nuclear attack is a very complex and a difficult scenario. HHS has recognized the difficulty associated with drug delivery and administration for patients with potential acute radiation syndrome following an incident, and their requirements reflect those limitations and difficulties. DHS is confident that, through their new Public Health and Emergency Medical Countermeasures Enterprise, the operational planning process for the response to an IND attack, and the scientific merit of a proposal for potential countermeasures, will guide appropriate future investments by Project BioShield.

Question. Currently there are no treatments for Acute Radiation Syndrome that can be administered outside of a hospital. Available hospital beds and treatments will be used up within minutes of a nuclear emergency, leaving thousands, if not tens of thousands, of people to die. Is the Department of Homeland Security still supportive of the Department of Health and Human Services BioShield procurement of an effective treatment for this syndrome?

Answer. The Department of Health and Human Services uses the material threat determinations and population threat assessments developed by DHS to determine what type of and how much countermeasure should be acquired for various threats based on the limitations imposed by BioShield funding. The preparation for and mitigation of a nuclear attack is a very complex and a difficult scenario. HHS has recognized the difficulty associated with drug delivery and administration for patients with potential acute radiation syndrome following an incident, and their requirements reflect those limitations and difficulties. DHS is confident that, through their new Public Health and Emergency Medical Countermeasures Enterprise, the operational planning process for the response to an IND attack, and the scientific merit of a proposal for potential countermeasures, will guide appropriate future investments by Project BioShield.

PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS GRANT PROGRAM

Question. Is the Public Safety Interoperable Communications Grant Program, that will be co-administered with the Department of Commerce and is funded though a provision that was secured in the Deficit Reduction Act, meant to be an enhancement in funding for State and local capability or a substitute for the $1.2 billion reduction in the grant programs in fiscal year 2008 President's Budget?

Answer. The $1 billion from the Department of Commerce is separate funding. The 2005 Deficit Reduction Act directed the creation of the $1 billion grant program

for Public Safety Interoperable Communications (PSIC). The $1 billion is derived from the expected sale of spectrum as part of the Digital Television Transition scheduled for February 2009. Section 4 of the Call Home Act of 2006 subsequently mandated that the interoperable communications grants be awarded by the end of fiscal year 2007. The PSIC Grant Program will be jointly administered by the Department of Commerce's National Telecommunication and Information Administration (NTIA) and the Department of Homeland Security (DHS).

The partnership between DHS and NTIA, constructed through the Deficit Reduction and Call Home Acts, was affirmed in a Memorandum of Understanding (MOU) signed on February 16, 2007. The MOU defines the roles and responsibilities and the implementation of the PSIC Grant Program. More specifically, the MOU indicates that NTIA will transfer PSIC funds to DHS and NTIA will obtain the grant administrative services and expertise of DHS. DHS will support the administration of those funds while NTIA will retain ultimate approval authority over all aspects of the PSIC Grant Program. Through DHS' strong working relationship with NTIA, the Department has outlined a program plan and aggressive schedule of activities for meeting the Call Home Act deadline.

FIRST RESPONDER GRANTS

Question. Is there specific intelligence that provides the basis for the proposed $1.2 billion cut in funding levels in the President's Budget for State and Local Assistance Grant Programs (provide in classified document if necessary)?

Answer. The level of funding for the Homeland Security Grant Program funding is based on several factors, including the substantial level of funding awarded over the past 6 years and the level of unexpended funding currently in the State and local programs' pipeline. In addition to approximately $5 billion in unexpended funds and approximately $2 billion in additional grants to be awarded in the spring and summer of 2007, a total of $3.2 billion will be made available for State and local preparedness expenditures, as well as assistance to firefighters, in fiscal year 2008. Of this amount, $2.2 billion is requested for the Department of Homeland Security (DHS) to fund grant, training and exercise programs. Funds requested through these programs will (1) provide critical assistance to State and local homeland security efforts, (2) support resources available through other Federal assistance programs that center on first responder terrorism preparedness activities, and (3) deliver ample support to all State and local first responder organizations to obtain the equipment, training, and other resources required to protect the public in the event of a terrorist attack or other major incident.

Question. Is there a measurable benchmark proving sufficient progress in our national capacity to protect and respond that was used to establish the amount requested?

Answer. The Department of Homeland Security (DHS) tracks progress made through the use of Federal grant funds via regular grant reporting processes, as well as a robust grant monitoring program. Through grant reporting, DHS is able to review the amounts of funding expended by State and local grantees through program activities such as planning, training, equipment acquisition, and exercises. The monitoring program provides the Department with a mechanism by which to evaluate the progress being made toward both the National Priorities in the National Preparedness Goal, as well as specific goals and objectives that are part of State/urban area homeland security strategies. The Department considered activities achieved to date and historical expenditures in determining the overall funding requests for fiscal year 2008 grant programs that will support prevention, protection, response, and recovery initiatives.

Question. Would State and local governments waste funding if the grant programs were restored to fiscal year 2007 level?

Answer. The Department of Homeland Security recognizes that the process of implementing the National Preparedness Goal, achieving its vision, and building and sustaining capabilities is a long-term process that requires an enduring national commitment from Federal, State, and local partners. Much work remains to be done across the country, not only in terms of enhancing critical capabilities but also in sustaining these achievements in the future. Since the inception of these grant programs, State and local governments have made sound investments in support of their strategic goals and objectives, not only in the acquisition of critical equipment but also in related planning, training, and exercise activities. The Department expects that these sound investment decisions will continue as implementation of the National Preparedness Goal moves forward. Moreover, the Department places a premium on ensuring accountability for the use of taxpayer funds allocated through

preparedness assistance programs. The Department achieves this objective through regular grant reporting processes, as well as a robust grant monitoring program.

INTEROPERABILITY GOAL

Question. On November 28, 2006, Secretary Chertoff said at the 2006 Grants and Training National Conference, "First, we are determined to ensure that the Urban Area Security Initiative cities, the major cities, have inter-operable communications in effect by the end of this coming year, and that all States have inter-operable communications in effect by the end of 2008." How will this be measured and enforced? How will Congress and the public know that a State and/or Urban Area is in compliance? How is compliance facilitated by proposing to cut first responder grant funding by $1.2 billion?

Answer. The Department of Homeland Security (DHS) recently completed the Tactical Interoperability Communication Scorecards, which measured tactical interoperable communications capabilities in 75 major urban/metropolitan areas. These scorecards were developed by subject-matter expert panels that reviewed documentation on current communications plans, exercises, and a self-assessment to arrive at consensus findings and recommendations for each region on how to best improve that region's communications capabilities. The scorecards demonstrated that every urban/metropolitan area has a baseline capability to achieve interoperable communications; however, continued training on available technical solutions and procedures for their use is critical to operational success.

Statewide interoperability is being addressed through the creation of the Statewide Communications Interoperability Plans, which are due on November 1, 2007. Once submitted, these plans will be peer-reviewed and evaluated for completeness. The new Public Safety Interoperable Communications (PSIC) grant program is also being tied to the Statewide plan. The goal is to ensure that investment justifications for the PSIC grant program are consistent with the statewide plan. Once the statewide plans have been submitted and reviewed, DHS will ensure that all future grant investment justifications are consistent with the goals established in the plans. In addition, States will submit State preparedness reports in January 2008 that will highlight accomplishments including progress toward improving Statewide and regional interoperability. DHS is also in the process of determining the feasibility of conducting a statewide exercise to test interoperable communications capabilities at the State level.

The Department of Homeland Security (DHS) published the results of the Tactical Interoperability Communication Scorecards in January 2007. As previously described in the response to question 67, the results indicate that every urban/metropolitan area has a baseline capability to achieve interoperable communications. Statewide Communication Interoperability Plans are to be submitted to DHS on November 1, 2007, and those plans will be peer-reviewed and evaluated for completeness. The results of that process can be shared with Congress. In addition, DHS will continue to conduct monitoring visits with States and urban areas to track grant funding and determine if grantees are making meaningful progress toward achieving their interoperability goals. If DHS decides to pursue developing additional scorecards that measure interoperability, those results will also be made public.

From fiscal year 2003 through fiscal year 2006 the Department of Homeland Security (DHS) has provided more than $2.9 billion to States for interoperable communication projects. In addition, the Public Safety Interoperability Communications grant program administered jointly by the Department of Commerce and DHS will provide an additional $1 billion to States in fiscal year 2007 to support interoperable communications initiatives. As such, DHS believes that first responders have and will continue to be supported through Federal grant programs to improve their communications capabilities.

COMPLYING WITH THE LAW

Question. The fiscal year 2006 Homeland Security Appropriations Act included a provision that required the Department to issue the National Preparedness Goal no later than December 31, 2005, in accordance with the Department's implementation plan. The National Preparedness Goal is not final today. The fiscal year 2007 Appropriations Act required that the Homeland Security Grant Program Guidance be issued by November 17; it was issued over a month late, on January 5. The fiscal year 2007 Appropriations Act also required that the Infrastructure Protection Grant Guidance be issued by December 18; it was issued on January 9. The fiscal year 2007 Appropriations Act provided applicants with 45 to submit applications. The grant guidance issued by the Department gives applicants 56 days.

Senate Chairman Byrd and House Chairman Price wrote a letter to Secretary Chertoff on January 18, 2007 regarding these violations and have yet to receive a response. Does the Department intend to respond to that letter? If so, when?

Answer. A response to the letter from Chairman Byrd and Chairman Price was provided on March 7, 2007. However, the reply was sent to the personal offices of Chairman Byrd and Chairman Price rather than their respective committee offices. A copy of this response was then sent to the Senate Appropriations Committee Offices on March 28, 2007 as part of the official "getbacks" for this hearing.

Question. Under what authority did the Department of Homeland Security ignore these appropriations laws?

Answer. The Department of Homeland Security did not ignore appropriations law. Please see the letter from Secretary Chertoff to Chairman Byrd dated March 7, 2007 for further information in response to this question. Copy of March 7, 2007 letter attached.

U.S. DEPARTMENT OF HOMELAND SECURITY,
Washington, DC, March 7, 2007.

Hon. DAVID E. PRICE,
Chairman, Subcommittee on Homeland Security, Committee on Appropriations, U.S. Senate, Washington DC.

DEAR CHAIRMAN PRICE AND SENATOR BYRD: Thank you for your January 18, 2007 letter regarding your concerns with recent actions relating to the issuance of grant allocations and grant guidance by the Department of Homeland Security (DHS). However, I respectfully disagree with the suggestion that DHS has in any way violated the fiscal year 2007 DHS Appropriations Act.

Your letter appears to focus on section 508 of the act, which requires that the Department notify Congress in advance of awarding grants in excess of $1 million, or publicly announcing an intention to do so. Specifically, section 508 requires DHS to "notif[y]" the House and Senate Appropriations Committee three business days prior to a public announcement, or, for particular types of grants, to "brief' the committees 5 business days before making a public announcement. In each of the instances referenced in your letter, the Department complied with this mandate.

You raise questions about the Department's notification on three occasions—the announcement of proposed recipients for Federal Emergency Management Agency (FEMA) Alternative Housing Pilot Program (AHPP) grants; the release of guidance for the Homeland Security Grant Program (HSGP); and the release of guidance for the Infrastructure Protection Program (IPP). The Department complied with section 508 on these occasions as follows:

Alternative Housing Pilot Program (AHPP)

The Department provided formal notification of its planned public announcement concerning AHPP grants on December 19, 2006. In a letter to the House and Senate Appropriations Committees, then-Acting Under Secretary for Management Scott Charbo wrote, "the Department of Homeland Security intends to publicly announce on Friday, December 22, 2006, our intention to make grant awards under the $400 million Alternative Housing Pilot Program created by Section 2403 of Public Law 109–234." [1] The letter enclosed copies of the plan for implementation of the AHPP program, grant guidance, and other information, and further requested a briefing with committee staff onthe morning of December 22, 2006. The Department announced the projects to be considered for grant awards under the AHPP on December 22, 2006, 3 business days after the Department notified the committees.[2]

Homeland Security Grant Program (HSGP) and Infrastructure Protection Program (IPP)

The Department provided briefing on the programmatic guidance for the HSGP and IPP on December 28, 2006. Departmental officials, led by Under Secretary for Preparedness George W. Foresman, gave a briefing to members of the House and Senate Appropriations Committees that included an explanation of the risk methodology employed by DHS for the HSGP and IPP programs, as well as a timeline for the grant programs that indicated January 4, 2007, as the date on which programmatic guidance was to be released. At the request of committee staff, DHS pro-

[1] The letter was copied to various members of the House and Senate Appropriations Committees, including then-Chairmen Thad Cochran and Jerry Lewis.

[2] Although the December 19, 2006 letter was the formal notice required by section 508, FEMA had, at least as early as August 14, 2006, provided Congress with its plan for implementing the AHPP. And, on August 21, 2006, FEMA met with staff from the offices Senators Landrieu, Vitter, Nelson, and Martinez to discuss this plan. FEMA did the same with staff for the Senate Appropriations Committee on August 22, 2006.

vided certain additional information concerning risk methodology and HSGP eligibility that was not available on the date of the briefing. This briefing was not required under section 508 of the fiscal year 2007 Appropriations Act because the issuance of guidance does not "award" funds to a particular recipient or constitute an "intention to make" an award to a particular recipient. Nevertheless, in the interests of cooperation and comity, the Department chose to provide congressional notice prior to the public release of the grant guidance. The Department publicly released the programmatic guidance for the HSGP and IPP on January 4, 2007, 5 days after the Department briefed the committees.

I welcome a discussion about the provisions contained in section 508. The Department understands the aims of the section, including to provide Congress with the opportunity to conduct an advance review of the Department's proposals and give members whose constituencies are affected the opportunity to communicate accordingly. The notifications provided by DHS to the committees are designed to convey sufficient detail to accomplish these goals, while maintaining the Department's responsibility to speak about the grant programs. The Department does not believe that the provisions of section 508 are violated when additional detail is supplied to the committees after the date of notification. Such a restrictive reading of the act would present significant concerns for DHS.

The Department is the party most knowledgeable about the methodology and justifications for the grant awards, and it is not in the best interest of the government, the grant candidates, or the American people to restrict (for 3 or 5 days) the Department from speaking about these important issues. Our recent experience has shown that some of the DHS grant briefings provided to Congress have been shared with the press prior to release by the Department. This places the Department in the untenable position of being unable, sometimes for several days, to respond to press stories while respecting the statutory requirements not to discuss these matters prior to the end of the congressional notification period. Due to the complexity of these awards, this can result in inaccurate or misleading speculation by the public or potential awardees during this "quiet period" required by the act.

To the extent that section 508 limits the Department's ability to communicate with the public about grant awards affecting homeland security while requiring advanced disclosure to Congress of all grant program specifics, it raises serious concerns which I hope we can address in the next appropriations cycle.

Finally, as to your comment that the Department failed to comply with the legislated timeframe for releasing programmatic guidance to eligible applicants, any delay on the part of DHS was necessary to ensure effective administration of these grants. The act provided the Department only 45 days and 75 days, respectively, to release comprehensive guidelines for the HSGP and IPP programs. Before releasing the guidance documents, the Department wanted to ensure that the risk methodology was accurate, and that the Department had an opportunity to collaborate both internally and with affected parties, including States, local governments, and national organizations. The Department worked diligently on drafting the guidelines, releasing them to the public on January 4, 2007. Had the Department forced the release of the guidelines earlier than it did, it risked a flawed implementation of these programs, which would have undermined the important purposes for which these funds were allocated.

I appreciate your interest in the Department of Homeland Security, and I look forward to with working with you on future homeland security issues. An identical letter was sent to Chairman Price. Thank you again for your letter.

MICHAEL CHERTOFF,
Secretary.

ALL-HAZARDS

Question. Paul Stockton from the Center for International Security and Cooperation at Stanford University testified before the House on January 30, 2007. He stated that "natural hazards preparedness should be made part of the core of homeland security, rather than a function defined out of it."

Is this Department committed to an all-hazards approach to homeland security? If so, how are resources in fiscal year 2008 to be distributed at the Federal, State and local level to ensure that the all-hazard approach is not adopted just for planning and response functions but also in fulfilling prevention and preparedness functions?

Answer. The Department is absolutely committed to an all-hazards approach to homeland security. The National Preparedness Goal emphasizes a capabilities-based approach to addressing risk, rather than focusing on specific scenarios. This approach emphasizes the building and sustaining of capabilities to prevent, protect

against, respond to, and recover from all hazards in a way that balances risk with resources. Many capabilities that are included in the Target Capabilities List are dual-use in nature in that they can apply both to terrorism preparedness and as other natural or manmade hazards.

In fiscal year 2008 and beyond, the Department of Homeland Security (DHS) will continue to emphasize the criticality of capabilities-based planning as called for in the National Preparedness Goal across all four mission areas: prevent, protect, respond, and recover. Although several grant programs are statutorily required to focus on addressing risks associated with terrorism, the range of activities allowed as part of program implementation has been expanded to include catastrophic events. This broadened scope of program implementation activities recognizes and supports ongoing preparedness initiatives addressing such issues as pandemic influenza and the aftermath of Hurricanes Katrina and Rita that are of critical national importance, and recognizes the regional and national impacts that such events can have. Moreover, this approach recognizes the reality that many capabilities are dual-use in nature in that they can apply across all hazards and threats.

CULTURE OF PREPAREDNESS

Question. The Department's Nationwide Plan Review shows that 61 percent of States and 69 percent of urban areas do not have adequate plans to manage a catastrophic event. The National Capitol Region has been reluctant to work with West Virginia on mass evacuation on the premise that dollars are better spent on planning to shelter-in-place than on planning to evacuate. Yet there are not fall out shelters signs around the region. On Capitol Hill shelter-in-place has not been drilled. In fact, buildings are evacuated during threats.

Recognizing that Federal, State and local efforts to address risks are managed through many documents such as the interim National Preparedness Goal, the National Incident Management System, Grant Guidance and State Homeland Security Strategies, among others—it is still unclear how national risk assessments are translated to local preparedness efforts.

How is risk being connected to planning? Who is the lead person in the Department to ensure this coordination is taking place, not just in the Washington DC area but across the Nation? How specifically is this function funded? What incentives are provided to State and local governments to orient there Federal grant dollars to address their specific highest risks?

Answer. The Department of Homeland Security (DHS) is committed to the effective use of risk to inform a broad range of decisions, including planning decisions. At its core, homeland security is about managing risk—characterizing the threat, vulnerability, and consequences—and developing a plan to mitigate the risk. Success demands that we make difficult choices in how we apply resources most effectively based on a common understanding of risk and strategic objectives.

The Department has established the Office of Risk Management and Analysis (RMA) to address the discrepancies between risk methodologies across DHS. RMA will lead the Department's efforts to establish a common framework to address the overall management and analysis of homeland security risk. Within this capacity, RMA will ensure that Department component risk programs are synchronized and integrated, and use a common approach/lexicon. The funding strategy for this office is currently being developed.

The workable approach that Federal, State, and local governments can take is to manage the risk we know we face, evaluating threats, vulnerabilities, and consequences and using that analysis to determine the most cost-effective way to enhance security against those risks. Dedicating funds—whether they are grant funds or State/local resources—to the greatest risks is a critical function of responsible government. The greatest incentive that a risk-management approach can provide to State and local governments is that they can clearly demonstrate to their citizenry that they not only understand the risks they face but are methodically applying a portfolio of resources to address them.

GRANT FORMULA MATRIX

Question. On January 23, 2007, the Homeland Security Advisory Council Culture Task Force (CTF) found that there must be a "change in the historic tendency to create Federal/DHS Centric and top down plans/templates/frameworks that perhaps are not executable within States and communities and in the private sector." The CTF recommends that, "A cohesive, comprehensive and coordinated grant formula matrix should be developed with [a] partnership." Does the Department concur with this finding and this recommendation? If so, how will it be implemented? If not, why?

Answer. As part of this recommendation, the Culture Task Force called for a collaborative, transparent, and stable process for the State, local, and tribal partners seeking Department of Homeland Security (DHS) grants. It noted a need for DHS to recognize and engage State, local, and tribal components within the planning stages for DHS grant funding. The Department absolutely concurs with this recommendation and is committed to building upon and expanding partnerships with State, local, and tribal stakeholders and making grant programs as transparent as possible. For example, the Department has consistently sought input from partners in developing grant program guidance each year. In fiscal year 2006, the Department hosted an after-action conference on the new processes supporting the Homeland Security Grant Program in which feedback was received on the overall planning process, grant guidance and application procedures, risk analysis, and effectiveness analysis. In November 2006, the Department hosted an additional stakeholder meeting to solicit comments from State and local officials on draft program guidance. Finally, as in fiscal year 2006, the Department is developing a peer-review process for Homeland Security Grant Program applications through which State, local, and tribal experts will review and evaluate proposed investments. These activities provide examples of DHS's commitment to involving State, local, and tribal expertise in the development and implementation of its grant programs. The Department fully recognizes the criticality of strategic and program planning activities that reflect State and local priorities. State and urban area homeland security strategies outline critical goals and objectives, and provide a foundation for homeland security planning that takes into account National, State, and local priorities.

NATIONAL CAPITAL REGION

Question. The President's Budget proposes for elimination the following language that was included in the fiscal year 2007 Appropriations Act, "That for purposes of planning, coordination and execution of mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be included in efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002." Why is this language proposed for elimination?

Answer. The proposed legislative language presented in the President's Budget addresses the funding level for all program activities within NCRC to include mass evacuations and is consistent with the language presented in the fiscal year 2007 Presidents Budget request. It is the intention of NCRC to comply fully with the language in the fiscal year 2007 act, thereby making continuation of this language in the fiscal year 2008 request unnecessary

GRANTS MANAGEMENT AND ADMINISTRATION

Question. The President's Budget request continues the practice of allowing up to 3 percent of the amount appropriated for grants to be used for management and administration. Since fiscal year 2005, what is the breakdown of management and administration expenses and the number of FTE? Although the volume of grants can impact the level needed for management and expenses, what is the minimum level of funding the Department would require assuming all the current grant programs for management and administration?

Answer. In fiscal year 2005 there were 220 full-time employees, and management and administration expenses associated with grants totaled $89.2 million. Of this amount, approximately $66.2 million was directly related to the grant programs and the remaining $23.0 million was related to the management and administration of the training, exercise, and technical assistance program. In fiscal year 2006, there were 237 full-time employees, and management and administration expenses totaled $110.4 million. Of this amount, approximately $66.7 million was directly related to the grant programs and the remaining $43.7 million was related to the management and administration of the training, exercise, and technical assistance program. For fiscal year 2007 there are 279 full-time employees, and management and administration expenses are projected to total $106.3 million. Of this amount, approximately $67.7 million was directly related to the grant programs and the remaining $38.6 million was related to the management and administration of the training, exercise, and technical assistance program.

The fiscal year 2008 Budget assumes Management and Administration (M&A) costs of approximately $95.5 million would be sufficient to adequately sustain all requested programs. Of this amount, approximately $66.2 million will be directly related to the grant programs and the remaining $29.3 million will be related to the

management and administration of the training, exercise, and technical assistance program.

REGIONAL TRANSIT SECTOR WORKING GROUPS

Question. In the fiscal year 2007 Transit Security Grant Program Guidance, the Department discontinues the requirement of Regional Transit Sector Working Groups. Why did the Department make this decision? How can the Department be certain that Federal dollars will drive coordination and create efficiencies at the local level without this process?

Answer. Regional coordination remains a high priority for the Department of Homeland Security. In previous years, participation in the Regional Transit Security Working Groups was a requirement in order to receive grant funds. In some cases, this resulted in an additional hurdle that the transit systems had to pass in order to receive funds. In fiscal year 2006, this requirement was removed in order to facilitate an expeditious release of the funds to the transit systems.

The Regional Transit Security Working Groups (RTSWG) are led by the State Administrative Agencies (SAA) which must approve the investment justifications submitted by the transit systems. In addition, in fiscal year 2007 the grants will be awarded as cooperative agreements. The Department of Homeland Security will work closely with the transit systems through the RTSWGs to ensure that the regions coordinate and that the grant funds are used to effectively address regional risk.

FLOOD MAPS

Question. The National Academy of Sciences released a report in January entitled, "Base Map Inputs for Floodplain Mapping." The report focuses on the adequacy of data in the two "base" layers of floodplain maps: imagery and elevation. The report concludes that the floodplain maps need land surface elevation data that are about ten times more accurate than data currently available for most of the Nation. Does the Department concur with these findings? Please explain why or why not.

Answer. The Department concurs with these finding, although the ratio of the accuracy of 1-arc second USGS National Elevation Dataset (NED) data to the FEMA requirement for mapping high risk areas may be somewhat lower than the factor of 10 used in the report. FEMA's Flood Mapping Standards do not allow the use of 1-arc second NED data for flood hazard analysis in high risk areas. Instead FEMA works with local, State and Federal agencies to identify better elevation data that can be used for flood map update projects in these areas. In the majority of the highest risk counties, FEMA has successfully identified and obtained existing elevation data that does meet our accuracy standards. This approach is recognized in the NAS report, which States on page 44:

"In some cases, countywide, statewide, or region wide elevation data will be available. Prior to a study, FEMA performs a comprehensive information search to identify the best available elevation data sources for use in the performance of the study."

Typically for high-population counties, the local government does have good elevation data, but in low-population areas USGS 7½-minute quadrangle maps are the best available elevation data.

Question. The report also reviews emerging technologies being used to generate base elevation data. It states that lidar technology, which is based on laser measurements collected from aircraft, should be used to update the Nation's base elevation data. Does the Department concur with these findings? Please explain why or why not.

Answer. The Department agrees the lidar technology is the best solution for a national elevation mapping effort. It is both very accurate and cost effective relative to other available technologies. FEMA published the first Federal specification for lidar mapping and it is still among the most widely used standards in the industry. FEMA frequently uses lidar as the preferred technology when new elevation is needed for a flood map update.

However, the Department believes that a national update of base elevation data is beyond the scope of the current Flood Map Modernization effort. Despite the cost reductions achieved by lidar technology, elevation mapping remains expensive. The cost for a national update of elevation might approach the entire budget for the current Map Modernization efforts, leaving no budget for flood map updates.

Question. The report proposes creating a program called "Elevation for the Nation" to parallel the existing Imagery for the Nation concept. The program would employ lidar as the primary technology for digital elevation data acquisition. The report also recommends the new data should be input into the National Elevation

Dataset that the U.S. Geological Survey maintains for use in support of flood map modernization and other applications. Would this program benefit the flood mapping efforts at the Department? Are there other efforts at the Department that this information might benefit? If so, how specifically? Is it the Department's opinion that other Federal agencies could participate in this program and if so which agencies?

Answer. Yes, an effort like this would be a benefit for flood mapping. Substantially improved national elevation data would also benefit other hazard mitigation efforts at FEMA, the States and in local governments. Improved national elevation could support a more quantitative risk based approach to flood hazard mitigation using FEMA's HAZUS software to evaluate the impacts of floods of varying magnitudes. Detailed elevation could also be used to identify areas susceptible to landslide hazards and lidar data has proven extremely effective at identifying earthquake faults in forested areas. Detailed elevation data also supports analysis of potential hurricane inundation and hurricane evacuation planning.

There are programs within DHS that can benefit from improved elevation data. Notable among these are:

Law Enforcement U.S. Customs and Border Patrol

Accurate elevation data greatly enhances the ability of border patrol agents to determine line-of-sight to identify areas where foot and vehicle traffic cannot be readily observed. It is important to note that an essential element of this type of analysis includes elevation points that fall on structures and vegetation which is often not available in a base elevation model. The border patrol can also perform trafficability studies that are based on terrain severity to identify those areas where incursions are more likely.

Law Enforcement Immigrations and Customs Enforcement

Accurate elevation data is an important tool in operations planning but typically, surveillance or raids involve structures so the elevation data must include measurements on above-ground features.

Common Operating Picture

Access to elevation data supports the development of visualizations that contribute to situational awareness. This is a potentially important component of the National Operations Center (NOC) and the National Response Coordination Center (NRCC) during emergencies. Elevation data is an essential tool in planning for National Special Security Events (NSSE) but this application also requires accurate elevation points for structures and vegetation.

U.S. Coast Guard

Elevation data is an important component for development of plans for port security. Major ports tend to fall in those coastal areas where FEMA will also require high accuracy elevation data.

Other agencies can and do participate in this program. FEMA has worked actively with the USGS, USACE, NRCS, NOAA, the Forest Service, BLM, Census, NASA and NGA through the National Digital Elevation Program to coordinate on elevation mapping and mapping standards. All of these agencies, and others such as EPA and DOT, could benefit from a national elevation data update.

CERRO GRANDE

Question. Are there any fiscal year 2008 balances expected in the Cerro Grande account? If so, what is the need for balance? When does the Department anticipate that the need for the balance will expire?

Answer. The need for the balance is to satisfy subrogation claims from insurance companies (4,500 claims) and any liability determined for the one unresolved individual claim. The liability for the individual claim is pending and will be determined by the 10th Circuit U.S. Court of Appeals.

Administrative: $250,000.00

Claims Payments: $8,500,000.00

The Administrative Balance account will show normal change from the above amount. The Claims Payment Balance will remain the same until the determination is made on the final individual claim by the court.

Pending the outcome of the one remaining individual claim the best estimate of completion would be the first quarter fiscal year 2008.

INCREASE IN IMMIGRATION FEES

Question. On February 1, 2007, U.S. Citizenship and Immigration Services published in the Federal Register a proposed restructuring of fees charged for legal im-

migration and naturalization benefits and petitions. I understand that the average fee for these benefits would increase by 66 percent. Do your existing fees cover the cost of doing the business of processing and evaluating immigration applications?

Answer. No, USCIS currently does not recover the full cost of adjudicating applications and petitions. In his fiscal year 2007 budget request, the President called for USCIS to reform its fee structure—in line with Federal fee guidelines [1]—to ensure the recovery of operational costs. Additionally, a January 2004 Government Accountability Office (GAO) report [2] to the House and Senate Judiciary Committees indicated that USCIS' fees were insufficient to fund our operations. As a result, the GAO recommended that USCIS "perform a comprehensive fee study to determine the costs to process new immigration applications." [3] In 2006, USCIS undertook a careful and comprehensive fee review to revise its application and petition fees to ensure it recovers its full business costs. On February 1, 2007, USCIS published a notice of proposed rule making in the Federal Register [4], which reflects the application of USCIS' review to the current fee schedule.

The proposed rule outlines USCIS' intended fee schedule, which is designed to enhance USCIS' ability to address national security and public safety concerns, prevent and detect fraud, and invest in comprehensive transformation efforts to result in a more efficient and effective organization. Moreover, the proposed rule is consistent with the policy of the United States government, as reflected in OMB Circular A–25, to recover the full costs of providing special benefits to identifiable recipients.

Under the notice of proposed rule making, applicants and petitioners will see substantially improved service under a new fee structure, with average processing times projected to be reduced by as much as 20 percent by the end of fiscal year 2009.

Question. Has there ever been a fee increase of this magnitude before? If so, when was it proposed and what was the increase?

Answer. Yes, the last comprehensive fee adjustment was based on an inclusive fee study that occurred in 1998, when fees increased approximately 76 percent. USCIS has marginally increased fees since this time, usually for inflation, but these adjustments never fully recovered costs accrued. The Government Accountability Office found that USCIS fees were insufficient to recoup our operating expenses and that remains true today despite a fee increase in April 2004 and an inflationary increase in October 2005. The comprehensive fee review has made clear, however, that these marginal increases have not allowed USCIS to meet its mission responsibilities.

FBI BACKGROUND CHECKS

Question. Please describe the extent of the backlog in getting background checks conducted by the FBI on those individuals seeking immigration benefits. How extensive is the backlog and what is the cause of these delays?

Answer. As of April 4, 2007, 339,415 name checks are pending with the FBI. Of that number, 162,394 are older than 6 months. USCIS requests FBI background checks on all applicants applying for adjustment of status and naturalization benefits and conducts an IBIS name check on all applicants and petitioners applying for any immigration benefit; thus, approximately 28–30 million background checks are conducted each year which include the following:

FBI Fingerprint Check.—Applicants are scheduled at one of the USCIS Application Support Centers (ASC) where full, 10-print fingerprints are taken and electronically forwarded to the FBI. The response to the FBI fingerprint check is usually returned within 24 to 72 hours after the fingerprints are taken. In fiscal year 2007, USCIS expects to request more than 2.6 million fingerprint checks from the FBI. There are 129 Application Support Centers (ASCs) nationwide where fingerprints are taken; 44 are co-located within a USCIS district or sub-office and 85 are standalone facilities.

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[1] Office of Management and Budget (OMB) Circular No. A–25 ("User Charges") directs Federal agencies to charge the "full cost" of providing a special benefit to an identifiable recipient when calculating fees. It provides that "full cost" includes "all direct and indirect costs to any part of the Federal Government of providing a good, resource or service."

[2] See GAO, Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations (GAO–04–309R, Jan. 5, 2004).

[3] GAO, Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations pg. 3 (GAO–04–309R, Jan. 5, 2004).

[4] Department of Homeland Security, U.S. Citizenship and Immigration Services, 8 CRF Part 103, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, Proposed Rule, 72 Fed. Reg. 4887 (Feb 1, 2007).

FBI Name Check.—This check, based on the applicant's name and date of birth, is conducted to determine whether the FBI has information related to the applicant. The FBI database is searched to determine whether an individual has been encountered by the FBI in connection with an investigation of criminal, security, or other activities that might render him or her ineligible for benefits. Such information may have an impact on the final adjudication of the case. Approximately 80 percent of the name check requests are resolved after a few weeks, and 99 percent are resolved within 6 months.

Interagency Border Inspection System (IBIS) Name Check.—IBIS resides on the Treasury Enforcement Communication System (TECS) and is operated by U.S. Customs and Border Protection (CBP). IBIS houses multi-agency data that includes information relating to national security, narcotics trafficking, other law enforcement violations, and persons who may be of interest to the government or local law enforcement agencies.

FBI "hits" are forwarded to USCIS through a Letter Head Memorandum (LHM). The time necessary to review and resolve the name check response varies depending upon the nature of the information summarized in the LHM, which generally contains investigative information collected by the FBI during the course of its duties. Variables that affect the length of time for USCIS to process these responses include:

—the completeness of the summary,
—whether the investigation is open or closed,
—whether the investigation is a matter of public record or known to the applicant,
—the relationship of the applicant to the investigation,
—the availability of the FBI to work with USCIS on the case,
—the availability of other information about the subject of concern,
—whether the investigation requires that applicant to submit additional evidence prior to adjudication of the case, and
—at least 5 percent of the positive responses point USCIS to a third agency.

The additional funding generated by the proposed fee increase will improve the timeliness of future background checks by expanding current name check resolution capacity, establishing co-located name check resolution capacity, and funding the new FBI fees for background checks. Additionally, USCIS is working closely with the FBI to address the name check backlog. Both parties are committed to enhancing the current process and working to eliminate the backlogs and discussions to flesh out program specifics are currently underway. USCIS remains steadfast in its commitment to ensure all necessary security checks are conducted and that no one will receive an immigration benefit or service until all background checks are fully resolved.

DOMESTIC NUCLEAR DETECTION OFFICE

Question. It seems the simplest technological leap for rogue nations to make nuclear weapons is to enrich uranium ore to extract uranium 235 (rather than reprocessing to purify plutonium). Is that true?

Answer. Both pathways are possible and within reach of rogue nations, although each country may have its own reasons for choosing one pathway versus the other. Some countries have pursued plutonium, while others have pursued uranium. A key factor in the decision, in many cases, may be the availability of technology or technical assistance from outside sources.

Question. What is the most likely isotope to be used by terrorists in an improvised nuclear weapon?

Answer. Special Nuclear Material (SNM) is required to make a nuclear device. Uranium enriched in isotope Uranium-235 and Plutonium are the most common materials that could [to] be used in an improvised nuclear weapon. Terrorists are likely to use whichever material they can get their hands on. Both types of material are in widespread use around the world.

Question. What is our Nation's capacity to detect shielded quantities of this material?

Answer. Well-shielded materials must be detected with active imaging (radiography systems). Currently, radiography systems are deployed with trained operators in locations like our Ports of Entry, and they may be able to detect substantial quantities of shielded special nuclear material (SNM). The challenge is that current radiography systems require an operator to study a radiographic image—a time consuming process with an outcome that depends on the ability of an operator to visually discern a potential threat object. Moreover, current radiography systems were developed for purposes other than detection of shielded materials; purposes like detecting illicit drugs and human smuggling. Therefore, the performance of these cur-

rent generation radiography systems does not fully address the threat of shielded highly enriched uranium (HEU).

DNDO believes in an integrated system approach that includes deployment of passive detection systems such as Radiation Portal Monitors (RPMs) in concert with active imaging, or radiography, systems. This integrated approach provides the ability to directly detect unshielded nuclear and radiological materials (using RPMs), as well as materials that could be used to shield nuclear and radiological materials (using radiography systems).

DNDO is currently investing in programs to improve the capabilities of each these technologies—the Advanced Spectroscopic Portal (ASP) program to improve identification capabilities in RPMs and the Cargo Advanced Automated Radiography System (CAARS) program to provide improved penetration and automated processing for imaging systems. Additionally, CAARS will be operating at higher energy levels than imaging systems currently used. These higher energy levels will allow greater radiographic penetration, which will in turn yield a higher probability of automatically detecting shielding or SNM that has been heavily shielded.

Question. Would technologies deployed for Securing the Cities detect this shielded isotope?

Answer. The program is still in the planning phase and final determinations have yet to made regarding the exact types of equipment that will be deployed for Securing the Cities. DNDO is working closely with State and local authorities in the New York City area to select the right detection equipment for a challenging operational environment like the New York metropolitan area. Radiography systems that could detect shielded materials (along with passive systems like Radiation Portal Monitors, back pack and handheld detectors) are on the table as options for deployment.

DNDO's Transformational Research and Development (TRD) Directorate is looking at advanced concepts and technologies for detecting shielded SNM that are relevant for operations in urban environments. However, research conducted by TRD has a long-term focus. Therefore, these concepts would be integrated into urban operations at a later date.

Question. Will Advance Spectroscopic Portal monitor technology increase our capacity to detect this isotope—i.e. operationally, is it more sensitive?

Answer. The primary benefit of the ASP technology, when compared to current-generation RPMs, is the ability to not only detect the presence of radiation, but to also identify the source material for the detected radiation.

More specifically, current equipment in the field is based on plastic scintillation technology using polyvinyl toluene (PVT) detectors. These PVT detectors can be made in large sizes and have fast response times. PVT-based detectors are adequate for large area and fast gross counting of gamma ray "hits" within a specific time period. However, due to their low efficiency and poor energy resolution, spectral images provided by PVT systems are inadequate to determine if material causing an alarm is an actual threat or a normally occurring radioactive material (NORM) source.

ASP systems utilize thallium-doped sodium iodide (NaI) or high purity germanium (HPGe) crystals as the scintillation material. NaI detectors have a much greater efficiency and better energy resolution, producing very clear source spectra. This improved resolution provides that added ability to quickly and accurately identify sources of detected radiation. This identification then allows system operators to determine if an alarm is an actual threat or naturally occurring radioactive material (NORM) source much faster, and causes less of an impact to commerce with no loss of screening efficiency and improved security to the Nation.

This past month, we finished another round of testing at the Nevada Test Site as part of our validation process to determine that next-generation systems are indeed providing the improvements in performance that we seek. We have also placed ASP systems at the New York Container Terminal as part of our evaluation. These activities are separate from Securing the Cities, but will provide data to support Secretarial certification of the performance of ASP systems and the eventual full-scale deployment of ASP into the field.

Question. Are there currently or soon to be deployed technologies that actively interrogate the object of interest in a way they could be deployed in the Securing the Cities initiative? (For instance, something traffic could pass through to look for a signature).

Answer. The current generation of active interrogation systems would not be feasible for screening traffic in a dense urban environment like New York. Aside from performance limitations of current generation systems (for example, speed at which radiography can take place), there are also health effects concerns related to exposing individuals to high energy systems. DNDO is looking at advanced concepts and technologies for detecting shielded SNM that are relevant for operations in urban

environments. However, this research is likely to yield results that would be integrated into urban operations at a later date.

SCIENCE AND TECHNOLOGY

Question. For years, the Department has argued against physically screening air cargo on passenger aircraft because a technology does not exist for screening bulk cargo. Yet, little has been invested to divulge that technology. Describe progress and detail investments made to develop that technology.

Answer. There are two main activities underway at the Department to address technology development for screening air cargo.

The first is advanced air cargo research and development of technologies to address capability gaps in cargo screening. Technology gaps being addressed include the inability to penetrate dense, heavy cargos to find potential threats hidden in such things as machine parts, auto parts or other heavy machinery and the inability to screen whole-pallet-sized cargo at one time. The addition of these capabilities would improve screening efficiency and speed.

The second activity that addresses screening of bulk cargo is the Air Cargo Explosives Detection Pilot Program (ACEDPP). The Department established this program in response to congressional direction in the fiscal year 2006 Appropriations Bill. These activities are being carried out in close collaboration between the Science and Technology Directorate (S&T) and the Transportation Security Administration (TSA). The program is being executed at three different airports, San Francisco International Airport (SFO), Cincinnati-Northern Kentucky International Airport (CVG), and Seattle-Tacoma International Airport (SEA–TAC). Two of these airports are among the 20 largest airports in the country. The third campaign, at SEA, is in an all-freight facility.

The purpose of the ACEDPP is to determine the performance of technologies—e.g. X-ray, computed tomography, trace detection, canine and physical inspection—in detecting explosives in belly-loaded cargo. The X-ray-based technologies (CTX–9000s and CTX–5500) are adapted from applications used in checked baggage. The SFO campaign assesses the implications of screening significantly greater cargo amounts with dedicated facilities. The CVG campaign assesses the implications of screening significantly greater cargo amounts utilizing existing infrastructure and existing screeners. At SEA we are working to determine the performance of specialized technologies for stowaway detection. In addition to technology performance, the pilot project is developing an understanding of appropriate Concepts of Operation (ConOps), training requirements and the costs associated with screening significantly more cargo than is presently being screened.

GIFTS AND DONATIONS

Question. Provide a breakdown in the source of funding for the $66 million indicated in receipts under gifts and donations. Clearly indicate the name of "private sources" that contributed funds as well as their intended purposes.

Answer. The $66 million was transferred to FEMA from the State Department. It was charitable money that came to the State Department from foreign sources for Katrina.

Question. Provide a summary covering the period fiscal year 2004–fiscal year 2007 of money made available to victims of natural disasters through the Cora Brown Fund.

Answer. During the period of fiscal year 2004—fiscal year 2007 no money was made available to victims of natural disasters through the Cora Brown Fund.

Question. Provide the justification as to why $66 million will be obligated towards object class 26.0 which is intended for "Supplies and materials".

Answer. The correct object class for this obligation should be 41.01, not Object 26.0. The $66 million represents donations from foreign governments and international entities to support Hurricane Katrina relief and recovery efforts. The Dept of State (DOS) acted as the intermediary for these foreign offers of assistance. DOS collected the funds and converted them to U.S. dollars and transferred them to FEMA. These funds were recorded as donations in the Trust fund in October 2005. They were obligated in fiscal year 2006 with object class 41.01 which is Grants, Subsidies and Contributions.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

WESTERN HEMISPHERE TRAVEL INITIATIVE (WHTI)

Question. As I have said on many occasions, I have serious reservations about the way the Departments of Homeland Security and State have pushed forward with implementation of the Western Hemisphere Travel Initiative, or WHTI, before the necessary technology, infrastructure and training preparation takes place at our border stations. If these critical features are not in place, we will see severe delays at our border and law-abiding citizens from the United States, Canada and Mexico will have great difficulty moving between our countries. Most importantly, a hasty implementation will undermine the intended goals of the program.

Why not take the time Congress gave the Department to do this right?

Answer. As permitted by law, DHS intends to begin to implement WHTI at the earliest possible date in order to enhance border security by closing the vulnerabilities created by passport and documentation waivers currently in effect.

Section 546 of the Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109–295, 120 Stat. 1355, 1386 (Oct. 4, 2006) (DHS Appropriations Act of 2007), outlines a number of requirements that DHS and DOS must meet for implementation of WHTI. DHS is working diligently to address each of those requirements. For example, on February 22, 2007, DHS announced its intention to propose flexibility for United States and Canadian children entering the United States at land and sea ports of entry. In addition, as contemplated in section 546, DHS and DOS have been in extensive discussions with the National Institute of Standards and Technology (NIST) regarding card security standards and best available practices for protection of personal identification documents. DHS also continues sharing information regarding WHTI implementation with the Governments of Canada and Mexico.

Question. What steps has the Department taken to address potential problems concerning implementation, and to prevent a major disruption of commerce across the Canadian border?

Answer. The potential of the rule to cause economic impacts has been a primary concern for DHS and DOS in developing WHTI in the land/sea environment. DHS is preparing an extensive regulatory impact analysis that is fully compliant with Executive Order 12866 and Office of Management and Budget Circular A–4 for an economically significant regulatory action. The analysis will be published concurrently with the proposed rule.

DHS will implement the law in a way that makes sense in terms of both security and facilitation. As more people obtain passports or other acceptable, secure identity documents to comply with WHTI, border crossing will be faster, more efficient and more consistent. A list of acceptable identity documents will be proposed in the DHS Sea/Land Notice of Proposed Rulemaking. DHS continues to work with the State of Washington and the Canadian government regarding alternative documents, and DHS remains open to working with other States to that end. Those documents will have both a machine-readable zone (MRZ) and a vicinity RFID chip.

DHS currently has the infrastructure in place at all ports of entry to swipe documents with MRZs. In order to ensure the facilitation of trade and travel across the land borders, DHS is building upon the infrastructure it already has in place with its Trusted Traveler programs by incorporating vicinity RFID into border crossing documents and deploying RFID readers to the 39 busiest land ports of entry.

In addition, education and outreach will be critical to compliance and facilitating trade and travel. DHS and DOS are planning an aggressive outreach program. DHS has conducted a number of listening sessions with stakeholders, including the States.

Question. I am concerned that your department has prematurely endorsed one PASS card technology over another without first securing the required certification and then notifying Congress. The Leahy/Stevens law clearly states that the National Institute of Standards and Technology (NIST) must certify, prior to implementation that the card safeguards privacy. By unilaterally moving forward with vicinity-read technology—a technology, by the way, that is approved for palettes not people—DHS would be choosing an insecure technology that has not been proven effective at ensuring privacy protection, and it would be necessitating the installation of new technological infrastructure at every U.S. land and sea port of entry.

Has the Department decided upon a technology to use in the PASS Card?

Answer. The Department of Homeland Security (DHS), Department of State (State) and the National Institute of Standards and Technology (NIST) are working collaboratively to address the certifications from Section 546 of the Homeland Security Appropriations Act of 2007 (Public Law 109–295). Specifically, the relevant pro-

vision calls for NIST certification that "the Departments of Homeland Security and State have selected a card architecture that meets or exceeds International Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents."

NIST will certify based upon its review of State's draft Request for Proposals (RFP) for the procurement of the Passport Card, developed in cooperation with DHS.

The technology solution that has been selected and is currently going through the NIST certification process is the vicinity radio frequency identification technology.

Question. If the recommendations from NIST run contrary to what you anticipate using, will you seriously consider their recommendations? Do you believe you can ignore them?

Answer. The National Institute of Standards and Technology (NIST) has been working collaboratively with the DHS and DOS for the past year to develop the method by which it would meet the requirements of section 546 of the Homeland Security Appropriations Act of 2006 (Public Law 109–295). This relationship has proven to be very beneficial and NIST has provided valuable input. DHS expects that relationship to continue as NIST completes its certification.

REAL ID

Question. I believe there are troubling parallels between the WHTI and REAL ID programs, as both face serious flaws and dim prospects of success. In the case of the WHTI border-crossing system, the Administration continues to pretend the reform path ordered by Congress was never enacted. And now the new draft REAL ID regulations released last week confirm the worst suspicions that this program will impose a massive $20 billion unfunded mandate on State governments while raising innumerable civil liberties and privacy concerns. It is ironic that we probably would have stronger drivers' licenses today if the original shared rulemaking procedures that Congress agreed to in 2004 had been allowed to move forward.

How much is in your budget request this year to help the States comply with the unfunded mandate placed on them by REAL ID?

Answer. We requested $3 million in the fiscal year 2008 budget for the Department to more effectively assist and monitor State compliance with REAL ID. Additionally, Congress provided $40 million in grants for REAL ID in fiscal year 2006. We plan to use up to $34 million of this amount to assist the States in the development of the virtual database of driver's license data called for under the Act.

Question. I understand your department has proposed that States pay to meet these requirements by using their State homeland security dollars. Are you aware that there has been a 60 percent drop in appropriations for these accounts since 2003—often at the behest of this administration? On top of that, are you aware that your budget request for this year slashes the State homeland security grant program by over half—over half—from the enacted level this year?

Answer. DHS announced that up to 20 percent of a State's Homeland Security Grant Program funds can be used to help implement REAL ID. This additional flexibility will be made available during the current 2007 grant cycle. This step provides an additional funding source for States and while the fiscal year 2008 budget represents a decrease in grants from fiscal year 2007, there are approximately $5 billion in prior awards to States that remain unspent. This $5 billion does not include the $2 billion yet to be awarded in fiscal year 2007.

INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP (ITACG)

Question. As I am sure you will agree, State and local partners must be a part of any planning for the threats to our Nation, as they are truly our first responders, and we cannot protect our Nation without their full participation with Federal efforts to secure the homeland.

Unfortunately, DHS has not fully supported the participation of State and local officials in your recent efforts to create the Interagency Threat Assessment Coordination Group. Despite recent assurances from Assistant Secretary Charlie Allen in testimony before the House, it appears the problems may be continuing, as State and local officials have not been included as full partners in planning meetings for the ITACG.

Do you stand by Assistant Secretary Charlie Allen's statement that the ITACG must have the "full engagement" of State and local partners, including at the planning stages, and will you assure me that State and local officials will not be excluded from the planning for ITACG?

Answer. I stand by Assistant Secretary Allen's statement, and can assure you we have engaged—and will continue to engage—with State and local partners on plan-

ning for the Group's standup and continued operations. Our commitment here is unchanged.

DHS has engaged with numerous State and local officials regarding three phases of State and local involvement in the Group:

Planning.—As noted above, DHS has supported full, open, and transparent planning for the Group in collaboration with State and local participants at every step along the way. It is important to note that the planning effort for the Group was an open interagency effort, with over 40 representatives from 10 different Federal, State, and local organizations. DHS, as planning co-chair, made a special effort to facilitate openness and full participation by all parties.

Operations.—As you have noted, Charlie Allen has testified publicly to the Department's support for initially placing 2 State and local officials in the Group to represent their information needs and perspectives. We are actively working with State and local members of the Implementation Team to establish joint nomination/selection protocols, and mechanisms under which State and local representatives can be detailed to year-long rotational tours within the Group's offices.

Continuing Engagements.—DHS also identified the need very early in the planning stage to establish a State and local advisory council to provide Group's leadership valuable feedback on its perceptions of Group challenges and successes and how the Group can improve and fine tune its operations to support State and local needs. Such an advisory panel will provide for wide State and local participation in the Group's process. This recommendation has been endorsed by the Implementation Team, and State and local officials on that team are currently drafting the charter and protocols to govern this advisory panel.

Question. As you are aware, the 9/11 bill requires the full participation of State and local officials in the ITACG and mandates that you include them. Do you have any concerns about living up to the requirements of this bill if it becomes law?

Answer. Yes. I am concerned that the draft legislation exceeds the language approved in Guideline 2 by giving the PM–ISE oversight of Group operational responsibilities, which are—at least in part—the statutory responsibility of DHS—this altered language potentially limits the effectiveness and sustainability of the Group.

—Language in draft Senate Bill (S.4) expands the PM–ISE's operational role at the expense of Federal departments with statutory missions that overlap Group functions. This provision would seriously impede DHS' ability to execute our homeland security responsibilities, and would confuse important authorities relating to the coordination of time-sensitive threat assessments and related information. (See the highlighted portions below, which give the PM the responsibility to "oversee" not only the creation, but the "operation" of the Group.)

—*IN GENERAL.*—As part of efforts to establish the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the program manager shall oversee and coordinate the creation and ongoing operation of an Interagency Threat Assessment and Coordination Group (in this section referred to as the "ITACG").

—*MANAGEMENT.—(A) IN GENERAL.*—The Secretary shall assign a senior level officer to manage and direct the administration of the ITACG.

—The draft legislation weakens DHS' "manage and direct" role approved in Guideline 2 to the naming of a senior official to manage and direct the administration of the Group. The word "administration" does not appear in Guideline 2, and its introduction would significantly limit DHS' responsibility to lead the Group, not just administer it. The Group cannot run itself. Guideline 2's information sharing framework recognized DHS' preeminent equities in sharing terrorism information with State and local partners by assigning it a clear leadership role, while still requiring consultation and "collaborative decision making" on substantive issues. Under Guideline 2, DHS would "manage and direct the day-to-day operations of the Group," in consultation with the FBI and the other stakeholders. By contrast, in the current draft legislation, that leadership role would be unmet and replaced by an administrative function, confusing the Group's authorities and threatening its ability to operate on behalf of our collective State and local stakeholders.

Question. Can you explain to me why State and local officials were not allowed to participate fully in earlier stages of planning for the ITACG?

Answer. State and local officials have been actively involved in every step of the interagency planning and coordination process for the Group. From the Guideline 2 Implementation Team's December 6, 2006 official kickoff session—designed to stand up and develop an operating concept for the Group—to the present, State and local officials have participated fully and directly in the effort.

During the Implementation Team's planning work, the DHS and FBI co-chairs hosted twice-weekly planning sessions—one at NCTC and one via teleconference to facilitate out-of-town State and local participation.

All materials developed to reflect the Implementation Team's deliberations were disseminated electronically to all participating State and local officials, who were in turn encouraged to distribute to their wider State and local constituencies as appropriate, as part of the interagency coordination process.

Question. Please tell me when the ITACG will be up and running?

Answer. Interagency endorsement for the Group by the Deputies Committee is anticipated on March 30 2007; Group operations are expected to commence in the coming weeks.

EMERGENCY OPERATIONS CENTERS

Question. We can probably all agree that an effective Emergency Operations Centers (EOC) is absolutely critical for every State. This is the hub of decision-making, communications, and overall management of an emergency. It is troubling then that many States do not have an adequate emergency management facility. The center in my home State in Vermont is in a floodplain. A little over 75 years previously, it location was covered with tens of feet of water. The reality is that many States do not have the resources to outfit a state-of-the-art facility, and Federal funding is needed to complete these projects. Any Federal response to an emergency will be highly reliant on the available State infrastructure.

Does the Department of Homeland Security have an assessment of the current state of EOCs in all 50 States and the District of Columbia?

Answer. DHS has not conducted a formal assessment of EOCs. However, the Technical Assistance Program has conducted an initial review of EOCs around the country to identify "best practices" in design and management.

Question. If so, could you please provide what standards the Department sets for state EOCs and a list of the assessment of the center in each State?

Answer. At present, the Department has not performed a formal assessment of EOCs, nor have Federal standards been established. However, the Technical Assistance Program has conducted an initial review of EOCs around the country to identify "best practices" in design and management.

Question. Would you be supportive of a Federal grant program that would assist States with bringing their EOCs up to adequate standards?

Answer. The Department does not support additional grant funds beyond existing programs to address the need for EOC upgrades. Currently, States are using EMPG funds and other grant resources as well as State and local capital funds to conduct improvements to their facilities to address urgent requirements for interoperable communications, incident management, and other key capabilities. As such, there is no need to provide additional grant funding for duplicative purposes.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Question. What is the Department's inspection process for roll-on/roll-off cargo before it enters U.S. ports?

Answer. Containerized and break-bulk cargo manifest are required to be submitted to CBP 24 hours prior to laden at the foreign port. Bulk cargo is transmitted 24 hours prior to arrival. All cargo designated as high-risk targets are identified, scanned and/or examined either at the foreign port of lading or upon discharge in the United States. In addition to incorporating the layered enforcement process defined above, CBP conducts operations that involve the scanning of bulk and roll-on/roll-off cargo upon discharge using hand-held (Portable Radiation Detection Pagers (PRD), Radiation Isotope Identification Devices RIIDs) and large-scale RPM capabilities.

Question. How is the Department ensuring that weapons of mass destruction are not being smuggled into the United States in roll-on/roll-off cargo?

Answer. In addition to incorporating the layered enforcement process defined above, CBP routinely conducts random screening of roll-on/roll-off cargo using hand-held (Portable Radiation Detection Pagers (PRD), Radiation Isotope Identification Devices RIIDs) and large scale RPM capabilities.

Question. Can you explain the President's decision to cut Fire Grant funding by $245 million when there is a demonstrated need for this program?

Answer. The Administration provides billions of dollars in annual support training, exercise, and equipment to State and local public safety personnel, including firefighters, so that they are adequately prepared to respond to a terrorist attacks or other major incidents. Federal support has been directed in order to better focus

scarce resources on enhancing target capabilities, and to avoid supplanting basic public safety investments at the State and local level. A Federally funded hiring program for firefighters risks replacing State and local funding for general purpose public safety staffing with Federal resources, and, therefore, does not forward the Federal goal of enhancing local preparedness capabilities.

The administration believes that $287 million is an appropriate level of funding given the availability of significant amounts of funding for first responder preparedness missions from other DHS grant programs which are better coordinated with State and local homeland security strategies and, unlike AFG, are allocated on the basis of risk.

Question. Can you explain why the President's budget has not included any specific funding for high risk non-profits when terrorists are increasingly attacking soft target, like hospitals, synagogues, schools and museums?

Answer. The Department provides maximum flexibility through the Homeland Security Grant Program (HSGP) for States to identify those priorities which require resources. States are concerned about soft targets and have previously made investments towards items such as physical security enhancements and target hardening devices (sensors, etc). As these activities are already allowable under programs such as the State Homeland Security Program (SHSP), the Law Enforcement Terrorism Prevention Program (LETPP) and the Urban Areas Security Initiative (UASI), the Department has not specifically requested set-aside funds for these constituencies.

It is also worth noting that the Department has previously administered (and will again in fiscal year 2007) a small grant program in two rounds of $25 million each which will specifically target the non-profit sector, and could include synagogues, museums and other entities.

Question. USCIS has still not issued the necessary regulations pursuant to the Victims of Trafficking and Violence Protection Act of 2000 for U-visas. It has been 7 years since Congress passed this law and no regulations for U-visas have been promulgated. Can you please tell what is causing this delay and when you expect the Department to release these regulations?

Answer. The U-visa rule is under review and we anticipate that it will be issued within the next few months.

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

PNNL FUNDING

Question. What are your plans for ensuring that the critical Homeland Security research at PNNL proceeds without disruption by the Hanford Clean-up?

Answer. DHS continues to sponsor technical activities at the Pacific Northwest National Laboratory (PNNL) in research, development, testing, and evaluation of science and technology projects. Continued funding of these activities will help sustain the laboratory's technical expertise that is necessary for the execution of the DHS mission related projects at PNNL which are accessed by several other Federal agencies as well.

Question. Do you support the addition of $25 million in the Homeland Security appropriations bill for the Area 300 facility at Hanford?

Answer. DHS fully supports the replacement of the PNNL 300 Area facilities that will be decommissioned at the Hanford site. The critical work being done at that facility benefits many agencies within DHS and we look to continue leveraging those facilities and expertise. DHS will continue to be supportive of the PNNL 300 Area Capability Replacement Laboratory (CRL) construction project and recognizes its importance to offer infrastructure for future technical work critical to the DHS mission.

NORTHERN BORDER PROSECUTIONS

Question. What can your Department do to help communities like Blaine along the northern border?

Answer. In 2006, Department of Homeland Security (DHS) Secretary Michael Chertoff adopted the Border Enforcement Security Task Force (BEST) initiative to leverage Federal, State, local, and foreign law enforcement resources in an effort to identify, disrupt, and dismantle organizations that seek to exploit vulnerabilities at the border and threaten the overall safety and security of the American public. (Law Enforcement sensitive response will be submitted under separate cover)

In fiscal year 2008, ICE has requested $10.67 million to support the expansion of the BEST concept nationwide. A portion of these funds will be utilized during the BEST Northern Border expansion.

Counter Narcotic Operations

ICE has 19 northern border offices routinely interacting with other Federal, State, local, tribal, and Canadian authorities to coordinate law enforcement efforts.

Smuggling organizations operating along the northern border are adept in utilizing various smuggling methods to facilitate their operations. The primary narcotics threat along the northern border is the smuggling of "BC Bud" marijuana into the United States. In addition, there has been an increase in the number of seizures and investigations related to pre-cursor chemicals used in the manufacture of methamphetamine, ecstasy and other controlled substances. In fiscal year 2006, ICE investigations resulted in 115 seizures, totaling 98 pounds of methamphetamine, along the U.S.-Canadian border.

Recent Successes

In June 2006, ICE Special Agent in Charge (SAC) Seattle completed Operation Frozen Timber. Operation Frozen Timber targeted a Canadian drug smuggling organization that utilized helicopters to bi-directionally smuggle drugs, bulk cash, and firearms into and out of National Forest and National Park lands in Washington State. The ICE investigation resulted in the seizures of 8,000 pounds of marijuana, 800 pounds of cocaine, three aircraft, and $1.5 million in U.S. currency.

In December 2006, ICE SAC Seattle seized 14 pounds of methamphetamine and arrested a member of a Mexican drug-trafficking organization. This joint Drug Enforcement Administration (DEA) investigation resulted in 43 suspects facing Federal narcotics charges.

In January 2007, ICE SAC Boston arrested four suspects in connection with smuggling 108 pounds of "BC Bud" marijuana from Canada. The four defendants are pending Federal prosecution.

IBETS

ICE currently participates in the Integrated Border Enforcement Team (IBETs) program with personnel from six SAC offices across the U.S.-Canadian border. The IBET concept currently operates in 15 individual regions across the Northern U.S. border with co-located personnel in four.

The IBET concept was developed by ICE, other U.S. law enforcement representatives and Canadian law enforcement agencies to promote joint operational coordination while:

—Enhancing border integrity and security between designated ports of entry
—Exchanging cross border actionable intelligence, and
—Identifying, investigating and interdicting persons, organizations and goods that threaten the national security

ICE, as part of the IBET, combats criminal organizations seeking to exploit the northern border as a vector for their illicit actions by:

—Using an integrated, cooperative and strategic approach to enable the establishment of joint goals and priorities;
—Focusing on continuous improvement through the effective and efficient use of human resources, technology and accountability frameworks;
—Incorporating a mobile response capability, to prevent potential threats of terrorism as well as impeding the smuggling of humans and contraband.

Intellectual Property Rights

ICE has started to see a growing problem with the stockpiling and transshipment of Chinese counterfeit goods through Canada and into the United States.

ICE has started working with the Royal Canadian Mounted Police, who also recognize the problem.

ICE had also seen in a prior operation (Operation Apothecary), the transshipment, and outright sale of pharmaceuticals via the internet from Canada.

Other Operations

In addition to the above items, ICE has 7 SAC offices that have a nexus to the northern border: Seattle, Denver, St. Paul, Chicago, Detroit, Buffalo, and Boston. Each SAC allocates resources based upon the threat within its area of responsibility. SAC offices in St. Paul, Boston, Denver, and Detroit have document and benefit fraud task forces that deal with northern border identity and benefit fraud.

Question. Why should Federal support for local law enforcement efforts be limited only to southern border communities?

Answer. ICE support for local law enforcement efforts are not only limited to the southern border. ICE has many activities throughout the country. Please see our previous response for additional details on our northern border activities.

Question. Do you think that northern border communities should be eligible for assistance programs?

Answer. The Department has made funding available to northern border communities under the Law Enforcement Terrorism Prevention Program (LETPP), a component of the Homeland Security Grant Program (HSGP). Up to 25 percent of fiscal year 2004–2007 LETPP funding may be used to support costs associated with border protection activities when the Department is operating at Code Yellow or above. All 56 States and territories receive LETPP funding and border communities are eligible to use this funding for border protection activities. These activities must be coordinated with the Department's Office of Grants and Training and Customs and Border Protection. Funding is administered by each State Administrative Agency (SAA). The SAA must pass-through 80 percent of its annual LETPP award to local units of government.

COAST GUARD DEEPWATER

Question. Can you please discuss what steps the Department has taken to improve its oversight of the Integrated Coast Guard Systems and the Deepwater project?

Answer. The Coast Guard has devoted considerable attention to concerns raised by the Congress, GAO, and the DHS OIG. As such, the Coast Guard is actively assuming a greater oversight and management role in the Deepwater Program. Several changes have been made that will address the challenges facing the Deepwater Program. They include:

—Moving Deepwater acquisition function into the Acquisition Directorate to form one Acquisition structure to increase efficiency and improve processes;
—Designating the Assistant Commandant for Engineering & Logistics Resources (CG–4) as the Coast Guard's Technical Authority for all new ship acquisition designs.
—Adding staff on the government side to the Deepwater Program to perform greater contractor oversight and assume a portion of the system integrator duties;
—Initiating a Business Case Analysis for all new acquisition decisions to ensure we are building and buying the right tools for our Coast Guard men and women for the best price; and
—Conducting more third party analyses.

Some of these changes will take both time and funds to establish. The 2008 Request for a $4 million increase in Government Program Management is to develop the required staff competencies and capabilities over the next few years. It will also help fund ongoing and new independent analyses and provide specific support to address recommendations from GAO and DHS–OIG reviews. In the short term, the Coast Guard will continue to utilize private sector and other government agencies to support technical support not available within the Coast Guard.

Government Program Management funds are not used to expand the military/civilian government workforce. Funding for additional military and/or civilian personnel is provided through a separate Program, Project or Activity (PPA) budget line.

Based on preliminary analysis, the Deepwater Program initially identified a need for an additional 31 government billets to efficiently obligate Deepwater Program funding and ensure successful delivery of needed assets to the fleet. The estimate does not consider the move to form one Acquisition structure and its attendant efficiencies. Formulation of staffing needs for the new organization will be identified and implemented as this initiative evolves. In addition, a Deepwater Review to determine resource needs has been directed by the DHS Undersecretary for Management, Paul Schneider.

Question. The President's budget requests $788.1 million to complete the acquisition of four National Security Cutters. Admiral Allen's testimony stated that the Coast Guard will fix Cutters 1 and 2, which are currently being built, and design a fix for future boats. What steps has the Department taken to ensure that the Coast Guard will ensure that future cutters do not include any defect? What actions are you prepared to take if these proposed fixes are inadequate?

Answer. The President's fiscal year 2008 Budget Requests $165.7 million to fund long lead material for the fifth NSC as well as to complete the funding for NSC 1–4. The Department has initiated a review of the entire Deepwater Program. A portion of the review is a thorough cost realism analysis by a third party. The Department is conducting market research to see what Federal agencies are available to do the third party independent cost realism assessment. One piece of the cost realism assessment would be the review of the proposed design fixes and the current costs associated with them. The Department's goal is to ensure that the proposed

fixes are adequately funded to avoid any further problems with flawed design specifications.

In addition, the Coast Guard requested Naval Surface Warfare Center, Carderock Division (NSWC–CD) to conduct an independent analysis of the fatigue tolerance of NSC critical areas. With the results of this model in hand the Deepwater PEO in concert with the Coast Guard's Technical Authority, are working with ICGS, in developing a full technical solution that will be incorporated into production of NSC 3 through 8. A proposal has been submitted by ICGS in concert with the Coast Guard request to accomplish these changes. With regard to NSC 1 and 2, the USCG intends to implement similar enhancements during normal post-delivery availabilities that will be well before any fatigue service-life limitations are reached.

Question. For the Fast Response Cutter, a GAO report last year stated, "The Coast Guard has expended about $25 million and does not have a viable FRC design to date." How can you reassure the Committee that the next $25 million we spend on the Fast Response Cutter, which is included in the President's budget request, is spent more effectively than the first $25 million?

Answer. On March 14, 2007, the Commandant of the Coast Guard signed a decision memorandum approving the termination of the current FRC–B acquisition with Integrated Coast Guard Systems and reassigning it to the Coast Guard's Acquisition Directorate. This action will ensure full and open competition, enable the Coast Guard to control costs and in the shortest time possible deliver urgently needed patrol boats that help mitigate the existing patrol boat operating hour gap. The Acquisition Directorate's strategy is to use a fixed-price contract based on an existing, in-service, proven patrol boat design requiring limited modifications to meet basic requirements. This "parent craft" acquisition strategy will reduce technical risk and design development time. A Request for Information conducted in mid-2006 confirmed the existence of several patrol boat designs that could meet the Coast Guard's basic patrol boat requirements with limited modifications.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

Question. Secretary Chertoff, during Hurricane's Katrina and Rita, emergency responders from around the country deployed to South Louisiana, neither Local, State nor Federal responders could communicate with each other, to coordinate command and control activities.

You have proposed in your fiscal year 2008 budget a proposed $1 billion joint effort between the Federal Emergency Management Agency and the Department of Commerce.

Please explain how long you think it will be before the Nation's responders at the Local, State and Federal Level, including the military will be able to communicate with each other during a disaster? What are the timelines for results?

Answer. From fiscal year 2003 through fiscal year 2006, G&T has provided more than $2.9 billion for communications interoperability initiatives, making it the largest category of expenditure through the Homeland Security Grant Program due in part to it being one of the National Priorities under the National Preparedness Goal.

These funds support a host of interoperability activities in line with the Interoperability Continuum (i.e., governance, standard operating procedures, usage, technology, and training and exercises), which was designed to help the public safety community and local, tribal, State, and Federal policy makers address critical elements for success as they plan and implement interoperability solutions. In addition to its other grant programs, in fiscal year 2007 DHS will co-administer a $1 billion Public Safety Interoperable Communications (PSIC) Grant Program in partnership with the Department of Commerce National Telecommunications and Information Administration (NTIA).

DHS has learned through our partnership with State and local emergency responders that addressing interoperable communications is about more than simply purchasing equipment. This fact was emphasized in the December 2006 release of the SAFECOM National Baseline Assessment of thousands of State and local emergency response agencies. The need to emphasize training, exercises, standard operating procedures, and constant application and usage of equipment was also illustrated throughout 2006 when DHS worked with 75 urban and metropolitan areas to develop tactical interoperable communications plans (TICP). These plans were tested and validated through full-scale exercises, and further assessed through the development of Tactical Interoperable Communications Scorecards. In January 2007, DHS released these Tactical Interoperable Communications Scorecards and provided them to each of the participating urban/metropolitan areas with recommendations on how they can continue to improve their interoperable communica-

tion capabilities. As illustrated by the scorecard effort, all urban and metropolitan areas have made progress in the maturity of interoperable communications and have achieved at least a minimal level of tactical interoperability. Although some of our major Urban Areas remain more prepared than others, it may take several years before such preparations are completed Nation-wide.

To broaden the capabilities beyond just Urban Areas, the fiscal year 2006 and 2007 State Homeland Security Grant Program requires each State and territory to submit a Statewide Communications Interoperability Plan in November 2007; States and Territories can use 2006 and 2007 Homeland Security Grant Program funds, as well as up to 5 percent of their allocated PSIC funds, to develop these plans. The Department is committed to improving interoperable communication capabilities for our Nation's first responders while acknowledging that interoperability is an issue that requires ongoing attention as technologies evolve, regional planning matures, and procedures continue to be tested.

Question. And is this an additional $1 billion, or is this money being reallocated from another critical program?

Answer. The $1 billion from the Department of Commerce is additional funding. The 2005 Deficit Reduction Act directed the creation of the $1 billion grant program for Public Safety Interoperable Communications (PSIC). The $1 billion derived from the expected sale of spectrum as part of the Digital Television Transition scheduled for February 2009. The Call Home Act of 2006 (Sec 4) subsequently mandated that the interoperable communications grants be awarded by the end of fiscal year 2007. The PSIC Grant Program will be administered jointly by the Departments of Commerce National Telecommunication and Information Administration (NTIA) and Homeland Security (DHS).

The partnership between DHS and NTIA constructed through the Deficit Reduction and Call Home Acts was affirmed in a Memorandum of Understanding (MOU) on February 16, 2007. The MOU defines the roles and responsibilities and the implementation of the PSIC Grant Program. More specifically, the MOU indicates that NTIA will transfer PSIC funds to DHS and NTIA will obtain the grant administrative services and expertise of DHS. DHS will support the administration of those funds while NTIA will retain ultimate approval authority over all aspects of the PSIC Grant Program. Through DHS' strong working relationship with NTIA, the Department has outlined a program plan and aggressive schedule of activities for meeting the Call Home Act deadline.

Question. For example, in fiscal year 2007, State Preparedness Grants programs were funded at $1.1 billion, this year the program is funded at $465,000.00, with $1 billion being moved to radio interoperability.

How do we believe State and Governments will make up for the short fall in Preparedness Grants? We need a fully funded State and Local Government preparedness grant program.

Answer. The level of funding for State Homeland Security Grant program is based on several factors including, the substantial level of funds awarded over the past 6 years and the level of funding currently in the State and local programs' pipeline. A total of $3.2 billion will be available for State and local preparedness expenditures as well as assistance to firefighters in fiscal year 2008. Of this amount, $2.2 billion is requested for DHS to fund grant, training and exercise programs. Funds requested through these programs will (1) provide critical assistance to State and local homeland security efforts, (2) support resources available through other Federal assistance programs that center on first responder terrorism preparedness activities, and (3) deliver ample support to all State and local first responder organizations to obtain the equipment, training, and other resources required to protect the public in the event of a terrorist attack or other major incident.

The $1 billion Public Safety Interoperable Communications (PSIC) grant program is additional funding. The 2005 Deficit Reduction Act directed the creation of the PSIC grant program for $1 billion derived from the expected sale of spectrum as part of the Digital Television Transition scheduled for February 2009. The Call Home Act of 2006 (Sec 4) subsequently mandated that the interoperable communications grants be awarded by the end of fiscal year 2007. The PSIC Grant Program will be administered jointly by the Departments of Commerce National Telecommunication and Information Administration (NTIA) and Homeland Security (DHS).

Question. Secretary Chertoff, the Federal Emergency Management Agency has the responsibility for managing the Nation's incident command system. In order to promote this system, exercising the Incident Command System is very important.

Your budget proposal only adjusted the National Exercise Program for inflation only. Our Nation continues to be threatened by natural disasters and terrorism, it

would seem that we need to increase opportunities for the Nation's responders and command and control elements to exercise and train together.

How does decreasing the State and Local Training program and only adjusting the National Exercise program for inflation accomplish this? How many exercises are planned for this year?

Answer. Funding for exercise activities and the National Exercise Program (NEP) specifically continues to be a priority for the Department. Resourcing for State, local, and tribal (S/L/T) exercise activities are allowable expenses through a variety of homeland security and health grant programs. Such decisions reflect the priorities of the respective jurisdiction. At the Federal level, the codified NEP—for the first time—establishes a requirement for Federal Departments and to assess their respective agencies exercise activities and to account for the resource impacts with their internal programming processes. With the advent of DHS' reorganization, the Exercise and Evaluation Division is actively engaging with FEMA leadership to galvanize a regional approach to the NEP. The NEP will rely heavily on FEMA Regional Directors and State Homeland Security Advisors to ensure both forward-deployed Federal assets and S/L/T assets are using the NEP and HSEEP. Following those efforts, any resources identified as a priority but without a supporting programmatic basis will be brought forward through the established budget submission process. This will include a detailed requirement to establish and maintain the required National Exercise Simulation Center.

There is a variety of approach's that have been developed and implemented specifically designed to utilize existing funding sources to plan and conduct exercise activities. To meet the mandated multi-year exercise planning system, an interactive system has been developed, along with procedures for adjudicating exercise activities. All exercises can be entered in the National Exercise Scheduling System (NEXS); those exercises determined to include Federal participation are posted to the Five-Year Schedule, which is organized and agreed upon by the Homeland Security Council.

Each Federally organized and conducted, Homeland Security-related exercise can be input into the National Exercise Scheduling System (NEXS) while Tiers 1–3 exercises are included in the NEP Five-Year Schedule.

According to the Five Year Schedule, in fiscal year 2007 the following exercises are planned:

Tier 1—National Level Exercise:
—NLE 1–07: Positive Response/Vigilant Shield 12/07 (Nuclear weapons accident)
—NLE 2–07: Positive Response/Ardent Sentry/Northern Edge 5/07
—NLE 1–08: TOPOFF 4 Full Scale Exercise /Positive Response /Able Warrior /Global Lightning 10/07
—PLE Tabletop 2/07 (IED)
—PLE Tabletop 4/07 (Nuclear-prep for the NLE 2–07)
—PLE Tabletop 7/07 (Biological-focus on Pandemic Influenza)
—PLE Tabletop 9/07 (Radiological-prep for the NLE 1–08)

Tier 2:
—Golden Guardian 06 11/07
—Positive Force (DOD) 3/07
—PINNACLE 5/07
—Pandemic Influenza Exercise 11/07
—Hurricane Preparedness Exercises 3–6/07
—Vigilant Shield (DOD) 2008 12/07
—TOPOFF 4 LSG 12/07

Tier 3—Other Federal Level Exercises:
—JLOTS (DOD) 2/07
—Able Warrior (DOD) 3/07
—Unified Support (DOD) 3/07
—Spills Of National Significance (SONS) 6/07
—Able Warrior (DOD) 6/07
—DHS Infrastructure Protection Functional Exercise 3–6/07

Tier 4—Non-Federal Exercises:
—Senior Official Exercises /National Special Security Events
—Non-Governmental Organization SOE 4/07

To accommodate participation levels required to meet the tiered approach, the Department of Homeland Security is developing a National Exercise Simulation Center (NESC). Capabilities-based planning requires an integrated approach that pools resources, maximizes efficiency, and provides sustained exercise and training support. The NESC will provide a central resource facility and interface to support the Department of Homeland Security's exercise programs, activities, training, and initiatives. It will address current exercise and training deficiencies by:

—Coordinating management of training for exercise and evaluation programs, activities, and initiatives through expanded exercise participation;
—Enhancing exercise reality by using real-world command, control, and communication networks;
—Simulating non-participating Federal, State, local (FSL), NGO, and private sector entities; and
—Streamlining preparedness objectives and issue resolution through information management and exercise scheduling.

Question. Secretary Chertoff, the Emergency Management Performance Grant Program is currently authorized at $375 million, however the current EMPG need as we've heard from the Emergency Management community is $487 million.

As I understand it, the EMPG formula and authorization for EMPG will be linked to homeland security grant reform package. We've heard from the Emergency Management Community and many complain the allocations do not take an all hazards approach and do not allow flexibility.

Every Community has different funding needs, the All Hazards approach provided some flexibility in the way communities could plan and respond to the numerous types of threats that exists.

You have proposed a metric system for how we measure our emergency management capacity, explain why you think the homeland security specific measures would work better that voluntary system for performance measures? Do we not trust our State and local governments to spend the money wisely?

Answer. The EMPG program has been administered by the Office of Grants and Training (G&T) since the fiscal year 2005 cycle, when the program was transferred from FEMA, and has continued to provide critical assistance to sustain and enhance State and local all-hazards emergency management capabilities. G&T has administered the program consistent with previous fiscal years under FEMA, including the allocation formula, per congressional direction. In addition, G&T has worked closely with the National Emergency Management Association (NEMA) to develop EMPG program guidance each fiscal year to meet the needs of the emergency management community, including the decoupling of EMPG from the Homeland Security Grant Program after fiscal year 2005.

EMPG work plans identify a State's all-hazards emergency management priorities for the fiscal year. States have the flexibility to use any combination of the following criteria to develop EMPG work plans: the Emergency Management Accreditation Program (EMAP) Standard (April 2006), the Nationwide Plan Review, the National Response Plan, the National Incident Management System, the National Preparedness Goal, or State homeland security strategies. As noted in NEMA's EMPG Report 2006, "EMPG has the flexibility to allow for all-hazards preparedness. The fact that States can decide how to use the funds—based on identified needs and priorities—makes EMPG a vital program in building the country's emergency management capacity."

In ongoing dialogue with NEMA and the emergency management community, the continued need for performance measures to demonstrate the progress accomplished with limited tax-payer dollars has been reinforced. Through the EMPG work plans, States identify the projected outcomes for their EMPG funds. Again, States have the flexibility to determine the performance measures that will be used to evaluate their efforts and the basis for developing the measures, including the criteria noted above. This approach is not a new requirement, as projected outcomes were an element of EMPG work plans prior to fiscal year 2005 when the program was administered by FEMA. EMPG continues to be an all-hazards program implemented to flexibly support States' emergency management needs.

Question. Secretary Chertoff, Fire Chiefs, Emergency Managers and City Officials from around the country came to capital hill several weeks ago to ask that Congress continue to fund the Metropolitan and Medical Response System (MMRS), they spoke of the value of the program.

And as I understand, the Federal Emergency Management Agency funded the program directly to municipalities and County governments with a contract between the Federal Government and the local governments.

In fiscal year 2007, the program received $33 million in funding. It looks as though you plan to consolidate the program with other grant programs.

Many local elected officials are concerned the program will lose its emphasis, please explain the consolidation, and how you think it better serves the local communities that support the program, as it was administered last year, to consolidate it with other grants?

Answer. The Administration supports continuation of the MMRS capability; however, the Administration and the Department firmly believe that the MMRS mission should be consolidated and integrated within the overall homeland security funding

made available under the Homeland Security Grant Program (HSGP) and the Urban Area Security Initiative (UASI). HSGP and UASI will remain eligible to be used to maintain MMRS-like capabilities in the future. This reinforces DHS commitment to consolidate all grant programs that distribute Federal funds to State and local first responders.

Question. How do you plan to administer this money and continue to maintain the Medical Response System that currently exists?

Answer. The Administration supports continuation of the MMRS capability; however, the Administration and the Department firmly believe that MMRS should be consolidated and integrated within the overall homeland security funding made available under the Homeland Security Grant Program (HSGP) and the Urban Area Security Initiative (UASI). HSGP and UASI will remain eligible to be used to maintain the established MMRS capabilities.

In fiscal year 2007, MMRS was funded $33 million which provided $254,113 per jurisdiction. The grant funds are provided and administered by G&T, which is being transitioned into FEMA on April 1, 2007. The Federal Government will continue to maintain the Metropolitan Medical Response System by working in collaboration with local MMRS jurisdictions/regions so that they may gain maximum benefit and synergy from multiple funding streams from DHS, HRSA, and CDC.

Question. Secretary Chertoff, communities large and small throughout the country have relied on the SAFER Grant program to assist in meeting manning requirements in fire stations around the country for basic first responder fire protection.

Your budget eliminates the program completely.

How do we expect communities to continue to meet the rigorous standards, and provide basic fire protection for their citizens with the threats that exist in our country today?

Answer. The administration provides billions of dollars in annual support to train, exercise, and equip State and local public safety personnel, including firefighters, so that they are adequately prepared to respond to a terrorist attack or other major incident. Federal support has been directed so as to focus scarce resources on enhancing target capabilities and to avoid supplanting basic public safety investments at the State and local level. A Federally funded hiring program for firefighters risks replacing State and local funding for general purpose public safety staffing with Federal resources, and is therefore not consistent with the goal of enhancing local preparedness capabilities. Further, a hiring program creates an obligation which State and local governments must then fund once the Federal grant is exhausted which may or may not align with their funding priorities.

Question. Secretary Chertoff, communities in Louisiana have participated in the Flood Plain Modernization program for the last several years. The Flood Plain Map Modernization program assisted communities in Louisiana from being impacted more severely, you budget cuts the program by more than $4,000,000.00.

After Hurricane Katrina and Rita, 15 communities received Advisory Base Flood Elevation recovery maps, 12 of 15 communities adopted the Advisory Base Flood Elevations to show good faith in mitigating risk of flooding as we rebuild.

The communities adopted them based on the hope that new maps would soon be forth coming. We were told the new maps would be out by this summer, now we are being told the new maps will not be out till this fall for levee protected parishes and next year for non levee protected parishes.

Does your budget reduction impact FEMA's ability to create new Flood Insurance Risk Maps that will replace the Advisory Maps?

Answer. The Flood Map Modernization program is an approximately $1 billion effort over 5 years. The base level of funding was originally $200 million annually. To date, approximately $800 million has been provided for this program. While there is a $4.2 million reduction in the requested level of funding in the final year of the program, there would not be a reduction in the number of maps produced. The fiscal year 2008 budget proposal also directs that any excess flood insurance fee collections be allocated to the floodplain management program area which includes flood hazard mapping, which is expected to make up for the reduction in directly appropriated funding. At this time, however, it is not known to what extent the reduction in our request for the Flood Map Modernization program will be offset by this source of funding. The mapping for coastal LA and MS updates is already budgeted, so this reduction will not impact producing products in these areas.

Question. Do you plan to increase funding for FEMA's FIRM program to assist in getting new maps out to the most impacted areas in Louisiana?

Answer. FEMA does not believe that additional Flood Map Modernization funding is needed because it is able to leverage data that is being developed for other purposes. Specifically, FEMA will benefit from the flood hazard data that the U.S. Army Corps of Engineers is developing as part of their efforts to improve and repair

levee systems. Additionally, FEMA will utilize any relevant flood hazard data developed as part of the disaster recovery process.

Question. Secretary Chertoff, on page 13 of your testimony, you state the following: "With a goal of 90 percent satisfaction with Individual Recovery Assistance Programs, during fiscal year 2006 we achieved a customer satisfaction rating of 91 percent in response to the question." Overall, how would you rate the information and support you received from FEMA since the disaster occurred?

Answer. Beginning with Hurricane Wilma in Florida and ending with severe storms and flooding in New Mexico, there were twenty-five major disaster declarations that required Individual Assistance in fiscal year 2006. FEMA's customer satisfaction rating of 91 percent for fiscal year 2006 is the average survey response from applicants from each of these disasters.

Question. Which disaster are you referring too? And please share with me and the criteria used to gather this information and what methodology did your department use to analyze the results?

Answer. FEMA's major call center activities include Registration Intake, Helpline and Casework. FEMA conducts telephone surveys of 368 applicants per activity for every major disaster that includes Individual Assistance as part of the recovery package. There are 368 surveys conducted on Registration Intake activity approximately one week after the applicant has registered. Another 368 surveys are conducted on Helpline activity approximately one week after the applicant has contacted our Helpline number to check status on their case, change information on their registration, or to ask any number of questions regarding their registrations or our programs.

Finally, we conduct 368 surveys after the applicants have had time to receive their initial eligibility determination, as well as payment, if they are qualified. We use this number per function because it provides 90 percent statistical validity with +/−error rate of 5 percent. This percentage of accuracy is in accordance with industry standard. All surveys are conducted over an 8-week period in order to measure customer satisfaction throughout the application period. The final report is published after all surveys have been completed.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. Based on your department's own staffing models, how many TSA screeners are going to be needed next year in order to keep system-wide average wait times to less than 10 minutes per passenger?

Answer. The Transportation Security Administration's (TSA) Screener Allocation Model (SAM) incorporates a 10-minute wait for passenger and baggage screening at the Nation's airports. The current congressional allocation for Transportation Screening Officers (TSOs) allows TSA to adequately maintain a 10-minute standard on 93 percent of calendar days. The remaining days need to be supplemented with overtime personnel. When 10-minute wait times are exceeded, it is primarily due to excessive volume demand and input configurations not meeting volume demands. TSA uses people, training, equipment, and technology-based strategies to efficiently manage each checkpoint. The newly improved SAM objectively measures and adjusts staffing levels, scheduling, configurations, and the use of differing technologies at each airport. This allows TSA to operate efficiently within the 45,000 TSO cap while maintaining high security levels.

Question. When do you anticipate transmitting the report to Congress on the vulnerability of bridges and tunnels, as required by a provision I wrote in the fiscal year 2007 Department of Homeland Security appropriations bill?

Answer. The Transportation Security Administration is diligently working on this report, and a draft is nearing completion at which time an executive level review can begin. The report should be ready for delivery to Congress by summer 2007.

Question. The Rail and Transit Security Grant is critical toward securing and protecting the nearly half a million commuters who use New Jersey Transit on a daily basis. Funding for Closed Circuit Television (CCTV) cameras, protective suits, radiation pagers, interoperable communications equipment, portable radios and explosive device mitigation & remediation. Though APTA is calling for more than $545 million for this program, the Administration is only requesting $175 million for fiscal year 2008. In light of the recent Mumbai, Madrid and London train bombings, would you reconsider your support for a higher level of funding?

Answer. The Transportation Security Administration (TSA) supports the President's fiscal year 2008 budget request.

The primary focus for the Department of Homeland Security (DHS) and TSA in mass transit and passenger rail has been on information sharing, preparedness, do-

main awareness, training, and using a risk-based management approach to maximize the impact of available resources through random, visible security activities. We have employed wide-ranging strategies that engage our stakeholders and help ensure the security of mass transit and passenger rail systems. The TSA budget involves programs and funding that may seem to be specific to certain modes when, in fact, they impact security across all modes. TSA has learned much in aviation security that is being used in the surface transportation modes. Budgets allocated to aviation security actually provide real benefit throughout the entire transportation system.

For example, Federal Security Directors work closely with the surface modes to make many aviation security measures available to surface transportation security. TSA Explosives Detection Canine Teams, Visible Intermodal Prevention and Response teams, portable screening equipment, and the National Screening Force have been deployed to provide enhanced security to surface transportation.

Much of the Nation's aviation infrastructure is Federally owned, which requires a Federal budget. The surface modes of transportation are approximately 95 percent privately owned and operated, and receive security funding from multiple streams (i.e., State, local, private). The Department has consistently stated that responsibility for mass transit security and passenger rail security is a shared responsibility among a variety of stakeholders, including State, local, and Federal agencies, and private owners and operators. To that end, TSA works in partnership with the DHS Office of Grants and Training and will award $199 million in surface transportation security grants in fiscal year 2007. These grants are awarded in direct relationship to a program's value in mitigating the greatest risk to surface transportation.

Since 9/11, the Federal Government has dedicated an estimated $900 million to transit security alone. This figure encompasses grant programs administered by the Department of Transportation (DOT), Federal Transit Administration (FTA), DHS, and TSA.

Additionally, FTA annually awards more than $3.5 billion in capital improvement grants. These funds may be used for capital security enhancement. Under the Safe, Affordable, Flexible, Efficient Transportation Equity Act—A Legacy for Users, up to 2 percent of these grants may be dedicated to security training and exercises.

The $900 million cited does not reflect the value of supporting services the Federal Government provides to transit security through funding of broader security efforts, such as the Transportation Security Operations Center, the Transportation Security Intelligence Service, and DOT's Crisis Management Center. These and other programs contribute to accomplishing the surface transportation security mission. The intelligence and information-sharing and alert capabilities maintained through these processes are key components of the layered approach to transit and rail security. In summary, budgets seen as specifically dedicated to surface transportation security are not reflective of the overall effort of TSA or the Federal Government in these areas.

QUESTIONS SUBMITTED BY SENATOR BEN NELSON

Question. Back in September I wrote a letter to you, Secretary Chertoff, requesting information about term employees at Citizenship and Immigration Services (CIS) whose contracts were to be terminated at the end of 2007. (I never received a response to that letter, so I'd like the opportunity to discuss this issue now.) I understand that some of these employees have been hired permanently and that others have had their contracts extended to June 30, 2007. We have several employees at our CIS center in Lincoln who are expecting to lose their jobs in June, so I want to be sure I understand why these contracts are being terminated.

Let me start by saying that I applaud your efforts at reducing this backlog and simply want to be sure that terminating these employees will not adversely impact those efforts, especially at effective regional CIS centers such as those in Nebraska. I am concerned that terminating these employees could result in an increase in backlogged applications again, and the government would then be faced with hiring new employees to process those applications at a later date. It seems it would be more cost effective to either extend the contracts of the current employees or else make them permanent employees, given their expertise in processing applications and given the taxpayer dollars which have already been spent to train them.

What is the status of backlogged immigration applications?

Answer. The latest Backlog Elimination Report for Congress for fiscal year 2006, 4th Quarter (July–September 2006) Update, reflected a net backlog of 9,482 cases that met the USCIS definition of backlog over 6 months and within our control. Still, there were more than one million overall pending cases outside USCIS control

due to pending FBI background checks, requests to applicants for further evidence associated with an application or appeal, and visa applications where no visa is available due to statutory caps.

As of December 31, 2006, there was a gross total of 1,212,567 applications pending that met the USCIS definition of backlog over 6 months. Of these, 103,272 were pending USCIS action and 1,109,295 applications were outside USCIS control due to pending FBI background checks, requests to applicants for further evidence associated with an application or appeal, and visa applications for adjustment where no visa is available due to statutory caps.

Question. How have you determined that ending these term employees' contracts is appropriate at this time?

Answer. The end of fiscal year 2006 marked the conclusion of the President's 5-year Backlog Elimination program, and with it came an end to dedicated appropriated funding for USCIS that had been used in part, to support the employment of more than 700 term appointments.

Additionally, in 2006, USCIS conducted a comprehensive fee study to identify the full costs associated with processing immigration applications. A key component in determining those costs was maintaining the processing goals achieved under backlog elimination. The proposed fee rule will allow USCIS to ensure the appropriate staff level to adjudicate applications while also improving and automating our business processes, making it easier and faster for adjudicators to review applications.

However, recognizing that there were numerous full time permanent position vacancies within USCIS field offices, USCIS decided to extend the appointments of all term employees while recruitment of permanent staff was initiated. The extension of the term appointments was made possible by diverting permanent position vacancy funds to cover the cost of the term employees.

Since the beginning of the fiscal year USCIS has experienced a steady decrease in the number of term employees who have elected to continue their employment with USCIS. As of March 17, 2007, the number of term employees on board was 535 versus 725 at the start of the fiscal year. The reduction in term employees is a reflection of the fact that many have applied and been selected for permanent employment with USCIS, while others have chosen to discontinue their service.

USCIS has decided to extend the term appointments of all currently on-board staff through June 30, 2007, based upon available funding. USCIS will continue to monitor on-board staffing levels and reevaluate its budget picture as it approaches the June 30 deadline.

Question. Do you know what effect terminating these employees will have on the amount of time it will take to process new applications?

Answer. Case processing will be affected as the loss of this staff reduces the agency's overall adjudicative capacity. The loss of capacity associated with these 400 FTEs represents 45,240 officer hours per month, which translates to approximately 35,000 I–485 completions or 36,500 N–400 completions per month. The proposed fee restructuring rule will add 1,004 new positions in the field that will allow USCIS to restore currency in its case processing and ultimately support a 20 percent improvement in processing times.

Question. Do you have information as to the cost and time involved in training new employees for these positions?

Answer. New adjudications officers are required to attend Basic Adjudications Officer Training, a course currently provided at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA for 6.5 weeks. The average cost is approximately $5,600 per student in fiscal year 2007. This cost does not include the instructors and staff that support new officer training and other types of core mission training for USCIS. Training costs for other types of term positions are not tracked centrally and vary depending on type of position and location where they work.

Concerns have been raised by my constituents about the hiring procedures for permanent employees at CIS. The term employees who have contacted me recognize that they were hired for non-permanent positions. However, they are confused as to the hiring criteria used to determine which term employees will be hired as permanent employees. Specifically, complaints have been raised about a new writing test that employees must take in order to be hired as a permanent employee or to be promoted to a higher position. Complaints have been made that this test is very subjective and that there is a high fail rate for this test.

Question. Are you familiar with this writing test and the reasoning behind implementing this new test?

Answer. Yes. In April 2005, USCIS posted a Nation-wide Public Job Notice (PJN) through OPM's USA staffing for Permanent Adjudications Officers. As part of the applications process, qualified applicants who scored highly enough on the OPM assessment of experience and qualifications to be within reach for selection were asked

to take a writing test. The writing test portion of the application process was instituted by USCIS in 2005, in order to ensure that newly hired "permanent" Adjudications Officers possessed the necessary writing skills to perform the functions of the position. District and Center Adjudications Officers write decisions, memoranda, requests for evidence, and notices to revoke or deny relating to adjudication of formal petitions and applications for immigration-related benefits. These memoranda and documents may be used in courts of law and must be legally sufficient. The preparation of these agency decisions and dated memoranda requires the Adjudications Officer to review and apply the law, USCIS policies, USCIS guidelines, and legal opinions and then create documents in standard written English that may be comprehended by petitioners and used as evidence in a court of law. Accordingly, the ability to communicate effectively in writing is a critical core competency for an Adjudications Officer.

Experience gained over the past year has lead USCIS to reconsider the audience to which it applies the testing criteria. After hearing the concerns raised by USCIS term employees and reviewing test scores of those having gone through the process, it was recently decided to change the policy regarding who would be tested. Rather than test all candidates that applied for a permanent full time Adjudications Officer position regardless of the Federal general schedule (GS) grade level, the decision was made to administer the test to only those applying at the GS 5–9 levels. Effective April 1, 2007, all GS 11–12 level applicants will no longer be required to take the writing test. This decision was made based upon the fact that many of the applicants applying at these grade levels are currently employed by USCIS in term appointments, and in many cases have been for a number of years and received satisfactory performance appraisals. Recognizing this fact it was deemed appropriate to revise the test policy. It is anticipated that this change in practice will open the door to greater opportunities for those currently employed term staff who wish to pursue full time permanent employment with USCIS.

Question. Does it make sense to implement this new test for employees who have been doing these jobs for, in some cases, years? Does it make sense to hire a new employee who passes this writing test—one that must be cleared for security and trained—over an existing employee who is already doing the job, and in some cases, has been doing the job for years, but who does not pass the writing test?

Answer. As stated in the previous response, experience gained over the past year has lead USCIS to reconsider the audience to which it applies the testing criteria. After hearing the concerns raised by USCIS term employees and reviewing test scores of those having gone through the process, it was recently decided to change the policy regarding who would be tested. Rather than test all candidates that applied for a permanent full time Adjudications Officer position regardless of the Federal general schedule (GS) grade level, the decision was made to administer the test to only those applying at the GS 5–9 levels. Effective April 1, 2007, all GS 11–12 level applicants will no longer be required to take the writing test. This decision was made based upon the fact that many of the applicants applying at these grade levels are currently employed by USCIS in term appointments, and in many cases have been for a number of years and received satisfactory performance appraisals. Recognizing this fact it was deemed appropriate to revise the test policy. It is anticipated that this change in practice will open the door to greater opportunities for those currently employed term staff who wish to pursue full time permanent employment with USCIS.

Question. The DHS budget suggests the cuts in first responder grant programs are mitigated by the fact that DHS intends to work with the Department of Commerce to allocate $1 billion to the States through an interoperability grant program. As a member of the Committee when this bill was passed out of Commerce, I can tell you we did not intend for this money to be used as a substitute for prevention and preparedness programs to first responders in States and localities. I'm concerned DHS's approach to use this money violates congressional intent, which was to enhance the communications capabilities of first responders, but certainly not at the expense of prevention and preparedness activities. What is your response to this concern?

Answer. In formulating the fiscal year 2008 budget request, the level of funding for grant programs was based on the following factors; the level of funds provided over the past 6 years, the level of funding currently in the State and local programs' pipeline, and the influx of the PSIC grant program funding. Based on these factors, the Administration feel this request provides first responders with a sufficient level of prevention and preparedness activities. The PSIC funding should be viewed as a compliment to these grant activities and not as a substitute.

Question. I understand GAO recently provided the Committee with a report on your administration of the UASI grant program. Reserving judgment on the process

outlined there, I am wondering if you would agree with the approach the Senate is proposing in its 9/11 Commission bill to broaden the scope of eligible cities by allowing the 100 largest metropolitan areas to compete for these grants? If you disagree that this is a fair way to determine eligibility for UASI funding I'd like to hear why? Why shouldn't these metropolitan areas start out on equal ground and be allowed the opportunity to make their case for funding? Especially since there is no guaranteed minimum requirement—if a City doesn't provide appropriate justification then they won't succeed in the grant process.

Answer. The Department does not support the expansion of the Urban Areas Security Initiative (UASI) program to the 100 largest metropolitan areas. The UASI program is a risk-based initiative that was established to dedicate resources to high-threat, high-density metropolitan areas to prevent, protect against, respond to, and recover from terrorism. In order to determine eligibility for this program, the Department analyzes the relative risk of metropolitan areas to terrorist attacks. Risk is defined as the product of three principal variables: threat, vulnerability, and consequence. The risk model considers the potential risk of terrorism to people, critical infrastructure, and economic security in a given area. In evaluating risk, DHS considers the populations in an area that could be at risk, the concentration of people in that area, and specific characteristics of their location that might contribute to risk, such as Intelligence Community assessments of threat, proximity to nationally critical infrastructure, and the economic impact of an attack. Thus, although population is a critical factor, UASI eligibility determinations are based upon additional considerations that provide a more comprehensive analysis of relative risk. In addition, expanding the program to 100 jurisdictions creates the potential for final awards to be dramatically reduced to levels that cannot support the implementation of activities that will have a meaningful impact on risk reduction and the enhancement of preparedness capabilities. The Department will continue to require UASI candidates to build investment justifications for proposed activities, as part of a broader effort to consider both relative risk as well as how effectively proposed solutions address need and ultimately mitigate risk.

Question. This question was actually asked at the hearing but there seemed to be a misunderstanding about what I was asking. I am not suggesting a "cost sharing" program by any means. Rather, I would like to know why you believe it is a bad idea to allow for the top 100 metropolitan areas to compete for funding—understanding that the applicants that do not make a compelling case for the money would not receive funding.

Answer. The Department does not support the expansion of the Urban Areas Security Initiative (UASI) program to the 100 largest metropolitan areas. The UASI program is a risk-based initiative that was established to dedicate resources to high-threat, high-density metropolitan areas to prevent, protect against, respond to, and recover from terrorism. In order to determine eligibility for this program, the Department analyzes the relative risk of metropolitan areas to terrorist attacks. Risk is defined as the product of three principal variables: threat, vulnerability, and consequence. The risk model considers the potential risk of terrorism to people, critical infrastructure, and economic security in a given area. In evaluating risk, DHS considers the populations in an area that could be at risk, the concentration of people in that area, and specific characteristics of their location that might contribute to risk, such as Intelligence Community assessments of threat, proximity to nationally critical infrastructure, and the economic impact of an attack. Thus, although population is a critical factor, UASI eligibility determinations are based upon additional considerations that provide a more comprehensive analysis of relative risk. In addition, expanding the program to 100 jurisdictions creates the potential for final awards to be dramatically reduced to levels that cannot support the implementation of activities that will have a meaningful impact on risk reduction and the enhancement of preparedness capabilities. The Department will continue to require UASI candidates to build investment justifications for proposed activities, as part of a broader effort to consider both relative risk as well as how effectively proposed solutions address need and ultimately mitigate risk.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

Question. The Domestic Nuclear Detection Office (DNDO) is tasked with deploying radiation detection technologies and systems designed to detect attempts to smuggle nuclear materials or weapons into the United States. As such, DNDO is likely to play a critical role in testing and evaluating current and next generation technologies to assure that DHS agencies have the most effective and accurate tools.

How is DNDO interacting with the Department of Energy's efforts in the same areas?

Answer. The DNDO (particularly the transformational research and development program) works closely with the NNSA Office of Nonproliferation Research and Engineering (NA–22). The planning process for the DNDO transformational research agenda was coordinated with partners, including NA–22. Staff from both NA–22 and DNDO served on each others' proposal review panels, in part to ensure that duplication of funding is avoided. In addition, this interaction helped ensure that DNDO transformational R&D programs are well coordinated, enabling the U.S. Government to best utilize the expertise of the National Labs. DNDO conducted similar proposal reviews with DTRA.

DNDO, as an interagency office, has full-time detailees from agencies such as DOE. These individuals have provided invaluable expertise in all aspects of the DNDO mission. Our detailees enable us to maintain an open and productive dialogue with our interagency partners so that we can avoid duplication of effort and make strides toward the complete implementation of the proposed architecture.

The frequent dialogue with DOE personnel results in a thorough understanding of DOE operations, technological requirements, reporting and information analysis needs—all of which are elements of the DNDO architectural analysis. As the global detection architecture evolves, the DNDO will bring forward options and recommendations to DOE programs. In fact, the DNDO is now working with DOE/NNSA to acquire ASP systems for deployment through the Megaports Initiative, further enhancing the broader United States strategy to scan incoming cargo before it reaches our borders. This demonstrates that the development of the global detection architecture, and proposed improvements to that architecture, do not require a management construct that infringes or subsumes the statutory responsibilities of partner agencies.

Question. How is DNDO balancing the needs to rapidly deploy detection systems and develop technologies that can best fulfill its mission?

Answer. The DNDO has, from its beginning, adopted the risk-based methodology espoused by the Secretary to support both short-term and long-term planning. In a highly simplified form, the DNDO measures overall risk-mitigation, and, hence, success, as a combination of several factors. Ultimately, to successfully prevent nuclear and radiological terrorism, authorities must be able to (1) encounter the adversary; (2) detect and identify successfully encountered threats; and (3) interdict successfully detected and identified threats. Resources must be balanced to improve each of these success factors, with increasing levels of overall success creating ever larger budgetary and personnel requirements. Given the limited nature of resources, deployment and operational strategies must be employed with the realization that 100 percent success against all threats may never be achievable. Instead, available resources must be allocated in such a way as to achieve the highest utility given existing constraints.

As part of this resource allocation process, the DNDO has stated that all acquisition decisions will be informed by robust test and evaluation programs. The DNDO has made a commitment to fully characterize all technologies prior to large-scale acquisition decisions, to ensure that DNDO understands all potential performance improvements and liabilities.

Take as an example DHS efforts to instrument the Nation's ports of entry (POEs) with radiation portal monitors (RPMs). By late CY 2004, there was a general realization that operational challenges (throughput and nuisance alarm rates) at high volume POEs meant that deployed RPMs, while providing improved coverage ("encounter"), still had limited capabilities ("detect and identify") as operated, and thus continued to limit overall probability of success. In response, the Department launched the Advanced Spectroscopic Portal (ASP) program to develop next-generation RPMs (to improve the probability of "detect and identify"), while at the same time continuing to allocate resources to acquiring additional current-generation RPMs to continue to improve overall detection capacity.

Two years ago, less than 40 percent of incoming containerized cargo was being scanned for radiological and nuclear threats at our land borders. RPM deployments to the Nation's 22 busiest ports are now complete. We are currently scanning 89 percent of cargo coming through our seaports using 333 RPMs. By the end of calendar year 2007, it is our goal to screen at least 98 percent of all containers entering the United States by sea for radiological and nuclear material, using Radiation Portal Monitors (RPMs).

DNDO's current deployment plan to all POEs is described in its RPM Program Project Execution Plan (PEP), which details the schedule for remaining deployments. The project baseline outlined in the PEP is aligned with the Joint DNDO/CBP Deployment Strategy for Domestic Border Crossing Nuclear Detection System

document, which describes how we can deploy an optimized mix of both current and next-generation systems (i.e. Advanced Spectroscopic Portals, or ASP). Both the PEP and the Joint Deployment Strategy were developed in conjunction with CBP. We had to consider how to best balance our need for better detection capabilities with wisely managing cost and minimizing the impact to the flow of legitimate commerce.

Overall, the ASP and RPM programs, as described, represent a balanced approach to the need for better capability and coverage. As next-generation technologies were identified, DHS made the deliberate decision to continue procuring current-generation systems, realizing that the marginal improvements provided by these procurements continued to increase overall probability of success. However, at the same time, DHS began to make an additional investment in next-generation technologies, realizing the potential improvements that would be realized in successive years. Finally, by developing plans to transition from current-generation to next-generation technologies, including a continued use for current-generation capabilities, the Department has sought to ensure that prior investments in systems acquisition continue contribute to improving the overall security of the Nation.

Question. How is DNDO developing and supporting the nuclear facilities and infrastructure needed to test and evaluate evolving technologies, missions, and operational concepts?

Answer. The DNDO relies heavily on the ability to obtain high fidelity, defendable test data in support of development, acquisition, and deployment decisions. DNDO testing activities are conducted throughout the product development process, and involve the National Labs, private industry and academia. The construction of the DNDO Radiological and Nuclear Countermeasures Test and Evaluation Complex (Rad/NucCTEC) offers the opportunity for high-fidelity test and evaluation. The Rad/NucCTEC is authorized to handle SNM for the purpose of testing developed technologies against actual samples of these materials which provide the greatest threat to the Nation for use in a nuclear attack.

Prior to the construction of this facility, no location existed that allowed access to these quantities of materials while maintaining the flexibility to place these materials into relevant threat scenarios and cargo configurations. The DNDO will afford all developers with the opportunity to gather data against threat sources as part of their technology development programs. We will also conduct independent evaluations of their prototypes and products in support of a fair and open acquisition process.

It is our belief that this testing environment, one which provides access to realistic threat scenarios in the spirit of independent assessment, provides a unique opportunity. While there are radiological and nuclear detection technology test activities at Pacific Northwest National Laboratory (PNNL), Sandia National Laboratory (SNL), and Brookhaven National Laboratory (BNL), none currently have access to the kinds of materials that will be available at the Rad/NucCTEC. The National Labs certainly possess other testing capabilities, such as the environmental test chambers at Oak Ridge National Laboratory (ORNL). Therefore, the DNDO hopes to leverage, not duplicate these capabilities. Experts from the National Labs have been, and hopefully will continue to be, members of DNDO test teams. They help scope tests, conduct data analysis, and provide support personnel for operational evaluations at the DHS Science & Technology CounterMeasures Test Beds. They have also worked with us on pilot deployments for CBP, as is the case with PNNL.

Question. What role are the Department of Energy, national weapons labs, and other experts playing in DNDO?

Answer. The DNDO (particularly the transformational research and development program) works closely with the NNSA Office of Nonproliferation Research and Engineering (NA–22). Staff from both NA–22 and DNDO served on each others' proposal review panels, in part to ensure that duplication of funding is avoided. In addition, this interaction helped ensure that DNDO transformational R&D programs are well coordinated.

DNDO, as an interagency office, has full-time detailees from agencies such as DOE. These individuals have provided invaluable expertise in all aspects of the DNDO mission. Our detailees enable us to maintain an open and productive dialogue with our interagency partners so that we can avoid duplication of effort and make strides toward the complete implementation of the proposed architecture.

The frequent dialogue with DOE personnel results in a thorough understanding of DOE operations, technological requirements, reporting and information analysis needs—all of which are elements of the DNDO architectural analysis. As the global detection architecture evolves, the DNDO will bring forward options and recommendations to DOE programs. In fact, the DNDO is now working with DOE/NNSA to acquire ASP systems for deployment through the Megaports Initiative, further enhancing the broader United States strategy to scan incoming cargo before it

reaches our borders. This demonstrates that the development of the global detection architecture, and proposed improvements to that architecture, do not require a management construct that infringes or subsumes the statutory responsibilities of partner agencies.

The DNDO recognizes that the national weapons laboratories have long been one of the Nation's preeminent sources of critical nuclear expertise. That expertise, along with the expertise found in other National and Federal Labs, academia, and industry, is vital in developing technologies to mitigate the threat of radiological and nuclear terrorism.

The largest role that the National Labs will have within the DNDO is within the transformational research and development program that seeks advanced, novel solutions to develop significantly more effective, capable, and operable nuclear and radiological countermeasures. In December 2005, the DNDO released a call for proposals (CFP), soliciting nuclear detection exploratory research proposals from the National Labs. The DNDO received over 150 proposals, selected 44 projects, and awarded over $35 million for these research efforts. Work began in June 2006 and we are already seeing some very promising outcomes.

Additionally, the DNDO relies on the nuclear expertise within the National Labs to support efforts across the office. For instance, National Labs provide analysis towards the development of the global nuclear detection architecture, deployment support to the Radiation Portal Monitor program, testing support at the Nevada Test Site, and operational support through the Nuclear Assessment Program (NAP) and the Technical Reachback (TRB) program. The DNDO intends to continue to rely heavily on this expertise as the global architecture continues to evolve and mature.

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER

Question. We visited the National Infrastructure Simulation and Analysis Center (NISAC) about a year ago. As you know, NISAC is funded by DHS to evaluate the effects of disruptions to America's infrastructure, and much of NISAC's work is done by New Mexico's two National Laboratories.

I understand that NISAC has been very useful to the department during Hurricane Katrina and during preparations for an avian flu outbreak. In fact, NISAC's importance was noted in the White House's "Federal Response to Hurricane Katrina: Lessons Learned," and as a result Congress expanded NISAC's role in last year's Homeland Security Appropriations bill.

I am concerned NISAC is not being used by the Department of Homeland Security and the rest of the Federal Government to its full extent.

What funding does the Department propose for NISAC in fiscal year 2008?

Answer. The final fiscal year 2008 funding request for the National Infrastructure Simulation and Analysis Center is $16 million.

Question. What are your plans to coordinate the Department's efforts so NISAC is utilized by the entire Department?

Answer. The Department of Homeland Security (DHS) recognizes that the National Infrastructure Simulation and Analysis Center (NISAC) and other Office of Infrastructure Protection (OIP) programs must collaborate and work with many partners to successfully accomplish the OIP mission and the wide range of 2006 National Infrastructure Protection Plan (NIPP) requirements. NISAC has been working with multiple DHS partners and is in the process of expanding its information sharing, outreach, and education circle within DHS and across the Federal interagency community, as well as Homeland Security Presidential Directive-7 (HSPD–7) and NIPP infrastructure protection partners.

NISAC undertook the mandate to become the source of national expertise to address critical infrastructure protection, counterterrorism, threat assessment, and risk mitigation from natural disasters, acts of terrorism, or other manmade disasters; and to be the leader in modeling, simulation, and analysis to enhance domestic preparedness, protection, response, recovery, and mitigation activities.

NISAC's mission and analytical capabilities (simulation, modeling, and analysis) emphasize information sharing and effective collaboration with a variety of partners to provide operations support to decision makers. Currently, for example, NISAC is conducting a Pandemic Influenza modeling and analysis program in collaboration with the DHS Office of the Chief Medical Officer (CMO). In March 2007, NISAC researchers presented the Phase 1 briefing with a Phase 2 update for the Pandemic Influenza model to the Assistant Secretary for Infrastructure Protection, who then directed NISAC to present the same briefing to the CMO Office and share all data, as well as coordinate all details, including assumptions, scenarios, variables, etc.

OIP and NISAC, in particular, have fostered an unprecedented partnership with the DHS Office of Science & Technology (S&T). S&T had financed the Critical Infra-

structure Protection Decision Support System national-level interdependency model program for several years. In 2007, this program is transitioning to operational status, becoming another tool in NISAC's analytical toolbox, a helpful addition to NISAC's suite of capabilities. OIP has also partnered closely with S&T on its Integrated Process Team program, establishing sector plans and critical infrastructure/key resources annual reports as sources of both research and development and simulation/modeling/analysis requirements from the sectors.

Another Department-wide outreach/information sharing development is NISAC's new deliberate exercise planning and support program. NISAC is contributing to several multi-departmental exercises this year, including Ardent Sentry. Upcoming tabletop exercises in April 2007 will use NISAC products. NISAC is participating in exercises in fiscal year 2007 to develop better products for interdepartmental decision makers at various levels, from senior leaders to field officers, and to educate the wide variety of players on NISAC analytical capabilities. This exercise outreach program has already begun and is part of the NISAC 5-year plan.

Question. How will you work with other Departments to make sure NISAC's capabilities are available across the Federal Government?

Answer. To facilitate information sharing and encourage feedback from the sectors and National Infrastructure Protection Plan (NIPP) partners, the National Infrastructure Simulation and Analysis Center (NISAC) will establish formal relationships with each of the Sector-Specific Agencies (SSAs) and will continue to share information and partner with those agencies, as appropriate. These relationships and new information-sharing processes are being implemented in fiscal year 2007 through the Office of Infrastructure Protection (OIP) in a joint effort by the OIP Partnership and Outreach Division (POD), the NISAC program manager, and the NISAC laboratory representative onsite at OIP, who is specifically tasked to spearhead NISAC information sharing, outreach, and education within DHS and across the spectrum of Federal Government agencies and other NIPP partners.

There have been many examples of ongoing interagency information sharing, outreach, and NISAC education efforts. The NISAC program manager has already briefed the Federal Senior Leadership Council as well as several SSAs. Using NIPP as a guide, NISAC is continuing to reach out to the interagency community. The program manager has also briefed the interagency exercise committee and incident management program, and has spoken at a NIPP technical assistance meeting with interagency SSAs. During the week of March 26, 2007, OIP Assistant Secretary Robert Stephan and the program manager spoke at the 2nd Annual Risk Symposium in Santa Fe, New Mexico, hosted by Los Alamos and attended by many interagency representatives. Considerable interface occurred throughout the conference. The program manager's briefing was titled: "National Infrastructure Simulation and Analysis Center: Interagency Infrastructure "Center of Gravity."

There are also many upcoming events planned for the interagency information-sharing, outreach, and NISAC education efforts. In the coming weeks, the NISAC program manager and the NISAC scientific advisor will meet with the Department of Defense (DOD) and the Department of Health and Human Services, among others. The NISAC program manager works closely with the U.S. Northern Command (NORTHCOM) liaison; in addition to interacting and arranging DOD and NORTHCOM tours of NISAC operations in New Mexico, they are establishing a more extensive NISAC briefing program to share information with appropriate offices and leaders in NORTHCOM and DOD, and for NORTHCOM personnel traveling to Washington, DC.

SECURITY UPGRADES AT LAND PORTS

Question. Mr. Secretary, America has a vast number of land ports of entry, and it has been more than 20 years since we launched a major effort to upgrade infrastructure at those ports. That last effort occurred in 1986, when former Senator DeConcini and I developed the Southwest Border Improvement Program to improve border infrastructure so that States could better take advantage of commerce and trade opportunities with Mexico. That was 15 years before September 11, 2001.

Since September 11, we have placed increasing emphasis on upgrading security for our airports and seaports, but we must also improve land port security. To that end, I plan to introduce legislation that authorizes additional funds for investment in our Nation's border crossings.

Have you considered what kinds of improvements are necessary at our land ports of entry and how much these upgrades might cost?

Answer. We have. Many land ports are in need of replacement or renovation to meet the DHS/CBP mission, as they were designed and constructed several decades before the September 11, 2001 attacks and the creation of DHS. First, many ports

need to increase site size, change exterior layouts, and add additional traffic lanes. This is necessary to provide for site security, to ease congested traffic flows, and to allow for productive use of electronic screening and trusted traveler technologies, as well as modern operational concepts. Second, many port buildings need more space, improved layout, and better infrastructure to handle modern work processes and high public volume. This is also necessary to provide better security. The most current port spaces were segmented for legacy Customs, INS, and USDA functions of the past and many are grossly undersized. Furthermore, most security aspects of land ports are retrofits rather than designed "from the ground up." Third, the physical conditions in many of our facilities are poor. Many were built before or during the Great Depression, and few of these have had significant renovations other than some rudimentary maintenance.

CBP developed a multi-year Land Ports of Entry (LPOE) Capital Investment Plan (CIP) that began in 2003. The CIP includes Strategic Resource Assessments (SRAs), a project prioritization method, portfolio planning tools, and a 5-year investment strategy. The SRAs are (1) a physical assessment of all exterior spaces and buildings by trained architects and (2) a current and forecasted needs assessment of space and facilities. Facilities are assessed and ranked into a prioritization, based on their ability to support the overall CBP mission. This prioritization drives our requests to the GSA Federal Buildings Fund (FBF).

The LPOE Modernization Program received $211 million in fiscal year 2006 from the GSA FBF. The President's fiscal year 2007 budget requested $96.5 million for LPOE Modernization.

Question. Are there any New Mexico land port improvement projects in your Department's fiscal year 2008 budget request?

Answer. CBP has not included any land port of entry projects in its fiscal year 2008 budget request. Presently, major capital construction projects for land port of entry inspection facilities are funded through the Federal Buildings Fund administered by the U.S. General Services Administration (GSA).

GSA received funds in fiscal year 2007 for site acquisition and design for facility upgrades at the inspection facility in Columbus, New Mexico.

BORDER SECURITY AIRCRAFT

Question. I applaud your efforts to provide more assets for border security, including budgeting $4.6 million to upgrade CBP aircraft. This area is important to me because in New Mexico, I am told CBP aircraft are from the Viet Nam era.

Which border patrol sectors' helicopters would be upgraded with this funding?

Answer. CBP Air and Marine has made great strides in replacement of our aging Viet Nam era helicopters in fiscal year 2007. To date we have taken delivery of ten EC–120 Light Observation Helicopters (LOH), with five more to be delivered prior to the end of the fiscal year. Also in fiscal year 2007, we will order eight AS–350 Law Enforcement Helicopters, with initial delivery expected to begin in January 2008. The budget request also contains $52.4 million in recurring procurement funding for the purchase of one new Medium Lift Helicopter (MLH) and the conversion of 1–2 of CBPs existing UH–60A MLHs to UH–60L versions. The new MLH acquisition and the conversion effort are being pursued in cooperation with the U.S. Army, and the conversions will extend the helicopters' service lives and reduce annual operating costs. The early, rough-order-of-magnitude (ROM), estimate for the conversion effort is $6–8 million per aircraft. To date, the specific UH–60A aircraft to be converted beginning in fiscal year 2008 have not been selected, but CBP plans to eventually convert all 16 of its 25-year old UH–60A MLHs to UH–60Ls. As CBP takes delivery of these new and restored helicopters, we will begin removing some of the Viet Nam era helicopters from our inventory at all operating locations to include those in New Mexico.

The $4.6 million shown in the fiscal year 2008 budget request will be used to begin the upgrade of 10 of CBPs C–550 Interceptor Aircraft currently deployed to both the northern and southern borders. The upgrades will include a new air search radar system, an improved forward-looking infrared sensor package, and possibly a "glass cockpit" with improved indicators and sensor reads

Question. How much money does your budget request include for new Customs and Border Protection helicopters?

Answer. The fiscal year 2008 budget request contains $52.4 million in recurring procurement funding for the purchase of one new Medium Lift Helicopter (MLH) and the conversion of 1–2 of CBP's existing UH–60A MLHs to UH–60L versions. The new MLH acquisition and the conversion effort are being pursued in cooperation with the U.S. Army, and the conversions will extend the helicopters' service lives and reduce annual operating costs. The early, rough-order-of-magnitude

(ROM), estimate for the conversion effort is $6–8 million per aircraft. To date, the specific UH–60A aircraft to be converted beginning in fiscal year 2008 have not been selected, but CBP plans to eventually convert all 16 of its 25-year old UH–60A MLHs to UH–60Ls.

UNMANNED AERIAL VEHICLES AND BORDER SECURITY

Question. As you know, I am an advocate for the use of unmanned aerial vehicles to help secure our borders, but I am concerned about the length of time it takes DHS and the Federal Aviation Administration to finalize agreements regarding the flight of UAVs along our southern international border.

In New Mexico, we have some experience with UAVs and the FAA because our university near the southwestern U.S. border operates a UAV validation and test facility sponsored by the Department of Defense. Because of the established presence of UAVs at New Mexico State University, and because of our location as a border State, I believe New Mexico would be an asset in the use of UAVs for border surveillance.

How much does your fiscal year 2008 budget allot for UAVs and where do you intend to station those UAVs?

Answer. Recurring funding of $10.6 million in fiscal year 2008 will not purchase one full system, therefore funds will go towards sensors, ground controls systems, and spares for UAS already in inventory.

CBP A&M is conducting initial operations on the SW border from Sierra Vista, AZ. As access to the national air space and satellite command capabilities mature, the usage of UAS will encompass the entire SW border. Ongoing threat analysis will dictate operational focus.

Tactically, CBP plans include the expansion of the UAS program into three operational areas: the Southwestern Border Region, the Northern Border Region, and the Southeastern Border Region. Each region would maintain a squadron of 6 systems each for a total of 18 UAS. In addition to border security operations, the UAS has the capability to support interior enforcement, maritime security, cross border operations, and critical incident response.

CBP A&M selected Grand Forks, ND as the base for the CBP A&M UAS Northern Border Operation Center. CBP plans to initiate a UAS pilot program in the northern border region by late 2007. CBP will determine the use and number of UASs for Northern Border protection operations by using information gleaned from this pilot program. CBP A&M is evaluating flight operations from Tyndall, AFB to support Southeastern Border Region UAS operations. The UAS pilot on the Northern Border and operations in the Southeastern Region will enable CBP A&M to determine the appropriate number of UASs operating on the Borders and coastlines of the United States.

Question. Will your staff evaluate the existing UAV facility at New Mexico State University and the Las Cruces International Airport as a potential partner for the Department's UAV program?

Answer. CBP is always looking for opportunities to advance persistent UAS surveillance capabilities and also to enhance border security.

CBP has visited the Unmanned Aerial Vehicle (UAV) program at New Mexico State University (NMSU) and understands NMSU conducts limited tactical level UAV operations from Las Cruces Airport, NM through the use of a Temporary Flight Restriction (TFR).

CBP Air and Marine will continue exploring the possibility of working with NMSU.

Question. What do you need from Congress in order to move forward with a plan to fly UAVs along the entire southwestern border?

Answer. CBP is updating its Air Strategic Plan to include marine, staffing, infrastructure, facilities, and an expanded discussion on unmanned aircraft systems. This plan describes the resource requirements to provide persistent systematic surveillance of the Nation's borders and coastlines through the use of Unmanned Aircraft Systems. CBP expects to deliver the updated plan to the committee in May 2007.

First Responder Training at Playas

Secretary Chertoff, New Mexico Tech opened the Playas Training Center for first responders in 2004 and has had much success at the facility.

Playas' remote location and open space makes it an ideal place for New Mexico Tech to develop a wide range of research and training activities to support homeland security efforts nationwide.

Question. How does DHS utilize Playas and what additional training activities could DHS use at Playas?

Answer. The Playas Training and Research Center (PTRC) in Playas, New Mexico is utilized by FEMA and Training through its cooperative agreement with New Mexico Institute of Mining and Technology, National Energetic Materials Research and Testing Center (NMT), for conducting full-scale homeland security, homeland defense, first responder, law enforcement and counter-terrorism training, and research. One example of training conducted there is a 35-hour specialized resident training course to prepare first responders for potential suicide bombing threats. The Prevention and Response to Suicide Bombing Incidents (PRSBI), as the course is called, (and related SWAT training courses) provides advanced Weapons of Mass Destruction training focusing on the unique threat posed by suicide bombers. The course features a blend of classroom presentations, field laboratories, a case study, and practical exercises designed to familiarize participants with actions required at State and local levels to prevent, deter, and respond to potential suicide bombing attacks. The PRSBI course equips participants with the skills and knowledge necessary to develop policies, tactics, techniques, procedures and operational capabilities required to prevent, interdict, respond to, and mitigate the effects of a suicide bombing attack.

The PRSBI course is currently the most significant training offered at PTC. The five-day, train-the-trainer course emphasizes the importance of prevention and deterrence of suicide bombers. This course addresses policies and procedures designed to prevent the successful execution of a suicide bombing attack. Participants are senior level decision makers in State and local police, fire, emergency medical services, and emergency management operations. Course methodology includes classroom presentations, field laboratories, and practical exercises.

The PTRC has also been the venue for joint civilian law enforcement and National Guard anti-terrorism training exercises involving National Guard units from several different sates as well as from numerous different Federal, State and local agencies. Additionally, the center has been used by military special operations and conventional units to train in preparation for deployment overseas to Afghanistan and Iraq. Some of this training has been conducted jointly with the U.S Border Patrol and involved the use night surveillance techniques and procedures to be used by the military units near the border areas of the country to which they were deploying.

Question. How much is included in the President's fiscal year 2008 budget for training first responders?

Answer. The total amount requested for the State and Local Training program in the President's fiscal year 2008 budget request is $95 million. Those funds are distributed as follows:

Center for Domestic Preparedness (CDP)	$54,000,000
National Domestic Preparedness Consortium (NDPC)	38,000,000
Continuing Emerging Training Program	3,000,000
USFA 2008 Budget Request (All Training)	42,000,000
Emergency Management Institute (EMI)	11,900,000

Note: The total does not include the additional $2 Billion in DHS State & Local Grants to be awarded to State and Local First Responders who can apply, and are eligible for First Responder training funds, and other DHS components such as U.S Coast Guard and DNDO who also fund first responder training.

Question. What are the Department's plans to make State homeland security directors aware of the Playas Training Facility in an effort to help local first responders receive adequate training?

Answer. Through the Office of Grants and Training (G&T), New Mexico Tech has conducted training for many of the State Homeland Security Training Points of Contact at PTRC. In addition, thousands of multidiscipline first responders have been trained at New Mexico Tech and either have attended training at PTRC or have been provided detailed information concerning the Center's capabilities while training at the New Mexico Tech facilities in Socorro, New Mexico. Additionally, New Mexico Tech trainers provide 4-hour IRTB and PRSBI training classes to first responders in their own jurisdictions in cities throughout the United States and its territories. Information concerning the PTRC is provided to the students during these classes and also during Homeland Security related conferences and training events held in locations throughout the United States. FEMA also has plans to highlight the PTRC in its monthly newsletter and will work with New Mexico Tech on the possibility of producing a 1-hour live broadcast through the National Terrorism Prevention Institute at St. Petersburg College that will reach first responders across the Nation.

DIRTY BOMB TRAINING

Question. New Mexico Tech and New Mexico State University (NMSU) have suggested an expansion of anti-terrorism training for first responders. This expansion would include a course about radiological dispersal devices or dirty bombs.

I believe this proposal has merit because the aftermath of a dirty bomb attack is one of our gravest anticipated terrorist attacks, and our first responders need appropriate training to respond to such a threat. New Mexico Tech and NMSU's Carlsbad Environmental Monitoring and Research Center have the scientific expertise, radiological handling capabilities, radioactive material license, and trained staff to address both the scientific and training aspects of dirty bombs, and collaboration between these universities and New Mexico's national nuclear weapons labs could provide ideal training first responders to counter dirty bomb risks.

What dirty bomb training do first responders currently receive?

Answer. FEMA uses the Department of Energy's National Nuclear Security Administration, Nevada Site Office, also known as the Nevada Test Site (NTS), to provide classroom and hands-on instruction in radiological fundamentals, interdiction and response to nuclear and radiological WMD incidents, decontamination processes, and other aspects of operations in nuclear and radiological environments. Training courses are delivered on-site at NTS and across the United States and its territories through the use of mobile training teams. The NTS is the lead agency of the National Domestic Preparedness Consortium (NDPC) for training in Radiological Dispersion Devices (dirty bombs) training. Because dirty bombs and Improvised Nuclear Devices (IND) are key drivers of potential manmade catastrophic events, training on RDDs and INDs are incorporated in all NTS courses. All response courses contain training and information on RDDs/INDs and NTS uses field scenarios that are based on dirty bomb events. NTS prevention level courses specifically target detection of materials that would be used in RDD or IND devices.

The following is a list of courses offered by NTS:

AWR–140—WMD Radiological/Nuclear Awareness Course

This course is a weapons of mass destruction (WMD) radiological/nuclear overview designed for first responders and other personnel who are likely to be the first to arrive on the scene of a radiological/nuclear incident. It focuses on the basics of radiation, possible health effects, hazard identification, and proper notification procedures. The course consists of classroom instruction.

AWR–141—WMD Radiological/Nuclear Awareness Course (Train-the-Trainer)

This course will prepare trainers to deliver a 6-hour Radiation Awareness Course using a prepared lesson plan. Each participant will have an opportunity to learn the basics of platform presentation and classroom discussion and will present a portion of the Radiation Awareness Course as part of his or her training. The course consists of classroom instruction. After completing the train-the-trainer course, participants are eligible to conduct (indirect) courses for their agency and surrounding jurisdictions.

PER–240—WMD Radiological/Nuclear Responder Operations

Training focuses on basic radiological detection, survey instruments, risk-based response, crime-scene preservation, personal protective equipment (PPE), radiological decontamination, and mitigation of radiological incidents. The course consists of both classroom instruction and scenario-driven, hands-on, performance-oriented practical exercises. Responders are presented with realistic, stressful conditions in their own jurisdiction and will work with their counterparts from other disciplines from within their community. The exercises provide realistic weapons of mass destruction (WMD) scenarios with a culmination exercise that includes radiological sources, smoke, pyrotechnics, emergency response vehicles, and role players. Air purifying respirators may be worn (for training purposes only) during the final exercise by those who are certified by their organization to wear respirators (bring documentation to the course). Although every participant will be issued a respirator, dosimeter, and radiation survey meter, participants are encouraged to bring their own from their department or jurisdiction.

PER–241—WMD Radiological/Nuclear Responder Course for HazMat Technicians

The course covers weapons of mass destruction (WMD) training for the hazardous materials (HazMat) technician and is focused on the current threat of radiological or nuclear attacks, fundamental principles of ionizing radiation, biological health and medical effects of radiological and nuclear material, hazard and risk assessment, entry and egress planning considerations, radiological survey instruments, dosimetry, appropriate situation-dependent personal protective equipment (PPE), ra-

dioactive waste-related transportation issues, and radiological decontamination considerations. The course will provide classroom instruction and scenario driven, hands-on practical exercises, culminating in an exercise that includes radiological sources, smoke, emergency response vehicles, and role players.

PER 242—Radiological/Nuclear Personal Radiation Detector Course

The course provides training so that personnel who employ a PRD can:

—Detect and locate the presence of radiation and/or radiological material.

—Receive an alarm, identify and distinguish between the following:

  —False alarms

  —Alarms due to background radiation

  —Alarms due to legitimate causes

  —Alarms due to illicit nuclear material

—Upon detecting, locating, and assessing the alarm, measure the approximate radiation level that generated the alarm.

—Use radiological/nuclear material recognition factors to assist in categorizing the situation.

—Upon discovery of the illicit use of radiological/nuclear material, initiate organizational protocols to ensure the health and safety of responders and the public.

Additionally, New Mexico Tech However addresses RDD prevention and response in its Incident Response to Terrorist Bombing (IRTB) and Prevention and Response to Suicide Bombing Incidents (PRSBI) training and scenarios.

Question. Could New Mexico Tech's training facility in Playas, New Mexico be the ideal place to base such training?

Answer. The PTRC, has potential for any type of Homeland Security WMD training. The PTRC is located in a very remote area of southwestern of New Mexico and is a secure site that permits training to be performed unobserved in an isolated setting. The empty suburban environment, which has infrastructure typically found in a small city, allows for training that cannot be conducted realistically by first responders in their own cities and towns. The entire town can be used for decontamination exercises. The unique setting and resources at PTRC greatly facilitate scenario based training. Frequently, a training scenario will require a multi-agency response to interdict a terrorist cell occupying several buildings. Exercises include tactical training with explosive breachings on hollow and solid interior and exterior wood doors, inward and outward opening metal doors, metal security doors and shooting ports in walls. Additionally, all participants have an opportunity to participate in Dye Marking Cartridge Reality-Based training, a training weapons system that shoots paint cartridges. When possible, training also utilizes air and ground operations.

CONCLUSION OF HEARING

Senator BYRD. Well, you certainly set a high standard. And it's hard for me to live up to that.

Thank you again, Mr. Secretary. And thank all of you folks who have been waiting, and listening, patiently. They also serve, you know, who only stand and wait.

The subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 4:40 p.m., Thursday, March 8, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2008

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

NONDEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Homeland Security for inclusion in the record. The submitted materials relate to the fiscal year 2008 budget request for programs within the subcommittee's jurisdiction.]

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

APTA is a nonprofit international association of over 1,500 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over 90 percent of persons using public transportation in the United States and Canada are served by APTA members.

Mr. Chairman, thank you for this opportunity to submit testimony to the Senate Appropriations Subcommittee on Homeland Security on the security and safety of public transportation systems. We appreciate your interest in improving security for the millions of Americans who use transit daily, and look forward to working with the Subcommittee as it develops the fiscal year 2008 appropriations bill for the Department of Homeland Security.

ABOUT APTA

The American Public Transportation Association (APTA) is a nonprofit international association of more than 1,500 public and private member organizations, including transit systems and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical transit services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems.

OVERVIEW

Mr. Chairman, public transportation is one of the Nation's critical infrastructures. We cannot overemphasize the critical importance of the service we provide in communities throughout the country. Americans take more than 10 billion transit trips each year. People use public transportation vehicles more than 34 million times each weekday. This is more than 18 times the number of daily domestic boardings on the Nation's airlines.

Safety and security are the top priority of the public transportation industry. The Government Accountability Office (GAO) released a report several years ago which said "about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked." Transit agencies took many steps to improve security prior to 9/11 and have significantly increased efforts since that date. Since September 11, 2001, public transit agencies in the United States have spent over $2.5 billion on security and emergency preparedness programs, and technology to support those programs, from their own budgets with only

minimal Federal funding. Since 9/11, the Federal Government has spent over $24 billion on aviation security while has only allocated $549 million for transit security. Last year's attacks in Mumbai and previous attacks in London and Madrid further highlight the need to strengthen security on public transit agencies in the United States and to do so without delay. We need to do what we can to prevent the kind of attacks that caused more than 400 deaths and nearly 3,000 injuries on rail systems in Mumbai, London and Madrid.

We urge Congress to act decisively. While transit agencies are doing their part, we need the Federal Government to be a full partner in the fight against terrorism. Terrorist attacks against U.S. citizens are clearly a Federal responsibility and the Federal Government needs to increase its support for transit security improvements. In light of documented needs, we urge Congress to increase Federal support for transit security grants to assist transit agencies in addressing the $6 billion in identified transit security needs. We ask that Congress provide funding in the fiscal year 2008 Department of Homeland Security Appropriations bill at levels authorized in legislation now moving through Congress but at a level no less than $545 million. Funding at the $545 million level annually would allow for significant security improvements in the Nation's transit agencies over a 10-year period while authorization bills passed by the Senate and the House would help address transit security needs more quickly. Federal funding for additional security needs should provide for both hard and soft costs as described below and be separate from investments in the Federal transit capital program.

We also urge Congress to provide $500,000 to the Department of Homeland Security (DHS) so that DHS can provide that amount in grant funding to the APTA security standards program, under which APTA is working with its Federal partners to develop transit security standards. Finally, we request that Congress provide $600,000 to maintain the Public Transit Information Sharing Analysis Center (ISAC) which provides for the sharing of security information between transit authorities and DHS.

To improve the distribution of funds under the existing transit security programs, we recommend that the existing process for distributing DHS grants be modified so that grants are made directly to transit agencies, rather than through State Administrating Agencies (SAA). We believe direct funding to the transit agencies would be quicker and cheaper. The current process and grant approval procedures have created significant barriers and time delays in getting funds into the hands of transit agencies for security improvements.

As transit security is part of the larger war on terrorism, we urge Congress to continue providing transit security grants with no State or local match requirement. A local or State match requirement would have detrimental consequences by making security improvements contingent on a community's ability to raise local funding. A local match would require the approval of a local governing body. The local governing body might need to approve funding in an open, public forum, where specific project information would be discussed. This is problematic for security sensitive projects.

BACKGROUND

In 2004 APTA surveyed its U.S. transit agency members to determine what actions they needed to take to improve security for their customers, employees and facilities. In response to the survey, transit agencies around the country have identified in excess of $6 billion in transit security investment needs. State and local governments and transit agencies are doing what they can to improve security, but it is important that the Federal Government be a full partner in the effort to ensure the security of the Nation's transit users.

In fiscal year 2003, $65 million in Federal funds was allocated for transit agencies by DHS for 20 transit agencies. In fiscal year 2004, $50 million was allocated by DHS for 30 transit agencies. In fiscal year 2005, Congress specifically appropriated $150 million for transit, passenger and freight rail security. Out of the $150 million, transit received $135 million. In fiscal year 2006, Congress appropriated $150 million. Out of the $150 million, transit received $136 million. In fiscal year 2007, Congress appropriated $175 million. Out of $175 million, transit is slated to receive $163 million. We are very appreciative of these efforts. However, in the face of significant needs, more needs to be done. We are encouraged that the Senate fiscal year 2007 Emergency Wartime Supplemental includes an additional $625 million, and that the House version includes an additional $225 million.

It is important to point out that there have been other significant efforts in support of transit security authorization legislation in the Congress. The Senate in 2004 and 2006 unanimously passed legislation that would have authorized $3.5 billion

over 3 years for transit security. Earlier this week, the House approved transit and rail security authorization legislation that would provide $3.36 billion for transit security grant funding over a 4-year period. Earlier this year, the Senate approved similar legislation that would provide $3.5 billion for transit security grant funding over a 3-year period. We look forward to working with the Congress on these and other issues important to the transit industry.

Transit agencies have significant and specific transit security needs. Based on APTA's 2003 Infrastructure Database survey, over 2,000 rail stations do not have security cameras. According to our 2005 Transit Vehicle Database, 53,000 buses, over 5,000 commuter rail cars, and over 10,000 heavy rail cars do not have security cameras. Less than one-half of all buses have automatic vehicle locator systems (AVLs) that allow dispatchers to know the location of the bus if an emergency occurs. Nearly 75 percent of demand response vehicles lack these AVLs. Furthermore, no transit agency has a permanent biological detection system. In addition, only two transit agencies have a permanent chemical detection system. A more robust partnership with the Federal Government could help to better address many of these specific needs.

We are disappointed that the Administration proposed only $175 million for transit, passenger and freight rail security in the fiscal year 2008 DHS budget proposal. Regrettably, the Administration budget would fail to make any significant improvement in the current Federal transit security program. The Administration proposes to freeze security funding for transit, passenger rail, and freight rail security at $175 million—the same amount appropriated by Congress for fiscal year 2007. This funding level falls well short of the funds needed to ensure the safety of Americans who take public transportation. We are also disappointed that the Administration failed to propose funding for transit security standards or the Public Transit Information Sharing Analysis Center (ISAC). Both of these programs are important national efforts that could significantly enhance transit security for a minimal cost.

APTA is a Standards Development Organization (SDO) for the public transportation industry. We are now applying our growing expertise in standards development to transit industry safety and security, best practices, guidelines and standards. We have already begun to initiate our efforts in security standards development and we have engaged our Federal partners from both the DHS and Department of Transportation in this process. We look forward to working with the Administration and Congress in support of this initiative. Unfortunately, DHS has not agreed to provide funding to APTA in this effort. We respectfully urge Congress to provide $500,000 to the DHS so that it can in turn provide that amount in grant funding to the APTA security standards program. Our efforts in standards development for commuter rail, rail transit and bus transit operations have been significant and our status as a SDO is acknowledged by both the FTA and the Federal Railroad Administration (FRA). The FTA and the Transportation Research Board have supported our standards initiatives through the provision of grants.

We also would like to work with Congress and the Department of Homeland Security's Directorate of Science and Technology to take a leadership role in advancing research and technology development to enhance security and emergency preparedness for public transportation.

INFORMATION SHARING

Since the terrorist attacks of September 11, 2001, public transit agencies across the country have worked very hard to strengthen their security plans and procedures. They have been very active in training personnel and conducting drills to test their capacity to respond to emergencies. Also, to the extent possible within their respective budgets, transit agencies have been incrementally hardening their facilities through the introduction of additional technologies such as surveillance equipment, access control and intrusion detection systems. While transit agencies have been diligent, they have been unable to fully implement programs with the current levels of assistance from the Federal Government.

A vital component of ensuring public transit's ability to prepare and respond to critical events is the timely receipt of security intelligence in the form of threats, warnings, advisories and access to informational resources. Accordingly, in 2003, the American Public Transportation Association, supported by Presidential Decision Directive #63, established an ISAC for public transit systems throughout the United States. A grant in the amount of $1.2 million was awarded to APTA by the Federal Transit Administration to establish a very successful Public Transit ISAC that operated 24 hours a day, 7 days a week, and gathered information from various sources, including DHS, and then passed information on to transit systems following a careful analysis of that information. However, given that the Federal Transit Adminis-

tration was subsequently unable to access security funds, and given the decision of DHS to not fund ISAC operations, APTA has had to look for an alternate method of providing security intelligence through DHS's newly created Homeland Security Information Network (HSIN). APTA continues to work with DHS staff to create a useful HSIN application for the transit industry. It is clear, however, that while the HSIN may become an effective resource, it does not replace the 24/7 two-way communication functions provided through the Public Transit ISAC. We believe that consistent, on-going and reliable Federal funding should be provided for the Public Transit ISAC that has been proven an effective delivery mechanism for security intelligence and respectfully urge Congress to provide $600,000 annually to maintain the Public Transit ISAC.

In addition, APTA's membership includes many major international public transportation systems, including the London Underground, Madrid Metro, and the Moscow Metro. APTA also has a strong partnership with the European-based transportation association, the International Union of Public Transport. Through these relationships, APTA has participated in a number of special forums in Europe and Asia to give U.S. transit agencies the benefit of their experiences and to help address transit security both here and abroad.

COST OF HEIGHTENED SECURITY

Following the attacks on London in 2005, APTA was asked to assist the Transportation Security Administration (TSA) in conducting a teleconference between the TSA and transit officials to discuss transit impacts pertaining to both increasing and decreasing the DHS threat levels. There is no question that increased threat levels have a dramatic impact on budget expenditures of transit systems and extended periods pose significant impacts on personnel costs. These costs totaled $900,000 per day for U.S. public transit agencies or an estimated $33.3 million from July 7 to August 12, 2005 during the heightened state of "orange" for public transportation. This amount does not include costs associated with additional efforts by New York, New Jersey and other systems to conduct random searches.

Many transit systems are also implementing other major programs to upgrade security. For example, New York's Metropolitan Transportation Authority (NY–MTA) is taking broad and sweeping steps to help ensure the safety and security of its transportation systems in what are among the most extensive security measures taken by a public transportation system to date. NY–MTA will add 1,000 surveillance cameras and 3,000 motion sensors to its network of subways and commuter rail facilities as part of a $212 million security upgrade announced late in 2005 with the Lockheed Martin Corporation. In fact, NY–MTA plans to spend over $1.1 billion through 2009 on transit security.

SECURITY INVESTMENT NEEDS

Mr. Chairman, since the awful events of 9/11, the transit industry has invested more than $2.5 billion of its own funds for enhanced security measures, building on the industry's already considerable efforts. At the same time, our industry undertook a comprehensive review to determine how we could build upon our existing industry security practices. This included a range of activities, which include research, best practices, education, information sharing in the industry, and surveys. As a result of these efforts we have a better understanding of how to create a more secure environment for our riders and the most critical security investment needs.

Our survey of public transportation security identified enhancements of at least $5.2 billion in additional capital funding to maintain, modernize, and expand transit system security functions to meet increased security demands. Over $800 million in increased costs for security personnel, training, technical support, and research and development have been identified, bringing total additional transit security funding needs to more than $6 billion.

Responding transit agencies were asked to prioritize the uses for which they required additional Federal investment for security improvements. Priority examples of operational improvements include:

—Funding current and additional transit agency and local law enforcement personnel
—Funding for over-time costs and extra security personnel during heightened alert levels
—Training for security personnel and personnel replacement for those in training
—Joint transit/law enforcement training
—Security planning activities
—Security training for other transit personnel
—Priority examples of security capital investment improvements include:

—Radio communications systems
—Security cameras on-board transit vehicles and in transit stations
—Controlling access to transit facilities and secure areas
—Automated vehicle locator systems
—Security fencing around facilities

Transit agencies with large rail operations also reported a priority need for Federal capital funding for intrusion detection devices.

Mr. Chairman, the Department of Homeland Security issued directives for the transit industry in May 2004 which would require that transit agencies beef up security and to take a series of precautions to set the stage for more extensive measures without any Federal funding assistance. Transit agencies have already carried out many of the measures that Transportation Security Administration (TSA) is calling for, such as drafting security plans, removing trash bins and setting up procedures to deal with suspicious packages. The cost of these measures and further diligence taken during times of heightened alert is of particular concern to us. We look forward to working with you in addressing these issues.

ONGOING TRANSIT SECURITY PROGRAMS

Mr. Chairman, while transit agencies have moved to a heightened level of security alertness, the leadership of APTA has been actively working with its strategic partners to develop a practical plan to address our industry's security and emergency preparedness needs. In light of our new realities for security, the APTA Executive Committee has established a Security Affairs Steering Committee. This committee addresses our security strategic issues and directions for our initiatives. This committee is serving as the mass transit sector coordination council that will interface with DHS and other Federal agencies forming the government coordinating council.

In partnerships with the Transportation Research Board, APTA supported two Transportation Cooperative Research Program (TCRP) Panels that identified and initiated specific projects developed to address Preparedness/Detection/Response to Incidents and Prevention and Mitigation.

In addition to the TCRP funded efforts, APTA has been instrumental in the development of numerous security and emergency preparedness tools and resources. Many of these resources were developed in close partnership with the FTA and we are presently focused on continuing that same level of partnership with various entities within DHS. Also, APTA has reached out to other organizations and international transportation associations to formally engage in sharing information on our respective security programs and to continue efforts that raise the bar for safety and security effectiveness.

APTA has long-established safety audit programs for commuter rail, bus, and rail transit operations. Within the scope of these programs are specific elements pertaining to Emergency Response Planning and Training as well as Security Planning. In keeping with our industry's increased emphasis on these areas, the APTA Safety Management Audit Programs have been modified to place added attention to these critical elements.

CONCLUSION

Mr. Chairman, in light of the Nation's heightened security needs since 9/11, we believe that increased Federal investment in public transportation security by Congress and DHS is critical. The public transportation industry has made great strides in transit security improvements since 9/11 but much more needs to be done. We need the Federal Government to increase its support for transit security grants that will help transit systems continue to address the $6 billion in identified transit security investment needs. We urge this Subcommittee to provide funding at amounts authorized in legislation now moving through Congress or at no less than $545 million in the fiscal year 2008 Department of Homeland Security Appropriations bill. We also urge Congress to fund the APTA security standards program and the Public Transit ISAC as previously described.

We have also found that investment in public transit security programs, resources and infrastructures provides a direct benefit in preparation and response to natural disasters as well. We look forward to building on our cooperative working relationship with the Department of Homeland Security and Congress to begin to address these needs. We again thank you and the Subcommittee for allowing us to submit testimony on these critical issues and look forward to working with you on safety and security issues.

PREPARED STATEMENT OF THE ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

The Association of State Floodplain Managers (ASFPM) and its 25 State Chapters represent over 9,000 State and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation. This includes floodplain management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources and insurance. All ASFPM members are concerned with working to reduce our Nation's flood-related losses. Our State and local officials are the Federal Government's partners in implementing flood mitigation and insurance programs and working to achieve effectiveness in meeting our shared objectives. Our State members' head offices that are designated by the governors to coordinate the National Flood Insurance Program (NFIP) with their communities and many others are involved in the administration of and participation in FEMA's disaster mitigation programs. For more information on ASFPM, our website is: http://www.floods.org.

Overall, the Association of State Floodplain Managers is pleased with the budget request for FEMA in fiscal year 2008. We particularly note the essentially full funding of the Map Modernization Initiative and the full funding (by transfer from the Flood Insurance Fund) of the two newly-authorized programs to mitigate severe repetitive flood loss properties. We also are pleased to see the request of $100 million for the Pre-Disaster Mitigation (PDM) program to restore this nationwide, competitive program to a functional level.

Flood Mitigation Assistance Program (Sec. 1366)

The budget request includes $34 million (by transfer from the National Flood Insurance Fund) for the regular Flood Mitigation Assistance (FMA) program (Sec. 1366). The FMA supports local mitigation planning and projects to help reduce the drain on the NFIP that is attributed to flood-prone properties that are repetitively flooded or at high risk of significant damage.

It is our understanding that FEMA has determined that the authority does not exist to use premium income to support the FMA, and must constrain the amounts transferred to available funds generated by the policy service fee assessed on each flood insurance policy. FEMA's determination is that it has the authority to use premium income only for the two repetitive loss mitigation programs (Sections 1361A and 1323, authorized by the Flood Insurance Reform Act of 2004). It is this constraint that limits the Administration's request to an amount less than the fully authorized amount.

—ASFPM urges the Committee to provide the authorized $40 million for the Flood Mitigation Assistance Program, and to clarify that the transfer for FMA may come from fee and/or premium income.

ASFPM also notes that the Administration unnecessarily constrains the FMA funds to a period of two years. The Flood Insurance Reform Act of 2004 specifically calls for these funds to remain available until expended. Many of the projects undertaken by communities involve careful planning, sensitive work with homeowners, and in some cases, lengthy construction periods (such as may be need for elevating or reconstructing homes, or floodproofing public buildings). Further, if a project comes in under budget, the unused funds should become available for use by other communities to mitigate flood damages.

The original authorization for FMA set per State and per community limitations on the amount of funds that may be provided in a five year period. With the doubling of the amount authorized for FMA, those limitations may constrain some of the States and communities that have active mitigation programs and large numbers of repetitive loss properties.

—ASFPM urges the Committee to clarify that the FMA funds are to remain available until expended and that per State and per community limitations are waived.

NFIP's Pilot Program for Severe Repetitive Loss Properties (Sec. 1361A) and Individual Property Program (Sec. 1323)

ASFPM is pleased to see the budget request for funding of the Pilot Program for Severe Repetitive Loss Properties (Sec. 1361A) and the Individual Property Program (Sec. 1323), which FEMA refers to as the "Repetitive Flood Claims" program. While the Individual Property Program is now operational, the regulations for the Severe Repetitive Loss programs regulations are anticipated this spring—nearly four years after authorization. It is important that FEMA and DHS issue the rules as soon as possible. FEMA has estimated that mitigation of the top-tier of repetitive loss properties can improve the stability of the National Flood Insurance Fund over the long-term, by avoiding an average of $200 million per year in claims.

The Severe Repetitive Loss program is authorized as a 5-year pilot with a termination imposed by directing that FEMA may not provide assistance after September 30, 2009. It is notable that the authorization also specifically provides that the funds shall remain available until expended. Because the program has been unduly delayed the termination date virtually guarantees that funds will not be used completely, given the length of time it takes for communities to develop projects and to prepare and submit applications, and for FEMA's lengthy application review and approval process. In addition, a large percentage of repetitive loss properties are located in areas affected by the hurricanes of 2004 and 2005, so the availability of these programs during reconstruction remains important to help reduce future losses.

—ASFPM urges the Committee to waive the termination date for the Pilot Program for Severe Repetitive Loss; the duration of the program is already limited by the amount of funds authorized and appropriated.

Flood Map Modernization

ASFPM is pleased that the budget request includes $195 million for continued implementation of FEMA's nationwide, multi-year initiative to modernize and update flood hazard maps. It is important to realize that maintaining and continuing to improve the flood maps is a long-term, ongoing process. Without adequate assessments, revisions, and maintenance, in 20 years we may find that the maps are, once again, out of date. FEMA needs to prepare for and have sufficient funds for a transition to a vibrant assessment and maintenance program when the current initiative is completed.

—ASFPM urges the Committee to provide the full fiscal year 2008 budget request for the multi-year Map Modernization initiative.

—ASFPM suggests that the Committee direct FEMA to report on its plans, and estimated funding needs, to transition from Map Modernization to an ongoing assessment and maintenance program.

Recently, a report entitled "Base Map Inputs for Flood Mapping," published by the National Research Council concluded that new digital, high-resolution land elevation maps are useful in the Map Modernization initiative. The report recommends a new program called "Elevation for the Nation" and concludes that a seamless nationwide elevation dataset would not only be beneficial for flood hazard maps, but would have many other applications as well. Furthermore, the report recommends that data collected in such a program should be open source data, and disseminated to the public at no additional cost as part of an updated National Elevation Dataset.

While ASFPM agrees that more accurate ground elevation data will improve the utility of the FEMA flood maps, we are concerned that such an effort could shift resources from Map Modernization. Map Modernization is focused on creating the flood data layer—information pertaining to the extent and depth of floodwaters along our coasts, rivers, streams and other bodies of water. Even with that focus, there are not enough resources to develop the flood data layer as robustly as communities need to manage present and future flood risks. ASFPM would be supportive of a separate initiative, under the leadership of the U.S. Geological Survey, to implement "Elevation for the Nation."

Pre-Disaster Mitigation Grants

Last year, an independent study of the benefits of mitigation, requested by Congress, was completed by the National Institute of Building Sciences. The report found an overall benefit-to-cost ratio of 4 to 1 for mitigation investments. For flood mitigation, the benefit-to-cost ratio was found to be even greater, with benefits of $5 for every $1 invested. Clearly these mitigation projects are important in the Nation's efforts to reduce future flood losses.

Nationwide, interest in mitigation has never been higher. As a result of the Disaster Mitigation Act of 2000, communities throughout the Nation have developed local hazard mitigation plans which identify specific mitigation actions. Collectively these plans identify large numbers of mitigation actions—including many that will be supported solely by local funds, as well as many that will be eligible under PDM and other FEMA grant programs. To preserve this interest and momentum, even in areas of the country that have not experienced a recent disaster, the Pre-Disaster Mitigation Program should be funded as requested.

—ASFPM urges the Committee to provide full funding of the Administration's budget request of $100 million for the competitive Pre-Disaster Mitigation Program.

Promising FEMA Initiatives

Flood Control Levees.—Although a national dialog between FEMA, the Corps of Engineers and key stakeholders had been taking place regarding flood protection

levees, the issue was thrust into the forefront after Hurricane Katrina. The levee failures in New Orleans, in addition to issues related to FEMA's Map Modernization initiative and the need to recertify the level of protection of levees, has required FEMA and the U.S. Army Corps of Engineers to collaborate closely on levee issues. This renewed dialog appears to be vigorous and ASFPM is hopeful it will bring long-lasting results to improve the public's awareness of the benefits and the risks of levees. We support an improved program for the Corps to develop a levee inventory and work with FEMA and stakeholders to develop standards and guidance for properly operating and maintaining levees.

Improved Mitigation Grant Processes.—In recent years FEMA has worked to improve its mitigation grant review and approval process, yet it continues to take as long as 12 to 18 months in some instances. States and communities report that sometimes the process can be frustrated at the FEMA Regional Office level by multiple reviews and redundant requests for information and data. It is also frustrating that FEMA has declined to provide feedback on specific weaknesses of applications (much less suggestions for improvement) that were submitted for the competitive Pre-Disaster Mitigation grant program. We are pleased that FEMA National continues to seek ways to improve the process, including its initiative to "unify" grant programs and tools where possible. Although this initiative is just beginning, ASPFM is encouraged by FEMA's stakeholder based approach.

All of FEMA's mitigation grant programs require an analysis of benefits and costs to ensure that mitigation dollars are providing a return on investment to the taxpayer. Given that the aggregate of FEMA's mitigation grant programs, on average, approaches $500 million nationwide, it is imperative that the tools for benefit-cost analyses are accurate, updated, and user friendly. In 2007, FEMA kicked off an initiative to update these tools. ASFPM is supportive of this effort.

New FEMA, Staff Vacancies, and DHS Reductions

This past fall, Congress passed the Post Katrina Emergency Management Reform Act which sought to restore FEMA by transferring preparedness functions back into the agency and limiting the Department of Homeland Security's interference in FEMA's programming and budgeting. In the past few months, FEMA Director Paulison unveiled a vision for a "New FEMA." This vision focuses on core competencies, increased staffing to a level appropriate to fulfill such core competencies, and strengthening FEMA's regional offices. While we are encouraged by FEMA's initial plans, it will be critical that Congress continue close oversight to ensure that FEMA is, indeed, restored with the autonomy and adequate resources and staffing to undertake the responsibilities Congress has established.

For information about ASFPM and this testimony, contact Larry Larson, Executive Director, at (608) 274–0123 (asfpm@floods.org) or Merrie Inderfurth, Washington Liaison, at (703) 448–0245 (inderfurth@aol.com).

PREPARED STATEMENT OF THE INTERNATIONAL ASSOCIATION OF EMERGENCY MANAGERS

Chairman Byrd, Ranking Member Cochran, and distinguished members of the Subcommittee, thank you for allowing me the opportunity to provide testimony on the President's fiscal year 2008 budget request for the Department of Homeland Security and on the need for a strong national emergency management system.

I also want to express my sincerest gratitude to this subcommittee for the great support you have provided to the emergency management community over the past few years, particularly your support for the Emergency Management Performance Grant Program and for the reform of FEMA. We very much appreciate your including an additional $100 million for EMPG in the recent fiscal year 2007 supplemental bill.

I am Michael D. Selves. I am currently the Emergency Management and Homeland Security Director for Johnson County, Kansas. Johnson County constitutes the Southwest suburbs of the Kansas City Metropolitan Area and, with a population of approximately a half million, is the most populous county in Kansas. I currently serve as the President of the International Association of Emergency Managers (IAEM) and am providing this testimony on their behalf. I am also a Certified Emergency Manager (CEM), and have served IAEM for 5 years as chair of the Government Affairs Committee prior to becoming a member of the presidential team. For the past 12 years I have been an active participant in the National Association of Counties, chairing their Subcommittee on Emergency Management, as a charter member of their Homeland Security Task Force as well as serving 2 years on their

Board of Directors. I served for 7 years in emergency management at the State level as well as serving for 20 years in the United States Air Force.

The International Association of Emergency Managers has over 3,000 members including emergency management professionals at the State and local government levels, the military, private business and the nonprofit sector in the United States and in other countries. Most of our members are city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the effects of, respond to, and recover from all types of disasters including terrorist attacks. Our members include emergency managers from large urban areas as well as rural counties.

Last year about this time, I provided written testimony to this subcommittee regarding the President's fiscal year 2007 budget request. In that testimony I made reference to the fact that the devastating hurricanes along our Gulf Coast in 2005 had brought to light significant gaps in our emergency preparedness and emergency management posture. To address those problems, it is important that we look at the total, national system of emergency management as it is at present, and upon which we will have to rely in the future. Quite honestly, this is a system which we have neglected and allowed to become fragmented.

Critical Elements of a National Emergency Management (E.M.) System

After the terrible events of 9/11/2001, we unfortunately lost sight of the fact that there are three critical elements to any effective emergency management system. First, that system must be comprehensive, in that it must encompass all potential hazards and all potential impacts relevant to any community in this Nation. In this regard, the function of emergency management must take into account the impact of disasters from not only a physical perspective, but from a political, economic, sociological and even psychological one as well. In this respect, emergency managers are charged with establishing a broad, comprehensive framework within which the legal elected authority of their jurisdictions is exercised during a disaster event. This framework must take into account governmental, private sector and volunteer activities far beyond those associated with emergency services.

Second, it is essential that our national E.M. system must be integrated. Without unity of effort before, during and after any disaster, the effort is going to be chaotic at best and, at worst, doomed to failure. Emergency managers at all levels of government are responsible for ensuring that the highest levels of horizontal and vertical integration exist among all levels of government and across all elements of a community to support disaster response and recovery activities. Such integration demands that linkages are in place and that all relevant agencies at the local, State and national level are involved and engaged.

Third, there must be well established and maintained coordination among all stakeholders in the system to ensure that it is effective. Comprehensive and integrated plans on paper are not sufficient. Key stakeholders—like local government emergency managers—must be constantly consulted to ensure that the plans are based on reality and have "buy in" from those same key stakeholders through discussion and consensus. Essential understandings regarding roles, responsibilities and relationships must be maintained among everyone involved for the system to be truly effective.

It is the revitalization and continued maintenance of this comprehensive, integrated and coordinated national emergency management system that IAEM feels is of primary importance. That is why we have given heavy emphasis in our discussions with the staff of this subcommittee and other relevant committees within Congress to two priority issues:

—The timely and complete implementation of the Post-Katrina Emergency Management Reform Act of 2006.

—Greatly enhanced funding of Emergency Management Performance Grants (EMPG).

Reforming and Strengthening FEMA

In order for a truly effective national emergency management system to exist, there must be a strong and empowered Federal agency in a leadership position. FEMA must have the authority and credibility essential to performing its role in the integrated system. Unfortunately, after being consolidated into DHS, FEMA not only lost resources and experienced personnel—most importantly they lost authority to make decisions and direct Federal efforts during disasters. Bad decisions—like subordinating the role of the FEMA Director, reducing funding, and removing preparedness—led to the problems encountered during Hurricane Katrina. As a result, IAEM established a position on reforming FEMA which called for:

—Maximum amount of access of FEMA Director to the White House.

—FEMA clearly responsible for coordination of the Federal response to disasters.
—Adequate funding, resources and personnel for FEMA which cannot be reallocated without legislative action.
—Experienced, qualified and knowledgeable leadership in all key FEMA positions.
—Establish and maintain a culture of empowerment within FEMA that promotes the maximum level of autonomy and supports the independent actions necessary to deal with the consequences of disaster.
—Abolish the Principal Federal Official (PFO) position. It leads to confusion.
—Strengthen the FEMA regional offices.
—Ensure opportunity for local emergency managers to have meaningful participation in the policy development process.
—Return to established emergency management doctrine—all hazards, integrated, all phases (Return preparedness to FEMA).

Last fall, Congress passed and the President signed, the Post-Katrina Emergency Management Reform Act of 2006 which included most of these recommendations. We are aware and very much appreciate the important role played by this Subcommittee. If you had not agreed to include the Reform Bill in the Conference Agreement on the fiscal year 2007 DHS Appropriations Bill, it would not have had final action.

We urge the Congress to exercise aggressive oversight of the implementation of the Act to ensure that Congressional intent is complied with fully and in a timely manner. Some issues which we are particularly concerned about follow:

—The actual chain of command which will be in place during a disaster situation. It is not clear that the FEMA Administrator will have the authority he needs to direct the Federal response to disasters and emergencies. We believe it is important that this committee insist the authority to accomplish the mission clearly resides with the Administrator. We believe that the National Response Plan should be written to require this. There are law enforcement incidents where this might not be applicable, but when it is incident management for the Department of Homeland Security it is appropriate for the FEMA Administrator as the department's incident manager to be in that chain of command.
—Position of Administrator. Congressional intent clearly stated that the FEMA Administrator was to report directly to the Secretary and that the FEMA Administrator position was to be established as a Deputy Secretary level position. We understand the Department intends for the Administrator to report to the Deputy Secretary.
—The role of the Federal Coordinating Officer (FCO) and the Principal Federal Official (PFO). Even though the (PFO) was not abolished under the Post Katrina Emergency Management Reform Act, there was a clear intention that the PFO's role was to act only as an advisor to the Secretary and not have operational control. Our members want the Federal Coordinating Officers to have the authority to make decisions and for them not to be reversed. If the PFO program is not abolished, it will be important the Congress insist that FEMA manage the doctrine, training, and exercising of the PFOs to insure no conflict between the PFO doctrine and the FCO responsibilities. This is clearly a FEMA function under the Post Katrina Emergency Management Reform Act and the law does not permit the Secretary to move FEMA functions to other parts of the Department.
—Transfer of all the preparedness support positions and the appropriate funding. We applaud the preparedness functions being moved to FEMA. However, it will be vital that all the positions to support those functions be moved as well. We understand funding was taken from preparedness programs for "shared services". Will those funds be transferred with the programs? When FEMA was created in 1979, departments and agencies did not send the support positions with the programs—this history should not be repeated.
—Transfer of the Intergovernmental Affairs Staff. This office which includes approximately 17 positions was clearly transferred as part of the preparedness functions to FEMA. It is our understanding that DHS may ask for a modification to keep these positions in the National Protection and Programs Directorate. This function and these positions will be important to FEMA as they rebuild their crucial relationships with the many State and local stakeholders and should be transferred.

We look forward to the naming of the National and Regional Advisory Councils as provided for under the Reform Act. IAEM has offered our services to assist the FEMA Administrator in identifying qualified and certified local emergency managers to serve on these councils.

Enhance Funding for EMPG

One factor which is essential to the restoration of a national emergency management system is the ability of State and local governments to participate as full partners in that system. In order to do this, the long-standing funding mechanism of EMPG must continue and be enhanced. All of the elements I've outlined above require that there be responsible, knowledgeable and empowered people at the State and local government levels who are focused on maintaining the emergency management capability needed to adequately support national objectives and provide the services our citizens expect and deserve.

The Emergency Management Performance Grant Program (EMPG) is the single Federal all hazards emergency preparedness grant program in support of capacity building at the State and local level. EMPG funds support the State and local foundation upon which our Nation's emergency response system is built. The program supports State and local initiatives for planning, training, exercise, public education, command and control, as well as emergency operations personnel. Emergency management is the governmental function that coordinates and integrates all activities necessary to build, sustain, and improve the capability to prepare for, protect against, respond to, recover from or mitigate against threatened or actual natural disasters, acts of terrorism or other man-made disasters.

The EMGP program is authorized by the Stafford Act and has been in existence since the 1950s. It was created to be a 50/50 cost share to ensure participation by State and local governments in building and maintaining strong emergency management capability.

Administration proposals have attempted in the past to reduce the percentage of funds which could be used for personnel and to combine the funds with the homeland security grant programs. Congress has rejected the request to limit the percentage for personnel and has kept the EMPG program as a separate account.

The International Association of Emergency Managers recommends the following regarding the Emergency Management Performance Grant Program (EMPG):

—EMPG should be funded at $375 million, the amount authorized in Public Law 109–295, the Post Katrina Emergency Management Reform Act of 2006. We appreciate the $200 million you provided last year to begin to address the shortfall.

—EMPG should be retained as a separate account. The Administration's request to combine EMPG with other programs should be rejected.

—The EMPG match should be maintained at 50–50 to continue to reflect the State and local commitment to the emergency management program in partnership with the Federal Government.

—EMPG allocation and uses should be based on emergency management plans and all-hazard capacity, rather than terrorism based capabilities.

—Performance metrics based systems like the Emergency Management Accreditation Program (EMAP) standards should be used to measure the capacity being built by EMPG, rather than homeland security specific measurables.

I'm often asked to give specific examples of the additional responsibilities which have occurred in the past few years which make the enhancement of funding for EMPG so critical. Here are some examples:

Planning for the Deployment of the Strategic National Stockpile (SNS).—Most public health departments do not have a planning capability and will turn to the local emergency manager for assistance in this area. As the coordinator of plans, this is appropriate. It just takes staff and time to do it. The stockpile from the CDC must be broken down, plans must be made on where it is to be distributed, volunteers must be recruited and trained, exercises have to be conducted, and public information programs must be developed and implemented. Planning must be integrated at the local level for the vaccination of first responders and then the general population. Local emergency managers, in close coordination with public health agencies, will be responsible for seeing it gets done.

Assessing Threats and Administering Allocation of Funding for Homeland Security.—As an outgrowth of the continuing hazard/threat assessment engaged in by local emergency management agencies, additional responsibilities for homeland security needs and threat assessments are being required by Federal agencies, usually as a prerequisite for grant funding. If money is received, leadership is needed at the community level to work with all stakeholders on the appropriate and most cost effective distribution of funding. In most communities the allocation of funds among competing stakeholders requires an "honest broker" to facilitate the achievement of consensus; this task generally falls to the emergency management agency.

Implementation of NRP/NIMS Requirements.—A major additional workload has been generated by the need to revise and overhaul State and local emergency operations plans to conform to the NRP/NIMS requirements. Then, additional effort is

necessary to determine what training is needed by the different elements of the community (elected officials, public works, EMS, fire, police, public health, hospitals, etc.), acquire the needed training, find funding to pay for it and implement the actual delivery of the training program.

Managing and Coordinating Citizen Corps.—It will be essential that this program be managed and coordinated. Experience all across the country has shown that Citizen Corps Councils don't just spring up unassisted. Certainly these Councils cannot operate outside of a local strategy for community preparedness and without the support of local governments. This support role invariably falls to emergency managers and requires staff resources and time.

Public Private Partnerships for Homeland Security.—These partnerships do not just happen. The local emergency manager is the one to develop and maintain these partnerships so that the community can make full use of all its resources both public and private. Once again, it takes time and staff.

All of these efforts are additional requirements over and above the normal work of State and local emergency management agencies to mitigate, prepare for, and respond to the many hazards found in the country such as severe weather, tornadoes, ice storms, flooding, earthquakes, hurricanes and hazardous materials incidents due to transportation and fixed facilities.

While not directly related to our primary concerns of implementing the Post Katrina Emergency Management Reform Act of 2006 and increasing funding for the Emergency Management Reform Act, IAEM would like to offer these comments regarding other related national preparedness issues:

—Congress, DHS and FEMA need to place greater emphasis and attention on the support of States and communities who must receive evacuees when disasters cause the relocation of large numbers of persons from the affected areas. For example, in our work within the Kansas City Metropolitan Area, we have determined that our greatest catastrophe-related threat is the need to be prepared to house and care for massive numbers of evacuees from the St. Louis area should the New Madrid Fault produce a major disaster there and we (KC) have to play "Houston" to St. Louis' "New Orleans".

—IAEM fully endorses the Emergency Management Assistance Compact (EMAC) concept and emphasizes that, except for the participation of the National Guard, the majority of personnel deployed under EMAC are emergency managers, first responders and other support personnel from local governments.

—As DHS and FEMA seek to implement standards and credentialing criteria at the direction of Congress, IAEM urges the use of the Emergency Management Accreditation Program (EMAP) and the Certified Emergency Manager Program. (CEM).

EMAP is a joint NEMA/IAEM program utilizing NFPA 1600 as the basis for establishing standardized emergency management programs. Over a dozen national level key stakeholder organizations worked together to create this voluntary accreditation process for State, territorial, and local programs. EMAP provides the process and the opportunity to be recognized for compliance with national standards, to demonstrate accountability, and to focus attention on areas and issues where work or resources are needed. Its intent is to encourage examination of strengths and weaknesses, pursuit of corrective measures, and communications and planning among different governmental sectors and the community.

The Certified Emergency Manager Program (CEM) is administered by IAEM and is the defining credential for emergency managers. Those emergency managers so credentialed can effectively accomplish the goals and objectives of any emergency management program in all environments with little or no additional training orientation. Currently there are nearly 1,000 of these qualified individuals contributing to the success of emergency management programs in State, local and Federal Government as well as private enterprise.

—We want to emphasize our support for the Emergency Management Institute. It is the primary Federal entity for the development of general emergency management education, training and doctrine and should be funded appropriately. There are many excellent institutions providing education and training targeted to specialized emergency response disciplines; however, EMI has long provided the premier vehicle for promoting total community preparedness through its Integrated Emergency Management Course (IEMC) and has provided guidance and coordination of emergency management and homeland security university programs through its Higher Education Project.

In closing, your emergency managers at all levels of government are constantly working to restore and improve this national system upon which so much depends,

we thank you for your support and understanding in the past and ask for your consideration of our needs and recommendations for the future.

PREPARED STATEMENT OF THE NATIONAL EMERGENCY ASSOCIATION MANAGEMENT

INTRODUCTION

Thank you Chairman Byrd, Ranking Member Cochran, and distinguished members of the Committee for allowing me the opportunity to provide you with a statement for the record on the Department of Homeland Security's (DHS) fiscal year 2008 budget. I am Albert Ashwood, the President of the National Emergency Management Association and Director of the Oklahoma Department of Emergency Management. In my statement, I am representing the National Emergency Management Association (NEMA), whose members are the State emergency management directors in the States, the U.S. territories, and the District of Columbia. NEMA's members are responsible to their governors for emergency preparedness, homeland security, mitigation, response, and recovery activities for natural, man-made, and terrorist caused disasters.

In 2006, FEMA declared 52 major disasters; 6 emergency declarations; and 86 fire management assistance declarations. Overall, 39 States were impacted. The multi-hazards emergency management system continues to be the means to practice and exercise for devastating acts of terrorism, while at the same time preparing the Nation for hurricanes, tornadoes, earthquakes, hazardous materials spills, and floods. We respectfully ask for your Committee to consider the role of emergency management as you address the fiscal year 2008 appropriations and ask for your serious consideration of additional Federal support for the only all-hazards Emergency Management Performance Grant (EMPG) to build State and local emergency management capacity. EMPG is the only State and local matching grant program supporting preparedness efforts.

The Department of Homeland Security budget provides critical support to State and local emergency management programs. NEMA would like to address four critical issues regarding the proposed Federal budget for Department of Homeland Security:

—Concern for maintaining the Emergency Management Performance Grant (EMPG) program at the fiscal year 2007 level while requirements increase for State and local governments;
—The need for oversight on the implementation of the Post-Katrina FEMA Reform Act;
—Federal support for the Emergency Management Assistance Compact (EMAC); and
—Significant deficits for improving State and local Emergency Operations Centers (EOCs).

EMERGENCY MANAGEMENT INFRASTRUCTURE FUNDING

EMPG is the only program for All-Hazards Preparedness

Natural disasters are certain and often anticipated. Every State must be able to plan for disasters as well as build and sustain the capability to respond. EMPG is the only source of funding to assist State and local governments with planning and preparedness/readiness activities associated with natural disasters. At a time when our country is recovering from one of the largest natural disasters in history and making strides to improve the Nation's emergency preparedness/readiness, we cannot afford to have this vital program be just maintained. EMPG is the backbone of the Nation's all-hazards emergency management system and the only source of direct Federal funding to State and local governments for emergency management capacity building. EMPG is used for personnel, planning, training, and exercises at both the State and local levels. EMPG is primarily used to support State and local emergency management personnel who are responsible for writing plans; conducting training, exercises and corrective action; educating the public on disaster readiness; and maintaining the Nation's emergency response system. EMPG is being used to help States create and update plans for receiving and distribution plans for emergency supplies such as water, ice, and food after a disaster; debris removal plans; and plans for receiving or evacuating people—all of these critical issues identified in the aftermath of Hurricane Katrina and the following investigations and reports.

The State and local government partnership with the Federal Government to ensure preparedness dates back to the civil defense era of the 1950s, yet increased responsibilities over the last decade have fallen on State and local governments.

NEMA's 2006 NEMA Biennial Report shows that the shortfall has reached $287 million.

State and Local Match

EMPG is the only all-hazards preparedness program within the Department of Homeland Security that requires a match at the State and local level. The match is evidence of the commitment by State and local governments to address the urgent need for all-hazards emergency planning, to include terrorism. EMPG requires a match of 50 percent from State or local governments. According to the NEMA 2006 Biennial Report, States were continuing to over match the Federal Government's commitment to national security protection through EMPG by $96 million in fiscal year 2005, which is an 80 percent State and 20 percent Federal contribution. To bring all State and local jurisdictions up to the 50 percent level, $135 million is needed; however, it would bring as many as 3,030 additional local jurisdictions to become part of the program. To bring non-participating jurisdictions into the program at the 50 percent level requires an additional $152 million.

EMPG Helps Ensure Personnel for Mutual Aid

During the 2004 and 2005 hurricane seasons, the interdependencies of the Nation's emergency management system were demonstrated and one of the success stories was the Emergency Management Assistance Compact (EMAC). EMAC enabled 48 States, the District of Columbia, the Virgin Islands, and Puerto Rico to provide assistance in the form of more than 2,100 missions of human, military and equipment assets and over 65,000 civilian and military personnel and equipment assets to support the impacted States. The estimated costs of these missions may exceed $829 million and the missions and requests for aid are continuing. Of the personnel providing assistance through EMAC, 46,503 were National Guard personnel and 19,426 were civilians. Many of the civilians sent to provide assistance are supported by the EMPG program in their State. The nature of the Nation's mutual aid system vividly shows the need for all States to have appropriate capabilities to respond to disasters of all types and sizes. EMPG allows States and local governments to build this capacity both for their own use and to share through EMAC. The increased reliance on mutual aid for catastrophic disasters means additional resources are needed to continue to build and enhance the Nation's mutual aid system through EMAC.

Appropriate Support Needed to Strengthen Program

While EMPG received modest increases in 2003 and 2004 after 10 years of straight-lined funding, the program needs to be adequately resourced based on building capacity. We appreciate all of the efforts of members of Congress and the Administration to allow for modest increases to the EMPG program, however adjusted over the last 15 years the increases have not kept pace with inflation at a time when capacity is supposed to be increasing. Continued funding increases are necessary to make up for over a decade of degradation of funding and increased State and local commitments. The increased flexibility of EMPG is offset by funding shortfalls estimated in the NEMA Biennial Report in 2006 to be over $287 million for all 50 States. The current total need is $487 million. The Post-Katrina FEMA Reform Act authorized EMPG at $375 million for fiscal year 2008.

Clearly, Congress wants to understand what is being built with these investments, especially in tight fiscal conditions. The 2006 Quick Response Survey found that if States were to each receive an additional $1 million in EMPG funding for fiscal year 2007, States would use the following percentages for each the following activities: 88 percent of States responding would use the funding to support the update plans including evacuation, sheltering, emergency operations, catastrophic disasters and others; 83 percent would provide more training opportunities for State and local emergency preparedness and response; 88 percent would provide additional preparedness grants to local jurisdictions; 69 percent would conduct more State and local exercises; and 61 percent would use funding for State and local NIMS compliance. (States were able to respond to multiple activities, as each State has multiple emergency preparedness priorities.)

Last year's Nationwide Plan Review Phase 2 Report completed by the Department of Homeland Security found that current catastrophic planning is unsystematic and not linked within a national planning system. The report cites that, "This is incompatible with 21st century homeland security challenges, and reflects a systematic problem: outmoded planning processes, products, and tools are primary contributors to the inadequacy of catastrophic planning. The results of the Review support the need for a fundamental modernization of our Nation's planning process." The report goes on to explain that all States do not adequately address special needs populations, continuity of operations, continuity of government, evacuation plans, and resource management. EMPG is the ONLY source of funding that can address these

significant and immediate needs. The current EMPG shortfall does not take into account these findings.

Accountability Measures

Many States have various accountability measures in place to track the use of EMPG funding and NEMA supports the development of a national system that quantifies the uses of the funding. In fact, NEMA through the National Homeland Security Consortium is working closely with the new Preparedness Directorate at DHS to collaborate on performance metrics for HSPD–8 and the Target Capabilities List. The DHS effort will help to develop a national picture of EMPG metrics as well. At the same time, States already have measures in place at the State level to track the use of EMPG funding in their States. 46 States utilize the EMAP Standards or the National Emergency Management Baseline Capability (NEMBCAP) process to address shortfalls in the State emergency management program. 11 States require local emergency management agencies to use the EMAP standards in the development of annual work plans with an additional 9 States requiring EMAP as a performance measurement.

EMPG as a Separate Account

The President's Budget proposal for fiscal year 2007 suggests combining the EMPG account with the Citizen Corp account to form a formula-based grant account. NEMA strongly disagrees with this approach, as EMPG must be maintained as a separate line item account as Congress has affirmed since fiscal year 2003. Congress agreed at that time that the program account needed to be visible and easy to find in the budget because of the importance of the program. The separate account is critical because the program is the only all-hazards grant program being administered through the Grants and Training Office to emergency management agencies. Additionally, NEMA suggests that Congress maintain the method of distribution for EMPG, similar to the language in the fiscal year 2006 appropriations, however continuing to allocate the funding through the State Administrative Agencies (SAAs) continues to cause delays in some States. NEMA supports language that would expressly restore the direct allocation and administration of the EMPG grants to State emergency management agencies. This will facilitate the process of expediting funding to State and local emergency management agencies without adding unnecessary steps.

All-Hazards Approach

The Federal Government must continue its commitment to ensuring national security though all-hazard preparedness. Without adequate numbers of State and local personnel to operate the all-hazards emergency management system, the infrastructure used to prevent, prepare for, respond to, and recover from all disasters will collapse. Unfortunately, Hurricanes Katrina and Rita illustrated the need for adequate emergency management systems from the ground up. Daily disasters make the case for every State and local government to have an emergency management capacity. Instead of making unbalanced investments towards terrorism preparedness, we must maintain an all-hazards approach and shore up the foundation of our response system for all disasters regardless of cause. We strongly ask for Congress to ensure predictable and adequate funding levels for the EMPG in fiscal year 2008.

FEMA REORGANIZATION

The passage of the Post Katrina FEMA Reform Act was an important priority for the Nation's emergency managers. Congress should be applauded for their action to take significant and serious steps to reform and repair the Nation's emergency management system. As the March 31, 2007 transition deadline approaches, Congress must support full implementation of the Act to ensure that the intent of the reforms are put into practice to build a strong national emergency management system. Additionally, Congress must continue to work beyond the transition period to ensure that the new dynamic is not only working, but that adequate resources and leadership is provided as a critical ingredient toward successful integration of preparedness activities. DHS must implement a true "all-hazards" mission within the Department and in all grant guidance.

FEMA's regional offices are strengthened in the legislation, and as we move forward Preparedness and Department of Defense positions must be clearly defined and integrated. We must ensure that Federal preparedness coordinators are made part of the regional structure on a day-to-day basis. Relationships with State offices must be reestablished to ensure coordination and synchronization in preparedness, response, recovery and mitigation activities. The creation of the National Advisory

Council is lauded by NEMA and we hope that the new organizational system will enable DHS and FEMA to include stakeholders on the front end of new or revised policy and program development.

As a participant on the initial National Response Plan State and Local Team, I still remain concerned about the differentiation between the Federal Coordinating Officer (FCO) and the Principal Federal Official (PFO). NEMA strongly urged Congress to abolish the PFO, but language was included in the final reform bill to limit the PFO's roles and responsibilities. The Federal Coordinating Officer (FCO) must have the authority in the field to carry out the responsibilities of the position. The FCO's authority and responsibilities are clearly delineated in the Robert T. Stafford Disaster Relief and Emergency Relief Act (41 U.S.C. 5143 Section 302). The statute outlines the functions and appointment of the FCO and the National Response Plan (NRP) must follow the Stafford Act authorities that empower the FCO to serve on behalf of the President in a declared disaster area. NEMA strongly supports eliminating the role of the Principle Federal Official (PFO). In NEMA's view, the position is duplicative. NEMA opposed the creation of this position in the drafting process for the NRP and now we are revisiting this in the re-write. Initially, the PFO was included in the NRP to address an incident prior to a formal disaster or emergency declaration. The PFO role adds additional bureaucracy and confusion to any disaster. The PFO position should be eliminated, consistent with the Senate report on Hurricane Katrina. Other issues we need to revisit include an "incident of national significance", defining "catastrophic" disaster, and maintaining Governors' control of the National Guard in a disaster.

The current plans for reorganization are not entirely clear on the subject of grant administration. The plan calls for separation of the Office of Grants and the National Preparedness Office within FEMA. Grants must be closely linked with the overall preparedness strategy to ensure we are building the right capabilities. I ask Congress to look closely at how these offices can be formally linked within FEMA. I want to reiterate my concern that FEMA needs to have the ability to not only send out the grant checks, but to ensure that grants are awarded based on priorities identified by the emergency management coordinating functions.

FEMA has the ability to tap into the emergency responder community to build relationships through training and exercises. FEMA also has the skills to work cooperatively with State and local elected and appointed officials towards comprehensive recovery. FEMA has the coordinating function in the Federal Government and should have the ability to tap all the resources at the Federal level to respond to a disaster. However, all these areas need to be strengthened with an all-hazards focus to ensure that Federal, State, and local governments are building relationships before a disaster and understand how to work together cohesively. FEMA also needs financial support to maintain and build their capacity. We hope that Congress will partner with NEMA as you provide oversight and direction towards to new role of FEMA.

BUILDING OUR NATION'S MUTUAL AID SYSTEM THROUGH EMAC

The response to Hurricanes Katrina and Rita resulted in the largest deployment of interstate mutual aid in the Nation's history through the Emergency Management Assistance Compact (EMAC). As mentioned previously, EMAC deployed personnel comprised of multiple disciplines from all member States to respond to Louisiana, Mississippi, Alabama, Florida, and Texas. The process enabled National Guard, search and rescue teams, incident management teams, emergency operations center support, building inspectors, law enforcement personnel, and other disciplines to immediately assist the requesting States in need of support. The National Guard even chose to continue under EMAC when deployed under Title 32 because of the organization, liability protections, accountability, and tracking abilities EMAC provides.

EMAC was created after Hurricane Andrew by then-Florida Governor Lawton Chiles. The system was developed through the member States of the Southern Governors' Association to establish mechanisms to enable mutual aid among member sates in emergency situations. The Southern Regional Emergency Management Assistance Compact (SREMAC) was signed by participating Governors in 1993. Following recognition of SREMACs nationwide applicability by the National Governors' Association and FEMA, Congress enacted EMAC in 1996 (Public Law 104–321). Currently 49 States, the U.S. Virgin Islands, Puerto Rico, and the District of Columbia are members of EMAC. EMAC requires member States to have an implementation plan and to follow procedures outlined in the EMAC Operations Manual. EMAC takes care of issues such as reimbursement, liability protections, and workers' compensation issues.

Prior to the historic 2005 deployments, EMAC's largest previous deployment was during the 2004 Hurricane season in Florida, Alabama, and West Virginia, which enabled 38 States to provide assistance in the form of more than $15 million in human, military, and equipment assets and over 800 personnel to support the impacted States for over 85 days of continuous response operations. NEMA completed a 2005 After Action Report, which identified areas for continuous improvement for the EMAC systems. EMAC has since worked to draft a strategic plan to implement the lessons learned into practice. The support of EMAC is critical to helping offset the costs of disasters and maintaining the need for a massive Federal workforce for response to catastrophic disasters. The beauty of EMAC is that it provides assistance to those in need, but allows others to assist and learn from disasters in other States.

In order to meet the ever-growing need for and reliance on interstate mutual aid, EMAC is seeking $4 million over 3 years to continue to build EMAC capabilities. This funding will allow EMAC to focus on the implementation of lessons learned from Hurricanes Katrina and Rita, such as training and education for all mutual aid stakeholders, resource typing and credentialing, and information and resource management. Since EMAC's inception in 1993, EMAC was funded by member States until 2003. In 2003, FEMA funded EMAC with a 3 year grant of $2 million. This funding expires on March 31, 2007. Funding has been used for administrative support of EMAC, development of the EMAC Operations system whereby all resources deployed under the Compact are tracked from when it is requested until reimbursement is paid, and the 2004 and 2005 after action reports. NEMA has also has established an EMAC Advisory Group that is already working to better integrate mutual aid partners into the EMAC system before future disasters occur.

Specific Funding for EMAC is needed to continue to build capabilities. The Post-Katrina FEMA Reform Act authorized $4 million annually for EMAC, but no funds were appropriated. NEMA supports inclusion of an annual budget line item in FEMA to assist in training and education, resource typing requirements in the fiscal year 2007 DHS appropriations, credentialing, and information and resource management. Including an annual $2 million budget line item for building EMAC capabilities and our Nation's mutual aid system in the DHS budget for fiscal year 2008 will help to address these specific actions to improve mutual aid.

IMPROVING STATE AND LOCAL EMERGENCY OPERATION CENTERS

During emergencies and disasters, emergency operations centers (EOCs) serve as the nerve center for State and local coordination. Federal agencies as well use these facilities act as a central point for communication during response and recovery phases. After the 2001 terrorist attacks, Congress provided some funding to States to update their EOCs. Additionally, Congress temporarily changed the State local cost share from 50–50 to 75–25 for these funds.

States continue to require more monies to enhance State primary and alternate EOCs. According to data in the 2006 NEMA Biennial Report, it is estimated that almost $393 million would be needed to build, retrofit and upgrade the facilities. For local EOCs, that number increases to $1.1 billion, for a total of almost $1.5 billion. This includes the costs to upgrade equipment and software, train personnel, and conduct operations during emergency and non-emergency situations. A separate line item is needed in the budget for EOC improvements. Congress should make a $160 million commitment to upgrading EOCs as a downpayment to address the significant deficits.

CONCLUSION

With the passage of the Post-Katrina FEMA Reform Act, Congress has affirmed their support for ensuring preparedness for our Nation's continuous vulnerability against all-hazards. We must continue to build national preparedness efforts with a multi-hazard approach. In this year's appropriations process Congress will make critical decisions that shape the future of emergency management in this country. As you begin your consideration, we ask you to recognize the importance of adequately funding the EMPG program in building capacity through people at the State and local level for all disasters. I thank you for the opportunity to testify on behalf of NEMA and appreciate your partnership.

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