

**DOING BUSINESS WITH DHS: INDUSTRY RECOMMENDATIONS TO IMPROVE CONTRACTOR EMPLOYEE VETTING**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
OVERSIGHT AND  
MANAGEMENT EFFICIENCY  
OF THE  
COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES  
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# CONTENTS

	Page
STATEMENTS	
The Honorable Scott Perry, a Representative in Congress From the State of Pennsylvania, and Chairman, Subcommittee on Oversight and Management Efficiency:	
Oral Statement .....	1
Prepared Statement .....	2
The Honorable J. Luis Correa, a Representative in Congress From the State of California, and Ranking Member, Subcommittee on Oversight and Management Efficiency:	
Oral Statement .....	3
Prepared Statement .....	4
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Ranking Member, Committee on Homeland Security:	
Prepared Statement .....	5
WITNESSES	
Mr. Charles E. Allen, Senior Intelligence Advisor, Intelligence and National Security Alliance:	
Oral Statement .....	6
Prepared Statement .....	8
Mr. Marc Pearl, President and CEO, Homeland Security and Defense Business Council:	
Oral Statement .....	14
Prepared Statement .....	16
Mr. David J. Berteau, President and CEO, Professional Services Council:	
Oral Statement .....	22
Prepared Statement .....	23
Mr. Brandon LaBonte, President and CEO, ArdentMC:	
Oral Statement .....	28
Prepared Statement .....	29



**DOING BUSINESS WITH DHS: INDUSTRY RECOMMENDATIONS TO IMPROVE CONTRACTOR EMPLOYEE VETTING**

**Tuesday, February 27, 2018**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
SUBCOMMITTEE ON OVERSIGHT AND  
MANAGEMENT EFFICIENCY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:12 p.m., in room HVC-210, Capitol Visitor Center, Hon. Scott Perry (Chairman of the subcommittee) presiding.

Present: Representatives Perry, Higgins, Estes, Correa, and Rice.

Mr. PERRY. The Committee on Homeland Security, Subcommittee on Oversight and Management Efficiency will come to order.

The purpose of this hearing is to examine the Department of Homeland Security's contractor fitness requirements, vetting process, and reciprocity of fitness examinations between components.

The Chair now recognizes himself for an opening statement.

DHS relies on thousands of contractor employees every day to achieve its mission. From IT services to construction and janitorial services, DHS and contractor employees work hand-in-hand to secure our Nation. Given DHS's daunting task of securing our Nation's borders, airports, and much, much more, it is of the utmost importance that everyone working for DHS, be it a Federal employee or contractor employee, is appropriately vetted to ensure that he or she will uphold the integrity of the Department.

However, I am concerned that DHS's process to vet the character and conduct of contractor employees, known as a fitness determination, is bureaucratic in the worst ways: Inefficient, inconsistent, and lacking transparency.

The Office of Personnel Management or OPM sets minimum fitness standards for all contractor employees in the Federal Government. However, DHS components apply those standards differently based on the nature of each position. This causes difficulties for contractors with employees providing services to multiple DHS components.

For example, if a contractor employee who has received a favorable fitness determination from the Transportation Security Administration, or TSA, is tasked to perform work on a separate contract for the U.S. Customs and Border Protection, or CBP, the CBP may not reciprocally accept TSA's fitness adjudication. Therefore,

the contractor employee must undergo an additional fitness determination specific to CBP standards.

Differing applications of fitness standards causes headaches due to lost time, increased costs, and inefficient communication between DHS and industry. Often, industry representatives are left in the dark and are unaware of how a particular DHS component will apply fitness standards when vetting contractor employees. This makes it difficult for industry to know if their current personnel meet the qualifications to earn a favorable fitness determination for a specific component or how to seek out employees who could qualify.

Moreover, any time spent waiting for work to begin while a fitness determination or preliminary check is being conducted is a cost industry must bear, which in turn, increases the price to DHS. Delayed fitness determinations not only waste taxpayer dollars, but also keep contractor employees from providing DHS with much-needed services and oftentimes, I would add, the most appropriate personnel.

Additionally, communication between DHS and industry during this process is inefficient. In order for industry to receive information on the status of a pending fitness determination, industry must place the request with the Contracting Officer Representative or COR, who then forwards the request to the office conducting the review. The office conducting the review then provides the requested information to the COR, who in turn gives it to industry who asked in the first place.

This not only creates an unnecessary middleman, but also places a burden on industry's relationship with the COR whose main job is to manage the contract and provide technical direction to industry.

Aside from the complications I just detailed, I am also concerned that this convoluted process deters non-traditional Government partners from wanting to do business with DHS. Why would a company, large or small, choose to involve itself in such a disparate and confusing process that directly impacts their personnel and bottom line?

With the ever-increasing threat environment we face today, DHS should work with both traditional and non-traditional Government partners to ensure that robust market competition provides the best services and technology at a competitive price.

I want to reiterate that I support DHS's need to appropriately vet its contractor work force that supports a variety of missions. However, there should be a more transparent and efficient way to do so. Other agencies actually use better and more efficient ways.

So I look forward to hearing from our witnesses regarding their experiences with fitness determinations and any suggestions they may have to improve the current process at DHS.

[The statement of Chairman Perry follows:]

STATEMENT OF CHAIRMAN SCOTT PERRY

FEBRUARY 27, 2018

DHS relies on thousands of contractor employees every day to achieve its mission. From IT services to construction and janitorial services, DHS and contractor employees work hand-in-hand to secure our Nation. Given DHS's daunting task secur-

ing our Nation's borders, airports, and much more, it is of the utmost importance that everyone working for DHS, be it a Federal employee or contractor employee, is appropriately vetted to ensure that he or she will uphold the integrity of the Department. However, I am concerned that DHS's process to vet the character and conduct of contractor employees—known as a fitness determination—is bureaucratic in the worst ways: Inefficient, inconsistent, and lacks transparency.

The Office of Personnel Management (OPM) sets minimum fitness standards for all contractor employees in the Federal Government. However, the application of the standards differs across DHS components as it relates to the nature of the specific position. This causes difficulties as many contractor employees provide services for multiple DHS components. For example, if a contractor employee who has received a favorable fitness determination from the Transportation Security Administration (TSA) is tasked to perform work on a separate contract for Customs and Border Protection (CBP), CBP may not reciprocally accept TSA's fitness adjudication. Therefore, the contractor employee would have to undergo an additional fitness determination specific to CBP standards.

Differing applications of fitness standards cause headaches in terms of lost time, increased cost, and lack of communication for both DHS and industry. Often, industry is left in the dark, and is unaware of how one particular DHS component will apply fitness standards when vetting contractor employees. This makes it difficult for industry to know if their current personnel meet the qualifications to earn a favorable fitness determination for a specific component, or for industry to proactively find employees that do.

Moreover, any time spent waiting for work to begin while a fitness determination or preliminary check is being conducted is a cost industry must bear, which in turn, increases the price to DHS. Delayed fitness determinations not only waste taxpayer dollars but also keep contractor employees from providing DHS with much-needed services.

Additionally, communication between DHS and industry during the process is inefficient. In order for industry to receive information on the status of a pending fitness determination, industry must place the request with the Contracting Officer Representative (COR), who then forwards the request to the office conducting the review. The office conducting the review then provides the requested information to the COR, who in turn gives it to industry. This not only creates an unnecessary middle-man, but also places a burden on industry's relationship with the COR whose main job is to manage the contract and provide technical direction to industry.

Aside from the complications I just detailed, I am also concerned that this convoluted process deters non-traditional Government partners from wanting to do business with DHS. Why would a company, large or small, choose to involve themselves in such a disparate and confusing process that directly impacts their personnel and bottom line? With the ever-increasing threat environment we face today, DHS should work with both traditional and non-traditional Government partners to ensure that robust market competition provides the best services and technology at a competitive price.

I want to re-iterate that I support DHS's need to appropriately vet its contract workforce that supports a variety of missions. However, there should be a more transparent and efficient way to do so. I look forward to hearing from our witnesses regarding their experiences with fitness determinations and any suggestions they may have to improve the current process at DHS.

Mr. PERRY. The Chair now recognizes the Ranking Minority Member of the subcommittee, the gentleman from California, Mr. Correa, for his statement.

Mr. CORREA. Thank you, Chairman Perry, for holding this most important hearing. I want to thank the witnesses for being here today.

As you know, the Federal Government is one of the world's largest marketplaces. In fiscal year 2017, DHS service contractors reported more than 54,000 full-time employees employed under the DHS contracts. Given the vast nature of the DHS mission, the Department must also use contractors throughout the components to fulfill its critical needs. With vacancies in the Trump administration at such a high level, DHS should have transparent, practical policies designed to get contractors on-board as quickly as possible.

Contracting companies have indicated that DHS is not transparent with its fitness standards, hindering the firm's abilities to understand the personnel needs of DHS. Companies have also indicated that fitness standards vary across DHS components or agencies, precluding reciprocities of favorable fitness assessments when a contractor joins a contract with a different DHS component.

These areas require proper oversight and management and can do better by eliminating redundancies in the fitness adjudication process and setting up consistent criteria Department-wide and effective communication with contractor employers.

Unfortunately, these administrative remedies appear to have fallen low on the Department's priority list. At a time when DHS resources are already spread thin, effective use of taxpayer dollars should be centered on ways the Department can operate and fulfill its mission in the most suitable, efficient manner.

Contractors are an important piece of our mission. My district is home to several companies with contract work at DHS, especially small businesses with information technology in the service area.

I look forward to speaking with witnesses today about their interaction to DHS and how we can make this experience a more positive one and how DHS can manage and develop opportunities for small businesses. Again, I want to thank the witnesses for appearing here today. Again, I thank the Chairman for this hearing and I yield back the remainder of my time.

[The statement of Ranking Member Correa follows:]

STATEMENT OF RANKING MEMBER J. LUIS CORREA

FEBRUARY 27, 2018

The Federal Government is one of the world's largest marketplaces. In fiscal year 2017, DHS service contractors reported that more than 54,000 FTE were employed under DHS contracts.

Given the vast nature of the DHS mission, the Department must use contractors throughout the components to fulfill critical needs.

With vacancies in the Trump administration at such a high level, it goes without saying that DHS should have in place transparent, practical policies designed to get contractors on board in a reasonable amount of time.

Contracting companies have indicated DHS is not transparent with its fitness criteria, hindering firms' ability to understand the personnel needs of DHS components. Companies have also indicated that fitness standards vary across DHS components, precluding reciprocity of favorable fitness assessments when a contractor joins a contract with a different DHS component.

These areas require proper oversight and management and can certainly be corrected by eliminating unnecessary redundancy in the fitness adjudication process, setting up consistent criteria Department-wide, and effectively communicating with contractor employees.

Unfortunately, these administrative remedies have fallen low on the Department's priority list, namely because of misplaced focus on ineffective, costly campaign promises, such as a billion-dollar border wall.

At a time when DHS resources are already spread thin, effective use of taxpayer dollars should be centered on ways the Department can operate and fulfill its mission in the most suitable, efficient manner.

I certainly understand the importance of contractors to the DHS mission.

My district is home to several companies with contract work at DHS, particularly small businesses in the information technology and service fields.

During my time in the California legislature and my time in Congress, I have worked hard to develop solutions to help keep California's small businesses competitive and thriving, so that we can create more good jobs and grow our economy.

I look forward to speaking with witnesses today about their interactions with DHS and how we can move the Department's contracting practices in a more posi-



tive direction across the board, not only just in contractor vetting, but also with how DHS manages and develops opportunities for small businesses.

Mr. PERRY. Chair thanks the gentleman. Other Members of the subcommittee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

FEBRUARY 27, 2018

Throughout my tenure on this committee, oversight of the Department of Homeland Security's contracting practices has been one of my priorities.

The Department's mission compels the agency to use contractors throughout the components.

The personnel security clearance process and ambiguities in the suitability standards across DHS are challenges for both DHS components and contractors that support the agency's mission.

During the 113th and 114th Congresses, I introduced legislation to streamline security clearance process at DHS.

Also, I asked the Government Accountability Office to examine the process—which led to the personnel security process being placed on the High-Risk List.

I certainly believe it is important to properly and timely vet contractor employees to ensure they are fit to work at the Department, and I hope to have a productive discussion on this issue today.

Today's witnesses will testify that having transparent policies for contractors is a very manageable standard of operation and essential for the success of the DHS mission.

However, nothing from this administration signals that improving the contracting process is a priority.

Many of the Department's most recent public statements serve as an extension of President Trump's campaign trail, placing a misplaced focus on a border wall and deportation force.

Also, President Trump's budget places politics over priorities.

The Trump budget slashes the already feeble budget of the Office of Inspector General, which as former Assistant Secretary Berteau testifies, is essential for oversight in this area.

Furthermore, aside from the vetting and reciprocity issues in contracting, there are other pressing contracting issues facing DHS.

For example, last year Puerto Rico and the U.S. Virgin Islands experienced some of the most devastating hurricanes to the non-contiguous United States.

DHS has a responsibility to provide to the territories an array of life-saving items—including medical supplies, meals, and tarps. Contractor support is essential in obtaining these vital needs.

Unfortunately, there have been serious problems with the contracts awarded to date.

For example, a newly-created Florida company with an unproven record, Bronze Star LLC, was awarded \$30 million by FEMA to provide emergency tarps and plastic sheeting in Puerto Rico.

Bronze Star failed to deliver those urgently-needed supplies, which even months later remain in demand by hurricane victims on the island.

Similarly, FEMA improperly awarded \$156 million to Tribute Consulting, LLC, a company with no experience in large-scale disaster relief and with at least five prior-cancelled Government contracts.

Of the over 30 million meals needed for Puerto Rico, Tribute provided just 50,000 before the contract had to be canceled due to non-performance.

The Department of Homeland Security must do better when it comes to contracting oversight and adherence to the laws, policies, and procedures in place to ensure these gross errors do not occur.

In response, on February 8, 2018, I introduced H.R. 4995, the "Due Diligence for FEMA Disaster Contractors Act of 2018," a bill requiring the administrator of FEMA to establish a contractor review process for disaster contracts valued at \$1 million or more.

This legislation was co-sponsored by every Democratic Member of this committee.

We can hold hearings and file legislation to improve the contracting process, but we also have to have buy-in from the administration.

We need to hear from the administration about contracting oversight procedures and what they need from Congress to improve the process.

We also need to receive a commitment from Secretary Nielsen that improving the contracting process is a priority.

Mr. PERRY. We are pleased to have a distinguished panel of witnesses before us today. The witnesses' entire written statements will appear in the record. The Chair will introduce the witnesses first and then recognize each of the witnesses for their testimony.

Mr. Charles Allen is the senior intelligence advisor for the Intelligence and National Security Alliance or INSA. He previously served at DHS as the assistant secretary for Information and Analysis from 2005 to 2009 and was the Department's first under secretary for intelligence and analysis. Mr. Allen served nearly 50 years in the Central Intelligence Agency before joining DHS. Welcome, sir.

Mr. Marc Pearl is the president and CEO of the Homeland Security and Defense Business Council or HSDBC. The HSDBC brings together industry and Government officials to share best practices and perspective on pressing National security issues. Mr. Pearl joined HSDBC in 2008. Thank you, sir.

Mr. David Berteau is the CEO of the Professional Services Council or PSC. The PSC represents over 400 member companies of all sizes that provide services to the Federal Government. Prior to joining PSC, Mr. Berteau served as assistant secretary of defense for logistics and material readiness. Thank you, sir.

Mr. Brandon LaBonte is CEO of ArdentMC. His small business provides technology and geospatial solutions to almost every DHS operational component. ArdentMC has employees in 14 States and the District of Columbia to support its DHS contracts. Welcome, sir.

Thank you, all, for being here today.

The Chair now recognizes Mr. Allen for your opening statement, sir.

**STATEMENT OF CHARLES E. ALLEN, SENIOR INTELLIGENCE ADVISOR, INTELLIGENCE AND NATIONAL SECURITY ALLIANCE**

Mr. ALLEN. Thank you, Mr. Chairman, Ranking Member Correa, Members of the subcommittee, for this opportunity to talk about something that I think is very important for the Department of Homeland Security.

As the Chairman said, I am Charlie Allen. I served for almost 50 years at the Central Intelligence Agency. I am here representing the Intelligence and National Security Alliance as its senior intelligence advisor, which is a nonpartisan forum for advancing National security priorities through public-private relationships. Also, I chair the INSA Security Policy Reform Council, which seeks to improve Government security policies and programs.

Fitness requirements may be needed to screen new hires and contractors who are unknown to the U.S. Government. But I believe they are completely unnecessary for personnel holding security clearances.

Moreover, the lack of uniform fitness criteria among DHS components is illogical and counterproductive. Components who refuse to accept others' fitness determinations leads to duplication of effort,

lost time, wasted resources, which undermine the Department's ability to fulfill its mission. I saw these problems when I was DHS's chief intelligence officer about 10 years ago. They still exist and I applaud the committee for holding this hearing.

Before starting at work on a DHS contract in any capacity, the contractor must receive favorable fitness determination based on a background investigation. But the investigative and adjudicative processes have shortcomings that undermines the Department's effectiveness.

First, DHS fitness criteria are not consistent across the Department. There is no rationale for component-specific criteria. CBP, which intercepts drug traffickers as you know, argues that anyone involved in drug trafficking is unfit to work for CBP. But I would argue that a drug trafficker would not be fit to work for any component whether it is TSA or FEMA.

Second, the lack of uniformed criteria prevents for reciprocity among components. Contractors supporting multiple DHS components must therefore be assessed multiple times, which is a waste of time and resources.

Third, fitness assessments of contractors who hold security clearances are a complete waste of time and resources, particularly since clearance investigations are far more comprehensive. I was just reinvestigated by the Department of Defense and it took 35 months for me to be upgraded again to receive Top Secret SCI information, but it is a real problem.

Contractors are harmed by an inefficient process that waste time and money and impedes their work. First, lengthy fitness investigations make it difficult for firms to fulfill their contracts. Contractors routinely wait 3 or 4 months for a fitness determination.

Second, firms incur substantial costs when staff wait for fitness determinations, using average figures provided by one large firm consulted by INSA, a company would lose \$27,000 in revenue for each employee who waits 30 business days for a fitness determination. On a 50-person contract, which is ordinary, the firm could lose over \$1 million in revenue.

Third, fitness requirements deter firms for bidding on DHS contracts. I have had a number of companies, particularly smaller firms, can't weather the delays or incur additional cost. The impact on Government is manifest. These efficiencies undermine the Department's effectiveness. By impeding contractors' work, the fitness process hinders DHS's ability to execute its missions. Lost revenue increases firms' cost which result in less value for the Government. DHS wastes time and money investigating people unnecessarily.

Recommendations. What should we do about this? First, DHS should eliminate fitness requirements for contractors who are already cleared, who hold security clearances Secret or Top Secret SCI.

Second, DHS should set uniform fitness criteria across the Department. Consistent standards are a prerequisite for reciprocity. Last January, the House passed this committee's DHS Clearances Management and Administration Act H.R. 697, which requires DHS to set uniform clearance adjudication standards. DHS should take the same steps regarding fitness standards. The committee should direct it to do so.

Third, DHS should mandate and implement fitness reciprocity across all components. Fourth, a single DHS entity, preferably the chief security officer with whom I worked closely at the time when I was at the Department, should set Department-wide standards for all fitness determinations. Fifth, Congress should rescind the TSA-specific fitness requirements, which has been enshrined in law.

Thank you for the opportunity, Mr. Chairman, for testifying today. I look forward to your questions.

[The prepared statement of Mr. Allen follows:]

PREPARED STATEMENT OF CHARLES E. ALLEN<sup>1</sup>

FEBRUARY 27, 2018

INTRODUCTION

Chairman Perry, Ranking Member Correa, Members of the subcommittee, thank you for the opportunity to testify today. My name is Charlie Allen. I am the senior intelligence adviser at the Intelligence and National Security Alliance (INSA), a nonpartisan, nonprofit forum for advancing intelligence and National security priorities through public-private partnerships. I serve as chair of INSA's Security Policy Reform Council (SPRC), which brings together industry and Government stakeholders to improve the effectiveness of security policy and programs and to enhance industry's ability to support National security. The SPRC has been a thought leader for modernizing the security clearance process. We have championed clearance reciprocity, the adoption of continuous monitoring and evaluation for cleared personnel, and other transformative steps to bring our trusted workforce into the 21st Century. Many of the challenges associated with the security clearance process apply to the DHS fitness and suitability assessment process.

My testimony is informed by input from INSA's membership, which includes small, medium, and large firms that have contracts with the Department of Homeland Security and with individual DHS components, as well as with the intelligence community and the Department of Defense. My testimony is also informed by more than 40 years in the intelligence community, which I concluded by serving as the Department of Homeland Security's under secretary of intelligence and analysis and its chief intelligence officer from 2005 to 2009.

Fitness determinations of contractor employees are essential to developing a workforce the American people can trust to protect them. Unfortunately, however, the inefficiency of this process deters some companies from seeking work with the Department of Homeland Security; hinders companies' ability to execute their contracts; increases companies' costs; and ultimately undermines DHS's mission. The Department's processes must be responsive to its industry partners, as the Department depends on contractors' unique skills, expertise, and experience for many critical functions.

I am here today to advocate for a number of reforms that would eliminate inefficiencies in the DHS fitness/suitability process, including: (1) Standardizing the suitability and fitness requirements across the Department, consistent with the "unity of effort" campaign undertaken by DHS Secretaries from both the current and previous administrations, (2) making those requirements publicly available, (3) empowering the Department's chief security officer to determine and implement consistent requirements across the Department, and (4) eliminating the requirement to conduct a fitness/suitability assessment on Government or contractor personnel who possess a valid, in-scope security clearance.

<sup>1</sup> Charles E. Allen, a principal at the Chertoff Group, is the senior intelligence advisor to the Intelligence and National Security Alliance (INSA), a non-partisan, non-profit forum dedicated to advancing intelligence and National security priorities through public-private partnerships. He serves as chairman of INSA's Security Policy Reform Council, which applies private sector expertise and commercial best practices to improve the efficiency of U.S Government policies regarding security clearances and related matters. From 2005–2009, he served as the Department of Homeland Security's under secretary of intelligence and analysis and chief intelligence officer. He concluded 47 years of service at the Central Intelligence Agency by serving as the assistant director of central intelligence for collection.

## BACKGROUND

Before characterizing the challenges presented by DHS's fitness/suitability requirements, it would be helpful to define some key terms and explain the investigative and adjudicative process.

*Fitness/Suitability Assessment*

Before starting work on any DHS contract in any capacity, a contractor must receive a fitness determination, based on a background investigation, from the specific DHS component being supported. If the contractor seeks to support a second DHS component organization, he or she must go through a second fitness assessment.

The need for a fitness determination applies to everyone. It does not only apply to contractors who are working at a DHS site and accessing DHS networks and databases—people whom the Department would understandably want to vet. It includes copy editors who review a report written for DHS under contract. It includes program managers overseeing project staffing and budgets. It includes security guards checking IDs for a DHS-contracted conference at a contractor facility—someone who will never access DHS information or facilities. There is little, if any, need for contractors in such roles to be investigated by the Department.

In the Department's *Instruction Handbook on the DHS Personnel Suitability and Security Program*, DHS's chief security officer defines "suitability/fitness" as "an assessment of an individual's character or conduct that may have an impact on promoting the efficiency and the integrity of the Federal service."<sup>2</sup> Assessments are conducted at three levels—high-, medium-, and low-risk—depending on whether the position has the potential for exceptionally serious, serious, or limited impact "on the integrity and efficiency of Federal service."<sup>3</sup>

As the U.S. Citizenship and Immigration Services (USCIS) website<sup>4</sup> describes the process of gathering information to conduct a fitness assessment, the Department will investigate a wide range of past behavior by the person requesting access, including "illegal drug use, financial delinquencies, employment history, residences, education, police record, alcohol use and counseling, among other things." The investigation involves interviews of "close personal associates, spouse, former spouse(s), former employers, co-workers, neighbors, [and] landlords," and it involves checks of references and records related to one's education, credit history, military service, tax payments, and police interactions.

*Security Clearance*

If a contractor needs access to Classified information, he or she will first have to be granted an appropriate level security clearance, which differs from a fitness/suitability determination. The DHS Suitability and Security *Instruction Handbook* defines a security clearance as "a determination that a person is able and willing to safeguard Classified National security information"<sup>5</sup>—the release of which, according to Executive Order 13526, could cause "exceptionally grave" or "serious" damage to U.S. National security.<sup>6</sup>

It should be noted that anyone who holds an active security clearance has already gone through a background investigation that considers the same factors evaluated in a DHS fitness assessment—though likely far more in-depth—and had the findings be favorably adjudicated. Yet even if one has a top-level security clearance—and even if that clearance was granted and held by DHS—a contractor must still undergo a less-thorough and duplicative fitness investigation and assessment before he or she can begin work.

## INEFFICIENCIES

In my personal experience and that of several INSA member firms, a number of factors hinder timely suitability determinations.

<sup>2</sup> Department of Homeland Security, Office of the Chief Security Officer, *The Department of Homeland Security Personnel Suitability and Security Program*, DHS Instruction Handbook 121-01-007, June 2009, p. 5. As of February 21, 2018: <https://www.dhs.gov/sites/default/files/publications/instruction-121-01-007-personnel-suitability-and-security-program.pdf>.

<sup>3</sup> Department of Homeland Security, *The Department of Homeland Security Personnel Suitability and Security Program*, p. 14.

<sup>4</sup> U.S. Citizenship and Immigration Services, "Q&A Regarding Background Investigations," website. Updated March 18, 2008. As of February 16, 2018: <https://www.uscis.gov/faq-page/qa-regarding-background-investigations#t12832n40208>.

<sup>5</sup> Department of Homeland Security, *The Department of Homeland Security Personnel Suitability and Security Program*, p. 20.

<sup>6</sup> Executive Order 13526, December 29, 2009, sec. 1.2. As of February 21, 2018: <https://www.archives.gov/isoo/policy-documents/cnsi-eo.html>.

1. *Lack of transparency.* Many DHS components do not make their full suitability criteria publicly available, hindering firms' ability to understand the personnel needs of a given DHS component, both during the bid process and after the contract is awarded.
2. *Inconsistency.* Fitness standards vary across DHS components, precluding reciprocity of favorable suitability assessments when a contractor joins a contract with a different DHS component.
3. *Redundancy.* Even if an individual contractor has received a favorable fitness determination from one DHS component, before he or she can support a contract for another DHS component, he or she must secure a favorable determination from that component too. Similarly, even contractors who hold valid, in-scope security clearances must undergo a fitness investigation despite having successfully completed a more in-depth background investigation that addresses the Office of Personnel Management's fitness requirements and many of the issues of concern to DHS components.

#### *Lack of Transparency*

In preparation for my testimony, I had intended to compare and contrast the suitability criteria of different DHS components to see where—and perhaps divine why—they differ. Unfortunately, only one—the Transportation Security Administration (TSA)—makes its full list of criteria publicly known, as they are mandated in law. TSA is statutorily required to consider 28 types of criminal behavior that would disqualify an individual from employment with the agency.<sup>7</sup>

In the absence of information, contracting firms must decide whether, how, and how much to bid for contracts without knowing whether they have sufficient staff who will meet the fitness criteria. Firms do not even receive clearly-defined fitness criteria after being awarded the contract. As a result, they simply propose staff and wait.

#### *Inconsistency*

DHS Instruction Handbook 121-01-007 establishes minimum standards for the DHS Personnel Suitability and Security Program but adds, “any DHS component is not prohibited from exceeding the requirements.” Barring comprehensive data, I would hazard a guess many components have added what they have identified as mission-specific criteria. The DHS Inspector General, for example, reported that because Border Patrol officials routinely come across illegal drug activity, CBP deems unsuitable anyone who has “ever had any illegal involvement in the cultivation, manufacturing, distribution, processing, or trafficking of any drug or controlled substance”.<sup>8</sup> Clearly, a person with such a history would not be fit to work at another DHS component, even if its personnel do not directly address illegal narcotics. This highly specific disqualifying factor is thus unnecessary. Yet because the criterion exists, CBP must investigate whether a contractor violates it even if the contractor has already been cleared to work by another DHS component.

It is not clear that component-specific security requirements have demonstrated any value-added. Instead, they have precluded or delayed qualified contractors from beginning work, introducing uncertainty for firms, contractors, and the components depending on them. Favoring component autonomy is a holdover from DHS components' legacy as independent agencies. In the present era, when successive DHS Secretaries advocate for a “unity of effort” across the Department, no DHS component requires fitness standards so unique that a uniform standard would not suffice.

The continued existence of component-specific criteria yields a requirement for component-specific fitness assessments. DHS leadership should direct components to assess whether the specific criteria that are unique to them really add so significantly to determinations of employee and contractor trust that these inconsistencies

<sup>7</sup> The requirements are specified in 49 U.S.C. § 44936(b) and 49 C.F.R. § 1542.209(d). See *The Insider Threat to Homeland Security: Examining Our Nation's Security Clearance Processes*, Hearing Before the Subcommittee on Counterterrorism and Intelligence, Committee on Homeland Security, U.S. House of Representatives, 113th Cong., 1st Sess. (November 13, 2013). (Gregory Marshall, Chief Security Officer of the Department of Homeland Security, Answers for the Record to Questions Submitted by Rep. Peter King.) As of February 21, 2018: <https://www.gpo.gov/fdsys/pkg/CHRG-113hhrg87372/pdf/CHRG-113hhrg87372.pdf>. The criteria are specified more clearly in Transportation Security Administration, “Self-Assessment for Applicants for the Transportation Security Administration (TSA),” website, revised June 2011. As of February 17, 2018: <https://hraccess-assessment.tsa.dhs.gov/tsofaqs/backgroundrequirements.pdf>.

<sup>8</sup> Department of Homeland Security, Office of Inspector General, *The DHS Personnel Security Process*, OIG-09-65, May 2009, p. 19. As of February 21, 2018: [https://www.oig.dhs.gov/assets/Mgmt/OIG\\_09-65\\_May09.pdf](https://www.oig.dhs.gov/assets/Mgmt/OIG_09-65_May09.pdf).

must be maintained. A uniform set of standards would enable reciprocity across components that is presently not possible.

#### *Redundancy*

When reciprocity is not an option, redundancy often surfaces. In the absence of common adjudicative criteria and a shared database of investigation data, DHS components are doomed to duplicate each other's work. Contractors—who often support multiple components within DHS and across broader USG—are considerably more susceptible to endure redundant investigations.

DHS considers fitness determinations to be contract-specific. As a result, a contractor who has successfully passed one DHS component's fitness investigation cannot work on a contract for another DHS component unless he passes that organization's own investigation. As a comparison, consider if staff from this subcommittee could not support another subcommittee without being reinvestigated.

Even worse, if a contractor is already supporting a DHS component on a contract, having successfully received a fitness determination, he cannot support a new task order on the same contract without undergoing another fitness investigation by the same component. So even if this individual is already doing work for a DHS component, he cannot work on another project for the same organization without being reinvestigated. This would be like investigating the staff of this committee so they could support today's hearing and then investigating them all over again to enable them to support a hearing scheduled for next week.

In particular, reinvestigating contractors with an existing fitness determination or a valid, in-scope security clearance wastes time and resources. A Government agency already has compiled the entire body of information necessary to generate a complete fitness investigation (i.e., interviews with neighbors and employers, checks of police, academic, and credit records, etc.)—and adjudicated it successfully. DHS policy indicates prior investigations conducted within the past 5 years would satisfy investigative requirements—but would not in and of themselves prove sufficient for an affirmative adjudication. Rather, data from investigative files must be “obtained and reviewed in conjunction with pre-employment checks to make a fitness decision for employment.”<sup>9</sup>

Nothing illustrates the lack of interagency trust and an almost compulsive need to check internal boxes more than requiring holders of active security clearances to undergo a more cursory fitness assessment from DHS. This happens all the time.

- One INSA member firm hired an individual specifically because he had a skill set relevant to a DHS contract. Yet despite holding a Department of Defense Top-Secret clearance, he is still awaiting a fitness determination from DHS 14 months later.
- The DHS program manager at one large services firm waited 4 months to receive her fitness determination from a DHS component—even though a DHS Headquarters office, the Office of Intelligence and Analysis (I&A), already held her TS/SCI clearance. During this 4 months, she could not bill to the contract—so she could not oversee or manage her firm's work for the component.
- One company told INSA of a person who was denied a fitness determination because he was married to a foreign national. But this person held a TS/SCI clearance, which means that another agency had already investigated the foreign spouse and determined that she posed no security risk.

Fitness investigations of cleared personnel virtually never yield derogatory information that would merit a denial of access. Data provided by several INSA member companies indicate that the share of their cleared personnel who are rejected for DHS fitness is between zero and 1.3 percent. One of the firms explained that the few employees it had who were denied fitness determinations had short-term debt problems associated with the collapse of the housing market at the beginning of the recent recession. Such employees are so few and far between—and so low-risk—that the fitness investigations of these firms' personnel added little, if any, to the Department's efficiency or integrity.

I encountered this predicament more than I care to remember as DHS's under secretary for intelligence. I frequently saw cleared individuals with years of experience in the intelligence community unable to come to work because they were awaiting a cursory suitability or fitness review. If we are to make fitness and suitability standards work for DHS and its industry partners, reciprocity must be part of the solution.

<sup>9</sup> Department of Homeland Security, Office of the Chief Security Officer, *The Department of Homeland Security Personnel Suitability and Security Program*, p. 17.

## IMPACT ON INDUSTRY

The requirement that all personnel on a DHS contract receive a fitness determination specific to that contract burdens both Government and industry with delayed productivity and increased costs—thus hindering the Department’s ability to fulfill its mission.

1. *Firms struggle to staff contracts in a timely manner despite having qualified personnel available.*—Firms often must rely on contractors new to a DHS component in order to complete staffing of a contract. One large services firm told us that the average wait over the past 5 years has been 61 days. Another large services firm told INSA that its staff waits 26 days on average for a fitness determination to do Classified work and 42 days for a fitness determination to do Unclassified work. Another INSA member organization asserted that its staff routinely wait 60 to 90 days to receive fitness determinations. In practice, the delays encountered are even longer, as it takes roughly 1 to 2 weeks to complete and submit paperwork before a fitness investigation can be started, and it takes another 1 to 2 weeks after a fitness determination is provided for the individual to be indoctrinated, or “read in” by the DHS component.

Delays awaiting a fitness determination for contractors previously unknown to U.S. Government are understandable and even prudent; however, these figures also include contractors who hold Secret or TS/SCI clearances, who received affirmative fitness determinations from other DHS components, or who are already working for the very same DHS component on another contract or task order.

These delays can be incredibly counterproductive for firms who, by the nature of contracting, have limited time to produce results. Some contracts may be issued for only 1 year, with additional option years if the work is done satisfactorily. A 2-month delay to investigate staff wastes as much as one-sixth of a firm’s performance period, thereby diminishing productivity and undermining relationships between the contractors and the Government officials they support.

2. *Staffing delays increase overhead costs associated with contract support.*—Firms incur costs while their contractors wait for suitability determinations. These costs increase the firms’ operating expenses and contribute to staff turnover, as bored staff inevitably look for more engaging opportunities. One INSA member firm stated it incurs \$500,000 per year in overhead costs waiting for staff fitness determinations. This figure would be larger were it not for the firm’s ability to give employees other temporary assignments—work that may not be substantive or professional rewarding.

Another firm reported average costs of \$900 per day per employee and average wait times of 42 days, or 30 business days, for a fitness determination. That comes to a loss of \$27,000 for each individual slotted to work on a DHS contract. If the company was required to provide 50 people on the contract—not an unusual level of effort, particularly for an on-site staff augmentation contract—the company would lose \$1.35 million in revenue waiting for DHS to conduct fitness assessments. If this firm had won its contract under a firm fixed price or Lowest Price Technically Acceptable (LPTA) procurement, the firm would be unable to recoup the costs of this lost staff time.

3. *Costs incurred waiting for fitness determinations hit small- and medium-sized firms especially hard.*—Small firms do not have the resources to carry unbillable staff while they wait for a fitness determination that could take weeks or months to receive. If a small firm cannot put its people to work relatively quickly, it will be reluctant to pursue DHS opportunities—or it may assign employees to other projects, making them unavailable to support DHS when the fitness determination comes through. If the Department wants to take advantage of the skills and expertise of smaller firms—many of which are owned by women, minorities, and veterans—fitness determinations must be better aligned to provide firms with greater certainty that their personnel will be able to do the job efficiently.

## RECOMMENDATIONS

DHS can take a number of steps to eliminate the burden that the fitness requirement places on its industry partners. In doing so, the Department would improve its ability to execute its mission and reduce costs for both contractors and the Government.

1. *DHS should eliminate suitability requirements for staff who are already hold a valid, in-scope security clearance.* Fitness assessments consider the same broad behavior and characteristics that are investigated and evaluated in the



process of granting someone a clearance. DHS has no valid reason for reinvestigating and readjudicating the same facts. Requiring a more cursory and mostly duplicative background check on contractors who have already undergone much more thorough investigations is a waste of time and resources on the part of both the Department and its industry partners.

2. *DHS should set consistent criteria suitability standards across the Department.* As I have discussed, there is simply no reason for DHS components to have different standards for fitness and suitability. The Department should determine the criteria that make someone fit or unfit to handle sensitive information and tasks on its behalf and apply those standards across the entire organization. Such a measure would be consistent with a 2006 DHS Management Directive that called for DHS to “standardize security policies and appropriate procedures” across the Department.<sup>10</sup>

3. *DHS should mandate—and implement—suitability reciprocity among all components.* Ten years ago, Under Secretary for Management Elaine Duke signed a memorandum committing the Department to implement suitability reciprocity at DHS headquarters.<sup>11</sup> A decade hence, this goal remains unfulfilled.

4. *DHS should share fitness investigations records across the Department to facilitate reciprocity.* The Department uses the Integrated Security Management System (ISMS) to store information needed to identify an individual and to track completion of suitability/fitness and security-related processes, including background investigations. Data in the system includes a range of biographic and biometric data, as well as records regarding previous suitability/fitness and security clearance determinations.<sup>12</sup> If the Department had consistent fitness standards, a component could use this database to verify that a contractor had already been granted a fitness determination by another component and immediately provide the contractor access needed to begin work.

5. Fifth, to facilitate reciprocity, efficiency, and information sharing, a single DHS official must be responsible for fitness/suitability determinations and be held accountable for performance that facilitates the Department’s work. The DHS chief security officer is the single official who is positioned to oversee this issue across the Department. A DHS Directive of 2008, which describes this official’s responsibilities and authorities, states:

“The CSO exercises the DHS-wide security program authorities in the areas of personnel security, physical security, administrative security, special security, counterintelligence operations, security-related internal investigations, and security training and awareness . . . The CSO develops, implements, and oversees DHS security policies, programs, and standards; delivers security training and education to DHS personnel; and provides security support to DHS components. Working with the CSO Council, the OCSO integrates all security programs used to protect the Department in a cohesive manner, increasing efficiency and enhancing the overall security of DHS.”<sup>13</sup>

The Secretary should empower the Department’s chief security officer to set consistent standards, enforce their implementation, and report on their effectiveness to Congress, industry, and other stakeholders.

Finally, there is something specific that this body can do to promote fitness/suitability reciprocity and unity of effort at DHS. Congress should rescind the TSA fitness/suitability requirements that it has enshrined in law.<sup>14</sup> Statutory requirements will inhibit any effort to standardize criteria across the Department and thus obstruct reciprocity among components. The statutory criteria for TSA are mostly (but not all) transportation-specific, but they should apply to anyone who works at the

<sup>10</sup> Department of Homeland Security, “Security Line of Business Integration and Management,” Management Directive 11080, January 3, 2006, Sec. VI(C)(1)(a). As of February 20, 2018: <https://www.hsdl.org/?view&did=692121>.

<sup>11</sup> Office of Inspector General, Department of Homeland Security, *The DHS Personnel Security Process*, OIG–09–65, May 2009, p. 18. As of February 20, 2018: <https://fas.org/sgp/othergov/dhs/persec.pdf>.

<sup>12</sup> Department of Homeland Security, *Privacy Impact Assessment for the Integrated Security Management System (ISMS)*, March 22, 2011, pp. 6–7. As of February 20, 2018: [https://www.dhs.gov/sites/default/files/publications/privacy\\_pia\\_dhswide\\_isms\\_2011.pdf](https://www.dhs.gov/sites/default/files/publications/privacy_pia_dhswide_isms_2011.pdf). Also Department of Homeland Security, *Privacy Impact Assessment Update for the Integrated Security Management System (ISMS)*, DHS/ALL/PIA–038(c), June 26, 2017, p. 6. As of February 20, 2017: <https://www.dhs.gov/sites/default/files/publications/privacy-pia-dhsall038-isms-june2017.pdf>.

<sup>13</sup> Department of Homeland Security, “Chief Security Officer,” Directive 121–01, June 30, 2008, Secs. IV(A), V(A). As of February 20, 2018: [https://www.dhs.gov/sites/default/files/publications/mgmt\\_dir\\_121\\_01\\_office\\_of\\_the\\_chief\\_security\\_officer.6.30.08.pdf](https://www.dhs.gov/sites/default/files/publications/mgmt_dir_121_01_office_of_the_chief_security_officer.6.30.08.pdf).

<sup>14</sup> 49 U.S.C. § 44936(b) and 49 C.F.R. § 1542.209(d).

Department. If one has been convicted of air piracy, or interfering with an air crew, or smuggling drugs in an airplane, or forging aircraft registration—not to mention garden-variety felonies such as murder, kidnapping, hostage-taking, or armed robbery—one is not suitable to work at any component of the Department of Homeland Security. There is no need to define such criteria in statute only, and explicitly, to the TSA.

#### CONCLUSION

These shortcomings, inefficiencies, and costs make it difficult and costly for DHS contractors to provide the support for which the Department has engaged them. More critically, however, they undermine the Department's ability to keep the American people safe. DHS relies heavily on industry to provide critical skills, experience, and expertise necessary to fulfill the Department's mission. If DHS impedes contractors' ability to do their work, it undermines its own effectiveness.

The inefficiencies I have described should be no surprise to senior officials at the Department of Homeland Security and its components. In September 2015, in an appearance before this very subcommittee, Elaine Duke—the current Deputy Secretary of the Department, but at the time a private citizen—reflected upon her experience as a deputy assistant administrator at TSA and as the under secretary for management of the entire Department. In her prepared statement, she asserted:

“DHS must also address its security clearance, suitability, and on-boarding processes for both its own and contractor employees. The long lead times, duplicity [sic] between the clearance and suitability processes, and lack of reciprocity between DHS components is very costly both in terms of time and cost of investigations. Additionally, it delays the time that employees can report to work, further degrading the efficiency of offices waiting for key staff and contractor support.”<sup>15</sup>

Deputy Secretary Duke was onto something back in 2015. As I have noted in my testimony, however, the Department continues to face the same challenges in 2018. On behalf of INSA and its members, I thank you for the opportunity to testify today. I look forward to addressing your questions.

Mr. PERRY. Thank you, Mr. Allen.

The Chair now recognizes Mr. Pearl for his opening statement.

#### **STATEMENT OF MARC PEARL, PRESIDENT AND CEO, HOMELAND SECURITY AND DEFENSE BUSINESS COUNCIL**

Mr. PEARL. Chairman Perry, Ranking Member Correa, and distinguished Members of this subcommittee, I want to thank you for the opportunity to appear before you today to provide the collective perspective from what we call the Homeland Security Industrial Base.

The issues surrounding fitness adjudication have frustrated the industry and program heads at DHS since the Department's inception 15 years ago this Thursday. All companies regardless of size or capability are affected. Despite numerous forums that the council and our members have participated in to bring greater attention to the issue, we have yet to see any improvement in communication or a more efficient process.

As my written testimony outlines more fully, the current processes at DHS lack consistency and transparency, the same thing that both of you opened up with, take too long, limit competition, increase labor rates and are costly to both Government and industry. As a result, the Department is prevented from obtaining the

<sup>15</sup> *Making DHS More Efficient: Industry Recommendations to Improve Homeland Security*, Hearing Before the Subcommittee on Oversight and Management Efficiency, Committee on Homeland Security, U.S. House of Representatives, 114th Cong., 1st Sess. (September 18, 2015). (Prepared Statement of Elaine C. Duke, Principal, Elaine Duke & Associates, LLC.) As of February 21, 2018: <https://www.gpo.gov/fdsys/pkg/CHRG-114hhrg99575/pdf/CHRG-114hhrg99575.pdf>.

best work force and from having mission-critical contracts executed in a timely manner.

We do believe that these, that changes can be made that would ensure the integrity of the program and reduce the pain points for everyone. There are numerous challenges facing industry with respect to the fitness determination process at DHS. Let me just briefly discuss two.

There is not a single standard for fitness across DHS. In addition to eight types of conduct that may be incompatible with the duties of a position, each component is also given sole discretion in applying seven additional considerations. Each component also has its own personnel security office with different standards, different procedures, and different adjudicators to determine what is acceptable.

While such differences may be justified in some instances, specific policies and standards are not communicated to industry and are inconsistently applied across DHS. The ability to grant fitness reciprocity from another component or other Federal agency ensures the saving of time, effort, and cost for both sectors. Reciprocity allows companies to quickly onboard or transfer employees to contracts that best fit their skills and experience.

DHS and its components, unlike DOD, rely on equivalent fitness standards to determine reciprocity, which means that candidates who have a high-level security clearance can't receive reciprocity without additional scrutiny. This is an odd result when the investigation used for a TS SCI clearance exceeds the investigation standards of, say, a CBP background investigation.

The Department's different fitness standards also reduces the pool of candidates who can promptly begin work, thereby increasing labor rates and the amount of time between contract award and contractor employees executing a contract.

Furthermore, neither the company nor the candidate is informed of the investigation status, what is causing the delay, what is needed to be resolved with regard to problems identified. If a company knows that an individual will be leaving the position in the future, it can't submit a replacement name for a fitness determination until the seat is empty. Candidates with the best skills and experience often take other positions, because they can no longer sit around and wait while the investigation process and the fitness adjudication is going on.

In many instances, companies may not find this out until after the adjudication and they must then start the process all over again. While our members have instituted internal processes to screen candidates, the uncertainty forces companies to continue to recruit and provide conditional offers of employment for a single position multiple times. As a result, companies will often build time and cost on hiring multiple candidates into their rates and their pricing models before Government.

So, what can be done? Well, the council and members strongly support the need for DHS to have sufficiently-vetted contractors. The delays, inconsistencies, and cost inherent in the current system must be measured against alternative ways to get the same result.

Allow me to offer two recommendations. Both sectors save time and money when fitness reciprocity, as we have already heard, is available. In the short term, if DHS and its components could work together to standardize, collapse, or even find greater alignment with some of the fitness standards across the Department, it would increase opportunity for reciprocity.

In the longer term, the Federal Government needs to continue efforts to standardize background investigations and align them with suitability and fitness so that DHS could base reciprocity on investigative elements rather than fitness requirements. This would open up reciprocity to a much larger class of individuals with security clearances.

DHS must also figure out ways, you have said it, Mr. Allen said it, to communicate the status of candidate investigations with industry throughout the process. DOD's electronic personnel security status system, for example, allows a designated person from industry to know the status and delays with candidate investigations. DHS should consider this approach. It would reduce staff workload, improve companies' ability to plan, budget, and hire staff.

In conclusion, personnel security is a necessity and of utmost importance, but there are ways to improve the process without giving up the integrity of the program. DHS and industry need to continue to work together to reduce the system backlogs and time lines, allow companies to on-board quickly, improve communication, and ensure that DHS has access to quality contractor work force.

We urge Congress to consider the ideas that all of us are putting forward today and play an active role in driving change at DHS and across the Federal Government. I thank you for the opportunity and to provide the collective perspectives of our members, and I look forward to answering any questions that you might have. Thank you.

[The prepared statement of Mr. Pearl follows:]

PREPARED STATEMENT OF MARC A. PEARL

FEBRUARY 27, 2018

Chairman Perry, Ranking Member Correa, and distinguished Members of the subcommittee, thank you for the opportunity to appear before you to provide the collective perspectives from the Homeland Security Industrial Base on some of the challenges contractors face with respect to the DHS fitness adjudication process. I am Marc Pearl and serve as the president and CEO of the Homeland Security & Defense Business Council (Council). We are a non-profit, non-partisan corporate membership organization of the leading large, mid-tier, and small companies that provide homeland security and homeland defense technology, product, and service solutions to the Department of Homeland Security (DHS) and other Government agencies in the homeland security enterprise.

The Council was created more than 13 years ago to facilitate greater dialog and engagement between industry and Government on critical issues that affect the mission and management of homeland security. Our focus is to bring both sectors together to share expertise and best practices, exchange perspectives of the procurement process, and to discuss ways to improve contract outcomes and the manner in which we conduct business together. In this regard, particularly as it pertains to today's hearing, our members have led and participated in a number of DHS forums, including Reverse Industry Days and Personnel Security Acquisition Innovation Roundtables that have identified challenges, future areas of focus, and provided industry perspectives on the vetting process.

At the outset, we applaud DHS for its willingness to solicit feedback from industry on its personnel security business practices and engage with industry on this

topic. However, despite the many discussions, both industry and program officials at the Department have been frustrated by the lack of meaningful change, particularly as it relates to improving communication and making the process faster and more efficient. Each component wants to individually set standards, conduct their own or additional background investigations, and control their process. Our perception is that many of the DHS components are resistant to change and in some cases this is not entirely justified.

Industry understands and supports the need to properly vet contractors, but the current system is inefficient at best or broken at worst. The process lacks consistency, transparency, and communication. It takes long amounts of time, sometimes requires duplicative efforts, which limits competition, adds substantial costs to both Government and industry, and prevents DHS from obtaining the best workforce to accomplish its mission.

The Council's testimony today will focus on the challenges that contractors experience trying to recruit, vet, and on-board employees to the Government, the impact and costs to both Government and industry, and a few recommendations to improve the process. We strongly believe that changes can be made that would ensure the integrity of the program and reduce the pain points for everyone.

#### BACKGROUND ON CONTRACTOR FITNESS AND RELATIONSHIP TO SECURITY CLEARANCES

Suitability and fitness determination are often confused with the determination to grant a security clearance. A security clearance determines eligibility for access to Classified information. A suitability check evaluates an individual's character and conduct to determine if that person is suitable for Federal employment. Fitness—a term often used interchangeably with suitability—refers to the character and conduct required by a potential contractor employee to perform work for or on behalf of a Federal agency. Suitability refers to a potential Government employee. All contractor employees who need access to DHS facilities, their IT systems, or Sensitive Information must receive an appropriate fitness screening, based on the risk level of their positions (i.e. low, moderate, or high).

The risk and sensitivity level of the position determines the type of background investigation required.<sup>1</sup> The information gathered during the background investigation is used to determine fitness based upon specific requirements set for different mission areas. Some positions will require both a fitness determination and a security clearance (depending on position sensitivity), while others only require a fitness determination. Note that a fitness determination by itself does not grant access to Classified information. However, the background investigation used to determine fitness often involves many of the same investigative criteria used in the security clearance investigation. The decision to grant a security clearance is made in addition to and subsequent to a final fitness determination.

#### INDUSTRY CHALLENGES WITH FITNESS DETERMINATIONS

*Challenge 1: There are too many different fitness standards and procedures across DHS, inconsistent application of policy, and a need for better communication*

DHS policy<sup>2</sup> established by the Office of the Chief Security Officer sets minimum standards and reporting protocols for the DHS Personnel Suitability and Security Program. It does not, however, prohibit DHS components from exceeding the minimum requirements. The result is that each component has its own personnel security office with different standards, procedures, thresholds, and adjudicators for determining fitness.

When determining fitness, adjudicators consider and evaluate the presence or absence of eight (8) types of conduct that may be incompatible with the duties of a position (i.e., alcohol and drug use, financial irresponsibility, criminal and immoral conduct, dishonesty, violence, employee misconduct/negligence, firearms and weapons violations, statutory or regulatory bars). Each component within DHS has established different requirements for fitness. For example, Border Patrol has particular concerns with applicants that have ever had involvement in illegal drug activity; USCIS with illegal immigration activities; and TSA with theft and interpersonal issues. There are also different tolerance levels for certain types of conduct (i.e., bad debt levels range from nothing allowed to \$3,000, \$5,000, or \$10,000 depending on

<sup>1</sup> Different types of background investigations include Single Scope Background Investigation, Full Field Background Investigation, Minimum Background Investigation, National Agency Check with Inquiries.

<sup>2</sup> *DHS Instruction Handbook 121-01-007.*

the component). Each component is also given sole discretion over whether any of seven (7) additional considerations<sup>3</sup> are pertinent to the adjudication.

While some are learned through time, the different standards are not always well-understood by industry. Companies frequently experience uncertainty in knowing what policies and procedures will apply as well as inconsistent application of similar policies across DHS. This is particularly true for policies and procedures related to prioritizing and expediting fitness determinations. Some members have said they have experienced an expedited process on some critical contracts while others did not believe prioritization procedures existed.

There is a need for more transparency, consistency, and better on-going communication with industry on all of the different fitness requirements, policies, and procedures. Having greater visibility and understanding of these issues by component is critical to a company's ability to recruit and pre-vet candidates, particularly to find candidates that might be eligible for reciprocity. Increased communication improves industry's ability to do business planning, develop budgets, and hire candidates that will make it through the process and execute contracts on time.

*Challenge 2: Fitness reciprocity is difficult to achieve at DHS because it is based upon equivalent fitness criteria rather than equivalent investigative criteria*

Reciprocity refers to the acceptance of a prior, favorable fitness determination from another component or division of DHS or another Federal agency, without requiring additional information. The ability to grant fitness reciprocity for contractors is important because it ensures security but provides a way to save considerable time and effort as well as cost savings for both DHS and industry. The granting of reciprocity on a previously favorable fitness determination allows companies to quickly on-board or transfer employees to contracts that best fit their skill sets and experience.

At DHS, fitness reciprocity can only occur when the new receiving agency uses equivalent fitness criteria as the former agency, the fitness criteria meets or exceeds the scope and standards for the new position, and there is no break in service. An agency is not required to grant reciprocal recognition of a prior favorable fitness determination when:

- The new position requires a higher level of investigation than previously conducted for that individual;
- An agency obtains new information that calls into question the individual's fitness based on character or conduct; or
- The individual's investigative record shows conduct that is incompatible with the core duties of the new position.

This is different than the standards for fitness reciprocity at the Department of Defense (DoD). Reciprocity criteria at DoD looks at whether the determination was based on an investigation equivalent to or more comprehensive than the investigation required for the new position.

By relying on fitness standards to determine reciprocity, it prevents candidates who have a high-level security clearance from receiving fitness reciprocity. The effect is that even a candidate with a Top Secret, SCI clearance from the DoD who is selected to work on a Customs and Border Protection (CBP) contract will have to wait to have his previous investigative file requested and reviewed (and possibly undergo additional investigation steps) so that CBP can make an additional determination on fitness according to its unique standards. This is an odd result when the investigation used for a Top Secret, SCI clearance exceeds the investigation standards of a CBP background investigation.

With so many different fitness standards throughout DHS, there are fewer opportunities for reciprocity to apply and for the Government (and industry) to receive the benefits of the policy. When there are reduced opportunities for reciprocity, there is a limited pool of candidates who can begin contract work promptly. This increases the likelihood of a company having to submit multiple candidates for single positions, which increases the number of investigations and costs for each component's Personnel Security Division (PSD), and increases the amount of time between contract award and contractor employees executing a contract.

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<sup>3</sup> (1) Nature of the position for which the person is applying or in which the person is employed; (2) The nature and seriousness of the conduct; (3) The circumstances surrounding the conduct; (4) The recency of the conduct; (5) The age of the person involved at the time of the conduct; (6) Contributing societal conditions; and (7) The absence or presence of rehabilitation or efforts toward rehabilitation.

*Challenge 3: Unpredictable and lengthy time lines and the lack of on-going communication negatively affects company's ability to on-board quality employees*

As mentioned above, at any point in the process after submitting the requisite electronic forms to receiving notification of a fitness determination, there exists the potential for numerous delays and errors to occur. Often, neither the company nor the candidate is informed of the status of the investigation, what is causing delays, or what is needed to resolve problems. This makes the process unpredictable and lengthy.

The contractor is also not allowed to submit someone else's name for an investigation until the original individual's adjudication is complete. They cannot submit another candidate(s) as a back-up. Additionally, if a company has advance knowledge that an individual will be leaving a position at some point in the future, they are not permitted to submit the paperwork for a new candidate until the other person has actually left. This also adds an unnecessary amount of time to the process.

CBP is the DHS component that is most often cited by our members as having the most stringent fitness and investigation standards and the one that does not allow reciprocity from other components or agencies. One company told us that the average processing time for their CBP candidates has gone from less than 40 days in fiscal year 2015 to 111 days in fiscal year 2017. There are also outlier situations where candidates with excellent credentials can take up to 2 years to receive fitness approval (even when these individuals already possess a security clearance) for reasons ranging from their having dual nationality or extensive foreign contacts.

Due to the duration and unpredictable nature of the investigation process, candidates with the best skills and experience frequently take other positions while waiting for the completion or review of the investigation and fitness adjudication. They do not want to wait months or years to start a new job.

Companies are often not notified that a candidate accepted another position until the background investigation and fitness adjudication is complete. One company told us of an instance when their candidate's CBP background investigation took 13 months. When they contacted the candidate to notify him of his approval, they learned he already accepted another position. This required the company to start the hiring process all over again.

While our members have processes and procedures in place to screen candidates for likely disqualifiers, there is always uncertainty whether any individual will make it through the process. Companies must regularly recruit, interview, and provide conditional offers of employment for a single position multiple times. This happens so frequently that companies often build the time and cost of hiring multiple candidates into the company's rates and pricing models that are charged to the Government.

Occasionally, as you can imagine, there are cases of delay and denials due to errors in the investigation process. I can cite one case where it took a candidate with a previous DoD Secret clearance over 14 months to undergo a CBP background investigation. At the end of CBP's investigation, the individual was denied due to an alleged outstanding debt. The candidate retained a lawyer who discovered the debt belonged to someone with the same name, but not the same social security number or date of birth. The candidate resubmitted his paperwork and is back in the adjudication process at this time. Had there been better communication with the candidate and the company throughout the process, this issue could have been mitigated much earlier.

With every new candidate or error in the system, the Government must spend additional time and money to conduct a new investigation, fitness determination, or to correct mistakes. These delays result in added cost, lost productivity, and prevent companies from executing on mission-critical contracts. It also prevents DHS from getting the best and most qualified contractor workforce.

*Challenge 4: CBP's process adds an additional layer, forcing companies to compete to attract vetted candidates, thereby further raising labor costs*

Due to the length of time involved with getting a previously non-cleared person processed at CBP, people that already have a CBP background investigation or a favorable fitness determination are highly valued and sought after. Companies compete and try to steal previously credentialed candidates away from other companies. These candidates know they can negotiate for higher compensation because they are the only resource available in the time frame of the company's requirement. This frequently happens during re-competes when companies seek to hire the same personnel that worked on the previous contract.

Another problem is that this class of individuals with already existing CBP credentials often insists on working as independent contractors (1099s), rather than as an employee. This affects the company's ability to direct how the work is done and

significantly raises rates to the Government because of allowable billing practices in these situations. The result is that the Government is paying excessive compensation (well above market rates) for positions such as software developers and system engineers. Companies often feel they have no choice—either meet the demands of the available workforce or not meet contract requirements.

*Challenge 5: Lack of visibility and communication on the status and known delays of a candidates investigation*

The fitness process begins when selected candidates provide their personal investigative data to the hiring agency through the electronic system known as e-Qip. The Contracting Officers Representative (COR) is the primary liaison between the PSD and the industry representative. However, due to privacy concerns, the COR only communicates the status and delays with the candidate. The candidate's employer is left with little to no information until the adjudication is complete.

Companies need some ability to estimate how long the process will take, general information on where the candidate's case falls in the system, and if there are known delays that will extend the time line. Companies are not seeking to have derogatory or embarrassing information about a candidate disclosed. They simply need information on status and delays, so they can appropriately plan for contract execution, hiring, and future budgeting.

#### RECOMMENDATIONS

While the Homeland Security & Defense Business Council and our members strongly support the need for DHS to have appropriately and sufficiently vetted contractors, we believe the problems and costs of the current system far outweigh the security benefits. Change is needed and can be accomplished. Some of it will require DHS to study and evaluate the feasibility of consolidating functions and requirements while other aspects will require change across the Federal Government. In all instances, we feel that outreach to industry is a necessary component—not just for input, but to ensure a commitment to work together to resolve the delays and improve the overall process.

Right now, we see only support for the status quo and an unwillingness, even by the Government officials who are burdened by the current system, to champion change or for any of the components to cede control. An improved system would have numerous benefits: It would reduce system backlogs and time lines; prevent unnecessary delays so that companies could on-board employees faster and begin contract work promptly; increase communication and transparency; mitigate unneeded costs and performance risk; avoid unnecessary duplication of effort; and ensure that DHS has access to a quality contractor workforce, so it can accomplish its mission most effectively and efficiently.

The Council has three (3) suggestions for improvements:

*1. Increase opportunities for reciprocity*

If DHS wants mission-critical contracts executed in a timely manner, companies need to be able to on-board employees in a faster manner. This can occur if reciprocity is available in more situations. Currently, reciprocity is only granted at DHS when the new agency uses equivalent fitness criteria and the fitness criteria meets or exceeds the scope and standards for the new position. Obtaining fitness reciprocity at DHS is difficult because every component has different fitness requirements.

There is also no eligibility for fitness reciprocity when someone has a high-level security clearance from another component or agency even though candidates with the highest levels of security clearances will have necessarily been vetted through that investigation for fitness concerns. Many people in industry have a hard time comprehending why someone with a Top Secret, SCI clearance from the FBI or DoD would need to have an additional fitness determination for a contractor position at DHS.

*a. DHS should consider fitness reciprocity based upon similar investigative elements rather than fitness requirements*

If DHS relied upon investigative elements (like DoD) rather than fitness standards, this would increase opportunities for reciprocity. This would create many instances where fitness could be automatically granted by the fact that a candidate has a certain level of security clearance.



*b. Greater standardization and alignment is needed across the Federal Government on the investigation process, suitability/fitness standards, and application forms*

While Executive branch officials routinely honor other agencies' security clearances or investigations, DHS often finds it necessary to take additional steps to address limitations with available information on prior investigations before granting reciprocity. OPM ensures that certain clearance data necessary for reciprocity is available to adjudicators but shared information often contains summary-level detail so agencies take steps to obtain additional information, which prevents or slows down the granting of immediate reciprocity. Agencies are sometimes reluctant to be accountable for investigations and adjudications conducted by other organizations. To increase the speed and availability of reciprocity, granting agencies must have confidence in the quality of prior investigations and adjudications and a clear understanding of what conduct and character traits were evaluated during the course of the investigation.

OPM has recognized this need and has been working on developing new Federal Investigative Standards for years. The new approach, partially in roll-out but not yet fully implemented, includes a five-tier investigation system, each which is intended to build on a successively higher level of investigation. Adjudication is also intended to build upon, but not duplicate, the ones below it. For example, Tier 1 requires a, b, c; Tier 2 requires a, b, c, and d; Tier 3 requires a, b, c, d, and e. Therefore, Tier 3 meets all Tier 1 and Tier 2 requirements.

The tiered investigation system must also be tied to the investigative steps done for suitability/fitness determinations and aligned to the different personnel security intake forms. The lack of a single standard application form is still a barrier to aligning Federal investigations.

If investigative standards are tied to fitness concerns, this would allow DHS to have different fitness standards but still increase the opportunities for fitness reciprocity. This would require some collapse and simplification of DHS's current suitability/fitness standards but would still allow the components to have different fitness standards based upon their mission. More importantly, this would dramatically increase the opportunities for fitness reciprocity by increasing the pool of people available to work at DHS and make recruiting and onboarding a faster process for industry.

*c. Consolidate and improve communication on different fitness standards across DHS*

While it will take time for the Federal Government to standardize investigations and tie them to fitness, DHS could still increase eligibility for reciprocity by looking for more opportunities for standardization, simplification, and reduction of the fitness requirements that currently exist across the Department. In some cases, as was suggested by the 2009 Inspector General report on the DHS Personnel Security Process (OIG-09-65, May 2009), it could help for DHS to set a maximum threshold (e.g. bad debt) and permit components to use less but not more than the maximum amount as the standard.

We encourage the creation of a matrix or guide to the various fitness requirements and conduct thresholds for different types of positions across DHS and the Federal Government so that companies can more readily determine which candidates are likely to receive reciprocity. A matrix showing the greatest to least stringent requirements across components and the Federal Government would provide additional transparency and facilitate discussion into whether the current fitness requirements make sense and whether certain agencies or organizations should revise or realign their requirements.

*2. Direct further investigation or study into opportunities to centralize and consolidate the Personnel Security Department functions within DHS to reduce the length of the process and common delays*

The 2009 Inspector General Report focused on the effectiveness and efficiency of the suitability process with Federal employees, rather than the fitness process with contractors. However, many of the challenges and recommendations apply equally to the process for fitness determinations and still apply to DHS almost a decade later. As was suggested in the report, there are a number of opportunities for the DHS PSD, as part of the Office of the Chief Security Officer, to consolidate various functions of the personnel security process. Doing this would not remove components ability to apply mission specific requirements to their process. It would however help in aligning policies, reducing duplicative efforts and known bottlenecks, improving customer service, and increasing transparency into the system.

There may also be additional value in having the DHS Inspector General or GAO look specifically at the fitness process since there are aspects to and challenges with this process that are unique from the suitability process.

3. *Encourage DHS to explore the development of an electronic system that provides companies with visibility into the status of investigations and fitness determinations*

DHS lacks communication into the status and known delays of investigations. We believe the development of an electronic personnel security status system, similar to what is used by the Defense Manpower Data Center, would allow a properly designated person from industry (such as the company's Facilities Security Officer) to have some visibility into the status of a candidate investigations. Such a system would not require DHS to share unfavorable or derogatory information about a contractor employee that is discovered during an investigation. It would simply allow a company to know where the candidate's status falls against specific milestones in the process. Such a system would reduce the amount of phone calls and emails to staff and give companies a better sense that delays have occurred and whether more time will be required for the investigation. This would dramatically increase transparency and communication and improve a company's ability to plan, budget, and hire staff.

CONCLUSION

The current contractor vetting process at DHS lacks consistency, transparency, and communication. It requires duplicative effort and unnecessarily long amounts of time, it also limits competition which creates substantial costs to both Government and industry, and prevents DHS from obtaining the best workforce and ultimately from accomplishing its mission.

Personnel security is of utmost importance, but there are ways to improve the process without giving up the integrity of the program. We urge Congress to consider the ideas put forth today and to continue to play an active role in driving change both at DHS and across the Federal Government.

On behalf of the Homeland Security & Defense Business Council, I appreciate the opportunity to provide the collective perspectives of our members on the challenges involved with the DHS fitness process for contractor employees. The Council stands ready to answer any additional questions you may have on these topics.

Mr. PERRY. Chair thanks Mr. Pearl.

Thank you, sir.

The Chair now recognizes Mr. Berteau for an opening statement. Can you push the mike, sir? Yes, the mike.

**STATEMENT OF DAVID J. BERTEAU, PRESIDENT AND CEO,  
PROFESSIONAL SERVICES COUNCIL**

Mr. BERTEAU. I am technically incompetent, so I don't know how to push the button that says talk. I want to particularly thank those here from home State of Louisiana, which I think is what teaches us that you don't need to push a button in order to talk, you just talk.

There are a couple of things I would like to say that are not in my written statement and I appreciate your incorporating them in the written statement. I don't have it in there, but I should have had it in there and I think all my fellow panelists would agree with this.

We need to recognize that every day there are thousands of people who get up in the Department of Homeland Security and come to work and do the absolute best they can. Some of those people are on the Government payroll. Some of those people work for contractors. They do their best to get their jobs done. I think they deserve a better system to support them and that is really what I think this committee can do to help and I think it is important to recognize that. The deck is stacked against them in many cases.

I would like to associate myself with some of the recommendations that have already been made. In my statement, I have a number of recommendations and I tend to focus on things that I think this committee can do. But let me highlight three things that I think are goals that we ought to have in place here.

We frequently look at this as a tradeoff, right, that if you are going to have a faster process you are going to actually jeopardize security as part of that. I don't think that's true, in fact, I think the opposite is true. In particular, if you start bringing in the kind of 21st Century capability we have of data and analytics and access to the databases that are out there and use this in a continuous evaluation process, you can actually speed the process up, exercise standards that actually make sense and create true reciprocity across the Department and actually increase security in doing that. I think that is one goal that you should certainly have in place.

There is a second goal, the reciprocity is clearly there. Each component inside DHS thinks they have got something they have got to protect. I don't like to compare DHS to DOD because, in fact, that is not a fair comparison. But in this case I think it is evident in the Defense department they have managed to figure out how to transfer clearances very quickly, and easily without any loss to the culture and integrity of any of the components or subcomponents inside the Department. There's no reason DHS can't achieve that same objective I think going forward.

Then third is, and this is where the committee can really help, we just don't have the information we need to have to tell how things are going. So this is true obviously for contractors, you described in your opening statement that contractor has to ask the COR, the COR has to ask the office, the office had to report back, et cetera. Frequently, there are weeks or even months go by inside that process.

There is no reason why you can't have access to data right from the beginning for everybody. The Government would be more efficient, the contractors would be more efficient. If it is going to take 12 months for me to get a suitability determination, let me know that, I will go do something else for 11 and a half months and then I will come back when the time is done and let us get on with it, right?

So I think if you put all three of those together, stronger reciprocity, a better, faster system that actually uses innovation to increase security rather than decrease it, and better reporting on the data, you will go a long way toward making things better.

[The prepared statement of Mr. Berteau follows:]

PREPARED STATEMENT OF DAVID J. BERTEAU

FEBRUARY 27, 2018

INTRODUCTION

Chairman Perry, Ranking Member Correa, and Members of the subcommittee, thank you for the invitation to testify on behalf of the Professional Services Council's (PSC) nearly 400 member companies and their hundreds of thousands of em-

ployees across the Nation.<sup>1</sup> PSC is the voice of the Government technology and professional services industry, supporting the full range and diversity of Government missions and functions, including the Department of Homeland Security (DHS). I appreciate the opportunity to discuss with you the DHS personnel security and contractor employee vetting process and to address several issues of critical importance to our member companies, their employees, and the success of DHS missions.

Today, I will make several specific observations of opportunities and challenges in DHS and other agencies involved in the personnel security and contractor employee vetting process. I will also offer some recommendations for your consideration, and for consideration by DHS and the Federal Government as a whole.

Let me start, though, with what I hope we can all agree are goals worthy of support from this subcommittee as you focus on actions that can improve the contractor employee vetting process. They include:

- Speeding up vetting and clearance processes while increasing security through better use of data and process innovation,
- Defining and routinely applying reciprocity standards and agreements across DHS component agencies, and
- Providing timely and regular access to accurate information, both for individual firms under contract and more broadly across DHS, in order to improve vendors' ability to recruit and retain workers and successfully provide essential contractor support to DHS missions.

I believe there is much this committee can do in these and other areas that will lead to practical and productive improvements.

#### CONTRACTORS PROVIDE SIGNIFICANT VALUE TO THE GOVERNMENT

Contractors play vital roles in assisting the Government in providing services to the American people. In DHS, contractors support every mission and function of the Homeland Security Enterprise (HSE). Many of the capabilities that contractors provide do not exist within the Government, and contractors can quickly expand or adjust capacity to meet changing DHS needs. The Government benefits from a strong, diversified business base that supports its current and emerging requirements.

To meet these demands, however, contractors need to be able to hire, retain, assign, and transfer qualified, skilled employees to the missions and functions with greatest need. Doing this means that DHS needs to provide timely Entry on Duty (EOD) decisions, reliable security clearance processing, reciprocal recognition of valid clearances across the Department, and regular status updates to DHS personnel and contractors.

#### PSC RECOGNIZES THE GOVERNMENT'S CENTRAL ROLE IN PERSONNEL SECURITY PROCESS

Proper vetting and personnel security practices are essential before a Government or contractor employee receives regular access to Government facilities and information. Contractor and Government personnel go through the same personnel security process, conducted by the same entities, subject to the same levels of scrutiny and with the same kinds of risks. (The same personnel security process applies to other partners in the HSE, including State and local public safety officials as well as cyber and critical infrastructure officials in the private sector.)

#### GOVERNMENT'S ROLES AND RESPONSIBILITIES

At the Government-wide level, the National Background Investigations Bureau (NBIB), established on October 1, 2016, is currently the primary provider of background investigations (BIs), including processing of electronic questionnaires, conducting National agency record checks, and maintaining a central clearance repository. In most cases, the NBIB processes the forms, schedules, and conducts BIs, and delivers results to DHS to adjudicate employee suitability, contractor fitness, and, when needed, a security clearance determination. In some cases, DHS itself will conduct an initial assessment that can lead to an Entry on Duty (EOD) determination.

<sup>1</sup> For over 45 years, PSC has been the leading National trade association of the Government technology and professional services industry. PSC's member companies represent small, medium, and large businesses that provide Federal agencies with services of all kinds, including information technology, engineering, logistics, facilities management, operations and maintenance, consulting, international development, scientific, social, environmental services, and more. Together, the association's members employ hundreds of thousands of Americans in all 50 States. See [www.pscouncil.org](http://www.pscouncil.org).

## CHALLENGES IN PERSONNEL SECURITY VETTING

Earlier this year, the Government Accountability Office (GAO) added the personnel security clearance process to its High-Risk List.<sup>2</sup> This reaffirmed what the contractor community and National security experts across the Government already knew: The Government-wide personnel security clearance process is not meeting the needs of the Government or of its contractor partners.

The problems below affect DHS and the entire Federal Government.

*Reciprocity Failures*

DHS has many separate operating entities, and nearly all of them place restrictions on recognizing a clearance from other parts of DHS. These failures to grant reciprocal recognition of valid clearances, or even EODs, make it unnecessarily difficult to transfer personnel from one task or contract to another, even if the Government's missions are negatively impacted by delaying or denying such reciprocity. Further, there is no visibility into or reporting on the number of reciprocity requests that are processed, how long they take, or why they are denied. The absence of such data make it extremely difficult to address problems.

*Process Challenges*

PSC member companies regularly report that cases are delayed further by lost forms, communication disconnects, failure by DHS to process responses, and inadequate tracking of cases or reporting of their status, even to the responsible parties within DHS.

*Backlog*

The backlog of cases awaiting final determination is higher than it has been in my nearly 40 years in this business. As of September 2017, at least 700,000 individuals remained in limbo awaiting a clearance to perform mission-critical work. In fiscal year 2016 initial investigations for Secret clearances took 108 days on average, while initial investigations for Top Secret clearances took an average of 220 days. Wait times have increased since then, but data are no longer provided by the Government. These delays jeopardize Government missions, undermine contract performance, and harm the ability of both the Government and contractors to recruit and hire.

*Lack of Access to Information*

Last June, as part of a memorandum aimed at reducing reporting burdens, the Office of Management and Budget (OMB) canceled public reporting by the Government on the backlog in security clearances.<sup>3</sup> PSC registered a written complaint to OMB<sup>4</sup> but to date no corrective action on this has been forthcoming.

*Impact on Recruiting and Retention*

The problems outlined above make it substantially harder for both the Government and its supporting contractors to recruit, train, and retain the new talent needed to meet Government needs. Picture recent college graduates—skilled in the latest cybersecurity tools and techniques—having to wait a year or more between being offered a position and obtaining the clearances needed to start the work. Even if they can secure a way to make a living while waiting, they will no longer be current in the technology of their field. Only the most dedicated will tolerate such delays, and no one benefits from them.

## SECURITY CLEARANCE PROCESSES NEED TO BE BETTER AND FASTER

Most broadly, PSC recommends adopting and implementing what we call the “four ones.” These principles can and should apply both to the Government and to contractors. DHS has made progress, but greater results are necessary. These principles are:

- One application;
- One investigation;
- One adjudication;
- One clearance.

<sup>2</sup> See January 25, 2018 GAO Press Release, available at: [https://www.gao.gov/press/high\\_risk\\_security\\_clearance\\_process.htm](https://www.gao.gov/press/high_risk_security_clearance_process.htm).

<sup>3</sup> OMB Memo M-17-26, June 15, 2017, “Reducing Burden for Federal Agencies by Rescinding and Modifying OMB Memoranda,” available at: <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-26.pdf>.

<sup>4</sup> PSC Letter to OMB Director Mick Mulvaney, June 22, 2017, available at: <https://www.pscouncil.org/Downloads/documents/PSC%20Letter%20on%20OMB%20Memos%206.22.-17.pdf>.

DHS personnel security processes for both Government and contractor employees are still quite decentralized. Various incremental improvements have occurred over the years; however, as throughput has increased and decreased so has the processing time for personnel. To the Department's credit, for the past several years DHS personnel security officials at DHS headquarters and component agencies have engaged in an annual program with industry to discuss processing times and recent policy changes. While this is a welcome forum, more should be done to keep the lines of communication open on a continuous basis.

The recommendations below include concrete actions that Congress can take and also include steps for the Executive branch to address deficiencies and risks, reduce the backlog and speed up processing times, and carry out effective oversight of initiatives at Federal agencies, including DHS.

1. Ensure accurate, up-to-date, and publicly-reported information on the backlog and wait times for individuals seeking to obtain a clearance. Section 925 of the fiscal year 2018 National Defense Authorization Act (NDAA) includes many reporting requirements on the size and scope of the backlog. Yet, unlike previous Government reporting, this information will be seen only by the Congressional committees of jurisdiction—leaving the heavily-impacted contractor community in the dark, along with many of their Government customers as well as State and local officials.

2. Participate with the other committees of jurisdiction in regular, detailed oversight of the 3-year process to transfer authority for certain clearances from the NBIB to the Department of Defense (DoD). Section 925 of the fiscal year 2018 NDAA requires DoD to eventually conduct its own background and security investigations. The time line is demanding, and detailed plans are not yet available, increasing risk. Congress can and should ensure that DoD stays on track, while also ensuring that the remaining clearance requests at NBIB remain a priority.

3. Actively support funds and programs that will modernize and improve the investigation process concurrently at DoD and NBIB. The NDAA provided DoD with the authority to utilize existing contractor background verifications to reduce duplication of work. As this will save time and resources for DoD clearances, Congress should give NBIB the same authority for actions taken by DoD in the future.

4. Mandate true reciprocity among all DHS entities. Existing regulations already provide guidance for implementing reciprocal recognition, which should increase reciprocity between and among agencies. This committee could require DHS to account for and report all requests for reciprocal recognition of clearances, along with the length of time to process such requests and a list of the justifications for each distinct exception for requests for reciprocal clearances from other components within DHS.

5. In the forthcoming fiscal year 2018 and fiscal year 2019 appropriations bills, support full funding for all the programs that ensure investigations are thorough and timely. We know that there are too few people processing clearances and there is too little money to meet the demand while investing in the needed process improvements.

6. Include in that funding the necessary support for more robust use of technology, including adopting continuous evaluations (CE) across the Government. The current process of reevaluations is based on the calendar, not on risk or need. Moving from a time-based process to continuous evaluation will also contribute to increasing security and reducing insider threats in a timely manner. To be successful, CE must be part of the personnel system as well as security clearance, suitability, and credentialing procedures. While the short-term impact of CE on the backlog will be minimal, moving to CE will significantly reduce the likelihood of future backlogs at the level we are currently experiencing by removing a significant number of periodic reevaluations from the queue.

7. Some solutions would likely not require legislation:

- Periodically, the inspector general or an independent organization should “test” the process within each agency randomly to assess the speed, quality, and level of customer service;
- Each agency should host a customer service or other type of mailbox or hot-line for people to contact with inquiries. DHS can set a threshold for how frequently entities may make inquiries; and
- Each agency should have a current 1-pager that describes the process at a high level so people know what to expect. They should update it quarterly. It could include tips and resources for contractors on hot topics like insider threat, where to seek out more training on complying with security processes, and tips for filling out the forms correctly.

The failures and shortcomings of the current personnel security process impact uniformed personnel, civilian employees, and contractors across the country—in every State and Congressional district—and jeopardizes our homeland and National security.

#### DOING BUSINESS WITH DHS: MATURING THE ACQUISITION FUNCTION

As DHS continues to mature, and celebrates its 15th birthday this week, the Department has made significant improvements in the way it communicates and collaborates with industry. However, there remains substantial room to improve the partnership with industry. It begins with broadening communications channels, providing more comprehensive and long-term outlooks about future mission needs, and reforming acquisition processes to reduce costs, barriers to entry, and provide meaningful and rapid access to the best solutions industry can offer.

##### *The Importance of Continuous and Meaningful Communication with Industry*

To enhance its partnership with the private sector, it is important that DHS understands how industry is evolving and what motivates industry to want to be a DHS partner. Industry dynamics are evolving at a pace that is faster than at any time in recent history. Both traditional DHS contractors and companies that have not traditionally contracted with DHS are consistently developing innovative capabilities and processes that can be leveraged and accessed by the Department. The growing trend of “as a service” delivery models, such as cloud computing, the evolution of the Internet of Things (IoT), data analytics, the need to rapidly deploy and upgrade cybersecurity capabilities, and emerging robotics and unmanned systems are prime examples of how innovation is changing the way the private sector operates. These developments and others may offer unlimited potential to assist DHS with meeting its missions.

However, for such capabilities to be meaningfully utilized by the Department, it is crucial that DHS regularly and effectively communicate its desired outcomes to industry. To do so, the Department must share both its short- and long-term goals with the public. While the Quadrennial Homeland Security Review (QHSR) is an important component, such communication should occur more frequently than every 4 years. The QHSR, and on-going industry communication efforts, should coherently lay out long-term DHS strategy and objectives beyond a 3- to 4-year time period, describe efforts by the Department to better communicate its research and development objectives, and take steps to better enable tech transfer initiatives so that R&D breakthroughs can be applied to real-life solutions.

To its credit, the Department has been at the forefront of conducting “Reverse Industry Day” (RID) sessions, where contractor partners can present directly to Government personnel about the key challenges and considerations they face in doing business with DHS. These sessions have been well-received by participants in both Government and industry, and we commend the Department on its continuing commitment to holding RID sessions and appreciate having had the opportunity to engage with DHS through this avenue.

##### *The Benefits of a Well-Trained Acquisition Workforce*

A well-trained, skilled, and supported DHS workforce is necessary to achieve successful acquisition outcomes. But, regrettably, the upcoming generation of DHS workers is still being trained and oriented to traditional and outdated practices and rules. DHS should transform the workforce to be grounded in cross-functional development, business acumen, technical skill, and creative thinking. PSC recommends the expansion of initiatives that seek frequent rotations for the DHS workforce into functional areas outside of their main area of focus. For example, much can be learned by program managers by spending some time working within a Department acquisition office, and vice versa. PSC also encourages new authorities that would permit the Department and the private sector to experiment with personnel rotations. Initiatives such as these can go a long way to remedying the human capital challenges faced by the Department.

#### CONCLUSION

On behalf of PSC and our members, I thank you for your time and consideration of these matters. As always, PSC is available at your convenience to address any questions or concerns the subcommittee has, now and in the future. I will try to answer any questions you may have.

Mr. PERRY. All right, Mr. Berteau, thank you for your testimony. Chair now recognizes Mr. LaBonte for his testimony.

**STATEMENT OF BRANDON LABONTE, PRESIDENT AND CEO,  
ARDENTMC**

Mr. LABONTE. Chairman Perry, Ranking Member Correa, Members of the subcommittee, thank you for the opportunity to speak with you about my company's support to DHS. My name is Brandon LaBonte. I am the president and owner of ArdentMC, a small business that started in 2006 with a primary focus on providing geospatial and technology solutions to the Department of Homeland Security.

Much like many small businesses who focus on Homeland Security, ArdentMC is driven by a desire to advance the use of tools and technologies in the detection and deterrence of terrorist activities, to help respond and recover from natural and man-made disasters and to support our law enforcement security efforts around the country.

While speaking today about our company's perspectives in particular, I believe our experience is representative of small businesses doing work at DHS across the board.

In the summer of 2016, I had the privilege of joining representatives from the DHS Procurement Department and the Personnel Security Division for an Acquisition Innovation Roundtable, an AIR, on the contractor fitness process.

While fitness determinations are a challenge for both industry and Government, the AIR allowed a better understanding of opposing viewpoints. For example, the AIR revealed that DHS seemed unaware that industry was hiring employees on the contingency of them receiving their fitness determination, and that recruiting costs were lost when excessive delays meant a contingent employee might take a job elsewhere.

Given the monumental challenge faced by DHS, and the ever-increasing volume of fitness requests submitted, I would respectfully submit three recommendations to increase the efficiency of the Department's fitness efforts and the level of support for the mission.

First, DHS components should permit reciprocity of the fitness determinations. We hired an employee that had supported a DHS client for over 3 years. We submitted his fitness request on November 4, 2015, expecting a quick result and good continuity for the program.

His fitness was approved, but not until March 3, 2017, about 15 months later. In the mean time, he took a job somewhere else rather than wait for the fitness process to clear. While differences in the way some components utilize reciprocity are understandable, our experience is that reciprocity is rarely honored between, or even within, components.

This results in uncertainty for the contractor and fitness delays. ArdentMC's average fitness determination time across all our pending contracts as of last week was 213 days. A uniform approach to an already-approved contractor employee would increase predictability for contractors and mission support for DHS.

Second, DHS should increase industry collaboration and partnership in the fitness process. On February 22 of this year—I think that was last week—we received an email from a DHS component security office in response to repeated requests for help with a de-



layed fitness submission, one that we inquired about monthly since the submission had been put in.

The employee, it turns out, had been approved to work, had been granted fitness on June 22, 2017, yet the component did not convey the information and did not have it when we had asked about it repeatedly. This results in less support to the mission and over \$120,000 of lost revenue, not an insignificant amount for a small business. This multiplies when the number of employees impacted increases.

Today, unlike DOD, DHS will not communicate with employers about employees submitted for fitness. The result is excessive delays and miscommunication, or in some cases no communication between DHS and the employer. DHS should open communication directly to the employers about the status of their employees in consideration for fitness.

Finally, DHS should leverage industry's Government-approved security officers. ArdentMC's corporate security officer known to many as a Facilities Security Officer or an FSO, works closely with DOD on submitting and monitoring the status of our employees in the security clearance process. In fact, DOD provides the training, the access, the authorization to handle sensitive personal information across the board.

While the security process at DHS is distinct from DOD, the type of information dealt with is the same. Industry provides over 13,000 certified security officers today, all trained and approved to handle the same type of information used in the DHS fitness process through a program called the NISP, the National Industrial Security Program.

DHS's work force could be augmented at no cost to the agency while also providing visibility and transparency by utilizing these FSOs to open communications with DHS. As a company that began its mission supporting DHS and has continued to work for DHS for over a decade, we believe we bring some uncommonly deep insight into these challenges, and we certainly understand the need for a secure work force.

We continue to hope to work with DHS and to be part of the solution. Thank you for the opportunity to provide the testimony and I am happy to take any questions.

[The prepared statement of Mr. LaBonte follows:]

PREPARED STATEMENT OF BRANDON LABONTE

FEBRUARY 27, 2018

Chairman Perry, Ranking Member Correa, and Members of the subcommittee, thank you for the opportunity to speak with you about our company's support to the Department of Homeland Security. My name is Brandon LaBonte, and I am the president and owner of ArdentMC, a small business started in 2006 with a primary focus on providing technology and Geospatial solutions to the Department of Homeland Security. Much like many small businesses who focus on homeland security, ArdentMC is driven by a desire to advance the use of tools and technologies in the detection and deterrence of terrorist activities, help response and recovery to natural and man-made disasters, and support our law enforcement and security efforts around the country. ArdentMC has employees in 14 States and the District of Columbia supporting mission programs across every DHS operational and support component except TSA and FLETC. While I will speak today about our company's perspective in particular, I believe our experiences are representative of the many small businesses supporting DHS.

In the summer of 2016, I had the privilege of joining representatives from the DHS Procurement Department and the Personnel Security Division (PSD) for an Acquisition Innovation Roundtable (AIR) on the contractor fitness process. While fitness determinations are a challenge for both industry and the Government, the AIR allowed a better understanding of opposing viewpoints. For example, the AIR revealed that DHS was unaware that industry was hiring employees on the contingency of their fitness determination, and that recruiting costs were lost when excessive delays meant a contingent employee decided to take another position.

Given the monumental challenge faced by DHS, and the ever-increasing volume of fitness requests submitted, I would respectfully submit three recommendations to increase both the efficiency of the Department's fitness efforts and the level of support for the mission:

*First—DHS components should permit reciprocity of fitness determinations.*

We hired an employee that had supported a DHS client for over 3 years. We submitted his fitness request on November 4, 2015, expecting a quick result and good continuity due to his longstanding work in the program. His fitness was approved, but not until March 3, 2017, about 15 months later. In the mean time, he took a different job rather than wait. While differences in the way some components utilize reciprocity are understandable, our experience is that reciprocity is rarely honored between, or even within, components. This results in uncertainty for the contractor and fitness delays. ArdentMC's average fitness determination time across all our pending requests, as of last week, is 213 days. A uniform approach to already-approved contractor employees would increase predictability for contractors and mission support for DHS.

*Second—DHS should increase industry collaboration and partnership in the fitness process.*

On February 22 of this year we received an email from a DHS component security office in response to repeated requests for help with a delayed fitness submission. The employee, it turns out, was approved to work on 6/22/2017, yet the component did not convey this information. This results in less support to the mission, and over \$120,000 of lost revenue, a significant amount for a small business, which multiplies as the number of impacted employees increases. Today, unlike DoD, DHS will not communicate with employers about employees submitted for fitness. This results in excessive delays and miscommunications (or no communications) between DHS and the employer. DHS should open communication directly to the employers about the status of their employees in consideration for fitness.

*Finally—DHS should leverage industry's Government-approved security officers.*

ArdentMC's corporate security officer (known as a Facilities Security Officer, or FSO) works closely with DoD on submitting and monitoring the status of our employees in the security clearance process. In fact, DoD provides training, access, and authorization to handle sensitive personal information. While the security process at DHS is distinct, the type of information is the same. Industry provides over 13,000 certified security officers today, all trained and approved to handle the same type information used in the DHS fitness process. DHS's workforce could be augmented at no cost to the agency, while also providing visibility and transparency by utilizing these FSOs to open communications with DHS.

As a company that began its mission support at DHS and has continued to work for DHS for over a decade, we believe we bring some uncommonly deep insight into these challenges. We continue to hope to work with DHS and to be part of the solution. Thank you for the opportunity to provide my testimony, and I'm happy to respond to any questions.

Mr. PERRY. The Chair thanks Mr. LaBonte and now recognizes himself for 5 minutes of questioning, and I will start out with Mr. Allen.

Go a little bit off the script here, but I am just very curious from my standpoint as I looked at this. To me, if you have a TS or TS SCI or even Secret clearance, is there anything in the fitness standard that is more adjudicatory, is more in-depth than any of those clearances that I have discussed, because there are different levels of clearance I understand, but particularly anything above the Secret level that you could know of?

Mr. ALLEN. No, there isn't, Mr. Chairman. These are really excruciatingly very precise efforts to find out who you are, even if you have had a Top Secret SCI, you have to be reinvestigated every 5 years. We are moving to a new standard I think as Mr. Berneau stated about electronic. Today, we can check very rapidly everything about you electronically. Your whole life history is in digital dust there.

But the standards are excruciating for those holding the highest clearances, SCI. A leakage of culture has occurred recently in the intelligence community, but it doesn't mean that you have to just sit and study the issue longer, you use better techniques and electronics. But SCI, everything about me is known to the National Background Investigative Bureau as well as Defense Security Service, and my wife, they know everything about my wife and my children.

So, it is very thorough when you get to that Top Secret SCI and that is the reason I think it is redundant. I think if you have gone through that and you are within scope, within 5 years for a Top Secret SCI or a Secret within 10 years, I think you are pretty fit to come work for DHS.

Mr. PERRY. I certainly think that even if you—let us just say you had a TS SCI, and you are halfway through the term of your TS and you chose to put yourself out and you could be hired, so a simple background check just to update that you hadn't committed any crimes since you were adjudicated for your TS SCI would seem to be to me sufficient.

As I thought about it, Mr. Snowden had a clearance, Bradley Manning had a clearance, and these folks were people that ended up being in my mind criminals. But that aside, it seems to me the fitness test isn't going to be any more thorough than the Top Secret or the Secret clearance.

So, my question to you, if you know, it is that does the Department and the disparate organizations within the Department want to maintain this fitness standard as a vehicle, for lack of a better way of putting it? So we have got this individual that we are vetting, he passes all the security—let us just put it because I know it doesn't follow this track but let us say we have the Top Secret, let us say he comes or she comes with a security clearance, we just don't like the way he parts his hair, or we don't like the way she dresses, or we don't like her attitude or whatever. Do they want to maintain that? Is it your sense that they want to maintain that, because I am sure they are never going to say as a way to just say this person is not something that is going to work at this agency and we don't have to tell you why or provide any information. We are just saying no regardless of the fact that they are qualified.

Mr. ALLEN. Yes. It seems to me once DHS for a fitness examination, if they check with the intelligence community, they look in databases, JPAS for Defense or Scattered Castle for the Top Secret SCI, they can verify when the person was given the clearance, is the person within scope for the 5 years or at a Secret level for 10 years. This can be validated very quickly.

They have a lot of trust for a person who has gone through a lot of examination repeatedly through his or her career. With CIA, of

course, you always have the added burden of going through polygraphs which they readily are happy to give you from time to time.

Mr. PERRY. Sure. Sure. As a person who has held a clearance for 30 years or so I for the life of me can't figure out the efficacy of this program.

Mr. Pearl and Mr. Berteau, looking at the flow of information for new hires—and I think we might do a couple of rounds here because I want to ask a couple more questions a round at a time—but I don't understand how the COR are as a DOD person, as a military guy and understanding the functions of the contracting representative, contracting officer representative for DOD, what is the purpose for having them somehow injected into the personnel decisions of the would-be contractor?

I have got a contract. I want to hire the person to execute the contract. In that process somehow it has to go to the COR and then back to me before I can—what is their purpose for being there? Am I missing something I guess is the question? Because we don't want to make bad policy but I don't understand why we are doing it that way.

Mr. BERTEAU. Second time I forget, but by the third time I will remember to turn the button on first.

The COR's primary responsibility is actually to be the interface between the administrative contracting officer and the performing contractor in terms of making sure that the contractor is doing what they have been hired to do and that they can comply with the terms and conditions of the contract. They don't have a contracting officer responsibility, but they are graded on how well the contractor does in terms of delivering on the scope of work.

You can see a scenario in which a COR is worried because the contractor is not doing everything they signed up to do because they have got funded requisitions that can't be filled yet because the people assigned to fill that job are still waiting on either their fitness determination or their security clearance or both in some cases. So, the COR has a vested interest in kind-of making that happen.

We have seen situations; I remember companies have told us about them in preparation for this hearing where the COR is pinging on the contractor because they are not delivering at the same time as the COR is not necessarily pursuing get me that answer more quickly so I can get these people to work.

So, you can see a way in which the two could work together. The only way in which that works better though is if you have got time on your side where you have got responsiveness and the COR, the logical thing to do would be for the adjudicating activities to be pushing the information even on a daily basis so the COR just has to look at a checklist and say Joe is still in process. Pete has been cleared. Don't wait 7 months to tell me by email that he is ready to go, right? So, the system could actually make the COR's job easier and more effective so he or she can focus on their responsibilities with the contract.

Mr. PERRY. Gentlemen, I am way beyond my time but I am going to revisit that question with you a little further.

But at this time I would like to yield my time and recognize the gentleman from California, Mr. Correa.

Mr. CORREA. Thank you, Mr. Chairman. Witnesses, thank you very much for your information there. Let me get this straight, so this is the Department of Homeland Security, a lot of organizations, a lot of agencies within one umbrella with the main task of protecting our country.

So, if you have a need, you go out and contract for personnel because you need to take care of an issue that all of us deem vital to our National security. Yet, it is taking a very long time to go through these vetting processes.

So, my question, I would open it up to all of you is, why does it take so long and why is it so secretive? I mean, once you apply to go through these security clearances, is there something that DHS found that is objectionable or it scares me to think or is that application just gathering dust somewhere and nobody is doing anything to move that clearance ahead?

Mr. ALLEN. Yes, Congressman. It does bother me greatly because the criteria used by the various operating components except for the Transportation Security Administration which has a very long list of potential problems in law, the component-specific criteria for a fitness examination are vague. They are not really understandable and I thought Mr. Berteau just outlined perfectly that the opaqueness of the process leaves contractors—if you are a large-scale integrator, you can absorb maybe time and keep people waiting to go on to the contract. But for small firms, as was illustrated by one of our witnesses, you can't do that.

You have to make this finding very quickly and if you do the agency check, what they call the National agency check, other checks on the individual and they want to put you on a contract, a resume has been submitted, it should be pretty quickly arrived at. You shouldn't have to wait days and weeks. Some people just for fitness now wait 3 and 4 months and rarely is there a denial but you have to wait for 3 or 4 months for this to occur.

Mr. CORREA. So, Mr. Berteau, just following up. You came up with three points. This is not a trade-off primarily. No. 1, it is not a trade-off being expedient and taking short cuts here. Data analytics and access to information is there. So, why can't we get through this system and move ahead? Again, are these applications just gathering dust or somebody is actually moving ahead, or are we working with old computers that don't have access to these data analytics to move effectively forward on these applications?

Mr. ALLEN. In my view, living with a tradition and a culture, many of these components go back decades, Customs goes back to the beginning of our country. But there is a lot of history and culture and a way of separateness.

When I worked for Secretary Chertoff, his top priority was keep terrorists out of the country, keep dangerous materials out of the country and third, integrate the Department.

Mr. CORREA. Go ahead, Mr. Berteau.

Mr. BERTEAU. Mr. Correa, I think two of the dynamics that are working here, No. 1 is that the problem is not just for contractors; this problem also extends to Government career civilians that you are trying bring in or to uniformed personnel. It is the same set of systems and criteria that often apply. In cases you will even find

some of the reciprocity challenges inside DHS apply to career civilian personnel as well as to Government contractors.

We hire contractors for many, many reasons, and one of the reasons that we like to use contractors is because of the flexibility that contracting provides you. Once you have got a Government career civil servant, that is the job they are in. With contractors, you at least theoretically have the ability to move to where the need is and to be able to go back and forth. The Department is actually working against its own interest by making it more difficult to do that with the contractors that they have in place.

Mr. CORREA. So, my question is why, I mean—

Mr. BERTEAU. I don't think anybody actually wakes up with the intent—

Mr. CORREA. Mr. Allen kind-of alluded to that which is the integration issue, but why? Everybody has the best intentions but—

Mr. BERTEAU. DHS alone can't fix this, of course.

Mr. CORREA. So, do we need to legislate a law that says you guys got to integrate all of this? You got to talk to each other?

Mr. LABONTE. If I could add, Congressman. We talk about security at DHS as though it is a monolithic Department that handles the security but it is certainly not. As Mr. Allen alluded, there are security offices in each component. So, the component security offices have to submit their information to an enterprise security office that uses investigations that originate outside of the agency, typically OPM or other sources.

That all initiates when a contractor sends it to a program manager who send it to a COR who then sends it to a local security officer and there are a lot of people in the chain. I don't think it even sits to gain dust because someone is not doing their job but there are just a lot of hand-offs where the paper can be dropped.

Mr. BERTEAU. There are a bunch of systems that are antiquated. Case management alone which is something that there is good technology now to manage cases; this is what companies that depend on customers do all the time. Things get lost. Documents get lost. We have a number of companies that submitted examples to me where multiple forms sent in the same FedEx package signed for by the same person, they can find some of those forms but they can't find others of those forms.

We have had examples where—well, your example that you had of the citizenship application. I have got half the form here but I don't have the other half of the form.

These are the kinds of things that I think that individuals—I don't want to subscribe bad intent to anybody because I don't think anybody is intending to screw this up, but when you are a bureaucrat and you are faced with I can't find the damn forms, you probably are not going to say the most important thing for me to do today is to call the person whose form I lost and tell him I lost the form. You are going to hope it turns up, right? Maybe it will and maybe it won't.

Mr. Allen indicated I think how many months, Charlie, for your last periodic investigation?

Mr. ALLEN. For the last one conducted by Defense Security Service, 35 months. Although I continue to operate at Top Secret SCI level, I didn't have the validation until December 14, 2017.

Mr. BERTEAU. Mine was 4 years. They lost the electronic forms twice. Now, I thought the whole point of an electronic form is you won't lose it.

Mr. CORREA. Right.

Mr. BERTEAU. So, I had to go back and refill it out on e-QIP, start all over again and then, of course, there are a lot of outstanding things in the process that can be improved. You have to have somebody who has both the incentive, the motivation, and the authority to force those improvements to come into play.

Mr. CORREA. Mr. Chair, I yield.

Mr. PERRY. The Chair thanks the gentleman from California.

The Chair now recognizes the good gentleman from Kansas, Mr. Estes.

Mr. ESTES. Good. That was my whole goal was to make sure that I addressed the issue and the third time was the charm for me, right? I apologize for that.

The issue as we look at it, how to be more efficient and effective in getting things done. Obviously, through DHS, there are lots of agencies that cut across and have somewhat related but different missions. As we are sitting here today, we are thinking that there is a lot more related in terms of how we can make that more efficient.

But I just wanted to talk, maybe just ask some questions. There are a lot of things we have talked about as problems but maybe starting with Mr. Allen, I mean, could we boil this down to two or three top recommendations that we would make that we would change differently, whether it is integrated systems, whether it is rules and regulations, whether it is accepting clearances that have already been done or fitness determinations that have already been done from other agencies.

Mr. ALLEN. Yes. If the Department can't make the decisions, then I think legislation will be required. There is really no reason though, this decision could be made strikes me by the Secretary, that if a contractor and we have thousands of them who have some level of clearances, if they have a Secret or Top Secret clearance, they do not need a separate fitness. That is No. 1. You don't need a separate fitness report.

There has got to be uniformity across the Department. When Elaine Duke was out of the Government in 2015, she talked about this and she was under secretary for management while I worked with Ms. Duke and she was terrific on this. She talked about consistent standards. Why can't that be done it seems to me within the Department?

Reciprocity across the component, if you are a contractor, you are approved and you are fit to work for CBP, that is good enough for ICE. You can also work on a contract at ICE. Strikes me that these are the kinds of decisions—those are three—that could be done.

Reciprocity, the intelligence community, to be fair, we shouldn't be too harsh on DHS which I admire in many ways. It took a long time to get reciprocity across the intelligence agencies and we still don't have it totally. I remember when I tried to get an NSA officer who has all the clearances in the world, come down to work on a CIA contract that I was managing, I had to move heaven and earth just to get that NSA officer quickly under my management.

We have come a long way in the last 15 years. I submit that DHS could come a long way with strong decision making by the leaders of the Department.

Mr. PEARL. In terms of recommendations, obviously, we all focused on similar in our written testimony, but I would point out two things that may not require legislation. It is an understanding, first of all and I don't want to be here to defend DHS, but in the conversations that we have had, there is a difference between the security clearance process and a suitability and fitness process.

You are looking at character. You are looking at nature of conduct, maybe a Snowden, I don't know. Some of the Top Secret, some of the security clearances don't require an in-person interview. You do your investigations around that. You don't see the person.

A lot of folks from DHS in terms of the person-to-person conduct that this agency has different from intelligence community and different from in some ways the National security. That should and could play—I am not here to defend it but it exists and not just at DHS. The fitness and suitability standards are across.

But I would look at two things. One is the nature of communication. Even if you have a process that is broken, even if you have a process where things are going on for a long time, at least communicate with the contractor. At least along the time line, stay in touch, check in, give them that information.

You don't have to give what the background that they do not part their hair. There is a thing about maybe credit checks or how behavior at home, whatever it might be. That is No. 1, communication.

No. 2, I would talk about the whole nature of standardization, that there has to be a reason, why do you need to ask that? When we have asked the USM over the years, the last one being Russell Deyo, why does there need to be these various questions that are added between a CBP officer and an ICE officer. They couldn't really give us that answer. So, the nature of a standardization of a sense of continuity and communication I think are two of the ones that don't need a lot of legislative action.

Mr. BERTEAU. Mr. Chairman, may I extend, I don't know if you have got another question but—

Mr. PERRY. Go ahead. Without objection, go ahead.

Mr. BERTEAU. I think the one single thing that is most important here is in fact reporting on the information. You have got 20-plus entities inside DHS that can deny reciprocity to somebody who is either suitable or has a clearance somewhere else. You really ought to require every one of those components to report on a regular basis how many reciprocity requests they get. How many did they approve, how long did it take?

For those that they denied, what is the general category of denial? You don't have to give out personal information because I go back to something that I think Mr. Allen alluded to, if you are not good enough for one part, what makes it OK that you are still good enough for the other part? Somebody ought to actually answer that question, right?

I actually think if you take the heads of those components and you require them to submit that data to you in writing however pe-



riodically you want to get it, once a year, every 6 months or whatever, by the second time around they are going to want to show something better than the set of data that was in the first time around.

That is the single most important thing I think you could do to draw attention to this issue and preventing anybody from hiding behind, I just lost it and I do not want to go look for it.

Mr. ESTES. Thank you. I have exceeded my time and I appreciate your answers and help us with that. So, I yield back.

Mr. PERRY. The Chair thanks the gentleman from Kansas and now turns to Mr. Higgins from Louisiana.

Mr. HIGGINS. Thank you, Mr. Chairman.

Gentlemen, thank you for appearing before us today. I have three questions on three areas I would like address. I will get to them quickly.

No. 1, we have discussed that the lack of coordinated effort essentially within the DHS and its component agencies both for fitness determinations which is for contractors and for suitability determinations for employees and that the overriding message we are receiving today and my own research confirms this, is the redundancy within the system that we have referred to.

So, I ask you gentlemen because no one has mentioned, you are all, I am quite sure, familiar with the Department of Homeland Security Authorization Act of 2017, that was passed last year, in July of last year, July 20 of last year, this body passed the Department of Homeland Security Authorization Act, 386 to 41.

The first paragraph of the summary of that bill, the bill amends the Homeland Security Act of 2002, that as an agency, it was never authorized, which meant it was spread across eight or nine committees for oversight. Now, how can we have an organized effort within a massive organization of this Nation with many components without centralized command and control? Does that not begin with this body's responsibility to authorize that Department?

So, I bring you to this first paragraph, the bill amends the Homeland Security Act of 2002 to establish in the Department of Homeland Security a headquarters which shall among other things establish an overall strategy to successfully further the mission of DHS and to ensure that DHS successfully meets operational and management performance objectives.

I would say this entire subcommittee hearing has pointed out the fact that DHS has not successfully met operational and management performance objectives, and yet the bill that was passed by this body through this committee as a whole in the summer of 2017 languishes in the Senate. So, I would hope that my Senate colleagues are listening and I hope that your organizations are communicating with our colleagues across the way.

Regarding redundancy, I completely concur and I will just ask you gentlemen, do you believe that the full authorization of the Homeland Security in all of its components, the agency, that the full authorization passed through the Senate, signed by the President, would this help us address some of these lack of controlled efforts as a centralized effort within an agency?

Mr. Allen.

Mr. ALLEN. Yes, I would just like—yes, thank you, Congressman for the questions. On the whole problem of a number of committees and subcommittee to which DHS has to report, it is 88 or so or 90, that is—105, we struggled under Secretary Chertoff and I know Governor Ridge did before I came to the Department, we struggled and we found ourselves meeting with many subcommittees across the Senate and the House of Representatives in ways that did not further.

But, every—until we have a more centralized command and control and oversight of the Congress, we want that oversight and we want an intense oversight. That is the reason we established the Homeland Security Committee.

Mr. HIGGINS. Thank you for that answer.

Let me allow Mr. Pearl, yes or no, sir?

Mr. PEARL. Well, this subcommittee is not just the oversight and that is the I think the nature of the vision, it is oversight and management efficiency. Now, does that exist? Do you colleagues hear that in the House? Was it completely addressed in the authorization act? It was not.

The nature of what industry which has so many detailees and so many contractors, that relationship between industry and Government, much different, the relationship is different, has not been fully addressed in the way that we can.

Yes. My answer to you—

Mr. HIGGINS. Would you not agree though that authorization is the first step toward centralized command and control?

Mr. PEARL. It absolutely, but nothing that we have said here today Mr. Higgins would in fact impede and be impeded by the passage of an authorization bill, though it is needed. What we are talking about are standards and procedures that are cut across the entire Federal Government space and without the calcification that DHS has as an—

Mr. HIGGINS. Mr. Allen referred to the culture, but the primary problem here we are discussing today is redundancy in its application toward fitness determination or suitability. Mr. Berteau, yes or no?

Mr. BERTEAU. Mr. Higgins, I would. I would note that it took the Department of Defense 39 years between the passage of the National Security Act of 1947 and the passage of the Goldwater-Nichols Defense Reform Act of 1986 to consolidate the authority, direction and control of the Department in the hand of the Secretary of Defense.

I would hope that it does not take the Department of Homeland Security that long. I think this authorization bill makes some steps in the right direction there.

Mr. HIGGINS. Well stated, sir. Your mic was on. Mr. LaBonte.

Mr. LABONTE. Yes. You know, I do not know if it solves the problem, but I think centralizing through the authorization act would only help. Yes.

Mr. HIGGINS. Thank you, sir.

Mr. Chairman, I yield back.

Mr. PERRY. The Chair thanks the gentleman. With your indulgence and without further objection I would like to go for a second

round if you are interested in sticking around, fine. If you are not, so, I am going to take another 5 minutes here.

Let me start out with Mr. LaBonte, first of all, are you of the family that does all that race car driving in NASCAR?

Mr. LABONTE. I am still trying to find the connection.

Mr. PERRY. All right, all right, because some people complain about that dirty driving. No, that is not fair.

So, for people that might not be familiar that might be watching this thing, what the heck is going on at DHS? Just as an employer, right, you have some contracts, walk me through the process of you think—you have got a contract and you are trying to hire somebody and you are waiting for them to get their fitness adjudication. You got a person, you submit for that.

Where does that person go? What are you doing? How long is it taking? How much is it costing you which is essentially costing us because you, I am sure, planned for that in the contract price when you bid. I would just like to know maybe your—how do you even calculate that at this bid?

Mr. LABONTE. Yes. We figured out that on average we have taken our contracts as we bid them and they are often 3-year, 4-year, 5-year contracts, and instead of bidding at full staff at the beginning, we actually assume it is going to take at least 6 months to get the full staffing levels because we never are able to ramp up through the fitness process.

To walk you through the process, there are a couple of different pieces, but to simplify, we will make an offer to a potential employee. We will recruit them, we will spend the money on a recruiter. We will spend the money on advertising. We will find them. We will spend time and overhead interviewing this people, trying to find out if they are the right person for the job. We will bring them in and screen them with a number of different sources.

We like the person, we make them an offer, and it is contingent on them receiving a positive fitness determination from the Government. They are then asked to fill out the e-Quip form, that I think you probably are all familiar with, outlining their background. We review that and it goes into our COR, on our contract.

The COR looks at it, but I will be honest, the COR is not trained generally speaking in personnel security issues. That is not really their job. So they end up just sort-of forwarding the information into the local security office for the component. It may sit there for a very long time. Sometimes it does, sometimes it doesn't. It then gets forward to PST. PST will either initiate investigation or try to grab an investigation that has been done recently and make their evaluation.

All of this process takes months. We lose about 1 of every 3 candidates waiting on the fitness process.

Mr. PERRY. What are they doing while they are waiting? What are they doing?

Mr. LABONTE. So, we have not employed them.

Mr. PERRY. You are not paying them?

Mr. LABONTE. I can't. I can't hire them. No, I can't. Because if I hire them, I can't bill them on the contract so that they would have to sit on overhead, that would put my—

Mr. PERRY. So, they have got a job, but they don't have any pay and they do not know when they are going to start the job. So, just like everybody else they have bills to pay, lives to live, and they move on.

Mr. LABONTE. Not only that. So, that is all true, and not only that, but they ask us for information on the process—

Mr. PERRY. And you can't.

Mr. LABONTE [continuing]. And I can't tell them anything.

Mr. PERRY. Because you do not get it.

Mr. LABONTE. I am not allowed to get it. If I call DHS and say, "I have got an employee who has been in fitness for 6 months and I need some information." They will say, "We will not speak to you. Talk to your COR."

Mr. PERRY. All right, that will be for Round 3 for me. So, let me get—

Mr. LABONTE. Sorry. You get me a little—

Mr. PERRY. Yes, right. No, me too. But I just want—so, let me ask you this, without—because I think Mr. Higgins, Representative Higgins touched on a very important part which is the authorization of this agency, which is fraught with its own perils and of course it sits in the Senate.

But, let me ask you this, we have a Secretary and while it may have taken DOD decades to bring all those forces together, it seems to me and I guess my question to you folks, you are smart people, is there any reason in the absence of an authorization, right, as it sits in the Senate and waits for a Presidential signature assuming it gets past the Senate, is there any reason that the Secretary can't just wave her wand so to speak and make it so?

Mr. LABONTE. I think that is partially a question for the Secretary. From my perspective, DOD does this pretty well and they have taken a long time to get there, but they figured out how to do it. They figured out how to engage industry and work back and forth.

Mr. PERRY. So, what I am reluctant to do as a legislator personally and I can't speak for anybody else on the dais here, but it is to legislate this when it seems to me this is a management/leadership function. We have a Secretary look at these problems.

OK. You are using suitability and fitness when it seems to me for the most part, security clearance fixes that. Contractors operating, the COR is involved in this process, probably should not be. I do not see any reason for them to be, but maybe I am missing something. So, move the contracting representative at the end to manage the project and let these other folks at OPM and the people managing the individual agency at DHS decide who they want to hire based on whatever criteria, and cut half this overhead and redundancy out and then, by the way, report on the progress to people that call.

This guy is a loser. We are not taking him. This lady is great. So, you can expect her to be approved in 3 weeks or a month. Like, that seems like to me something a Secretary can do and so, I am asking you. Is there any reason that you know of that the Secretary can't do what I just described?

Mr. LABONTE. So, I don't know of any reason. But I sat across from PSD and I asked a question that was similar to that of the

director of personnel security. I said, "Why can't you utilize the folks who are already deputized by the DOD to help you get this clearance done?"

The answer was "We do not have a statutory way to engage folks." I do not know. I am not lawyer.

Mr. PERRY. Right, but that is a question for us to ask.

Mr. ALLEN. I think that is a good question, Mr. Chairman. I do believe, for example, the Secretary of Homeland Security certainly has a power to further empower and authorize the chief security officer of the Department to centralize and organize and structure and give direction so that we are not broken up into little parcels of security as we are today.

Mr. PERRY. Correction. The Chairman recognizes Mr. Correa.

Mr. CORREA. Thank you. I just wanted to follow up on the Chairman's line of questioning which is Secretary of DHS, does the Secretary have a magic wand or do we need legislation to move this forward? As I look at all of you here, you are going to give me an answer, but I guess the person we have got to ask is the Secretary of DHS. What is it exactly that you need to implement these policies of efficiency?

Mr. BERTEAU. Mr. Correa, from my perspective, there are no statutory or for that matter, regulatory impediments to the Secretary undertaking to do that. But I think it is important to recognize that many aspects of this problem are not under the Department of Homeland Security's control.

If you look at and I think the fitness determinations are largely entirely under their control unless they determine that there is a point at which they have to hand off part of the background investigation to the Office of Personnel Management National Background Investigation Bureau to undertake additional inquiries in that regard. At that point, it goes into the hopper with all the rest of the Federal Government. So, it is now competing for limited resources with a host of other activities.

Mr. CORREA. So, I guess, it is only something that might happen.

Mr. BERTEAU. Right.

Mr. CORREA. So, I guess the question is what percentage of those actually get to be handed off and which—

Mr. BERTEAU. Well, and that is part of my point of where I come back to. I think the single most important thing you can do is to both reinforce the positive behavior from the Secretary and expose those places where maybe there is a little foot-dragging going on by requiring regular updates from them over all of the details and the data that come out of that, how many have been handed off to NBIB for further investigation, what is the status of those, so that you actually I think through your oversight can reinforce the positive things that the Secretary can do, help steer the opportunities toward those positive things and perhaps create a little disincentive for ignoring the problem.

Mr. CORREA. Mr. Allen, go ahead.

Mr. PEARL. I would just add, the context of measurements and data, we don't have it. The companies do not have it in terms of why decisions are made or how long, what are the delaying challenges. You don't have it and I think that—and the Secretary does

not have it either because each of the components—forget about everybody else.

The head of the components will argue and have argued to us, and in your AIR that you were involved in, why they need to be different, why TSA needs to be different from CBP, from ICE, from Secret Service, et cetera. We have other character issues and personal issues. What we need—I am glad that you have a security clearance. That is great. You need it before we can even go to fitness. But the fact is that we have other aspects because of the interaction with the public or whatever excuses they give.

I think that if you can get the kind of measurements, the kind of reporting back between you and DHS, that would go a long way to encouraging why a company and Mr. LaBonte's examples are not by themselves, are not a silo. They exist throughout the entire contracting community that are trying to do business to the best of their ability with DHS.

Mr. ALLEN. I think, Mr. Correa, I think that one thing we have to do is—or that you will have to do is to repeal the TSA standards which are in law because if you are going to encourage reciprocity across all of it, it should be a common standard and there should be common reciprocity. As long as it stands out by itself, it really is an impediment.

Mr. CORREA. Yes.

Mr. LABONTE. If I may add, Mr. Congressman.

You asked the question is there a reason the Secretary can't wave a wand and change it, the question was asked. I will say that in the last 10 years that I have been doing this, this process has gotten progressively worse and it has also changed. It has changed I think absent those authorizing bills and whatnot over time. So, if it could get worse over time, it would seem like it could get better as well with management action inside the organization.

Mr. CORREA. Mr. Chairman, I just want to say using the oversight of this committee, I think we do have to have DHS come in here and testify and try to figure out should we need a better wand, the Secretary need a better wand or do we come up with some good legislative solutions here, but, more importantly, the ongoing oversight to make sure that things move in the right direction.

Mr. LaBonte, you were saying things got worse. Well, let's say we get them—we get better. Again, no trade-offs, it is just becoming more efficient for the sake of our National security.

I yield, sir.

Mr. PERRY. The Chair thanks the gentleman from California.

The Chair recognizes the gentleman from Louisiana, Mr. Higgins.

Mr. HIGGINS. Thank you, Mr. Chairman.

Mr. LaBonte, how large is your—

Mr. LABONTE. About 150 people, sir.

Mr. HIGGINS. One hundred fifty people. Are they all contracted? What percentage of them is contracted before with DHS, have been through fitness determination, suitability?

Mr. LABONTE. We are about 85 percent Homeland Security, sir.

Mr. HIGGINS. OK. So, if you are going through the vetting process for a new contract, those employees have to get vetted completely all over again in the same manner?

Mr. LABONTE. Yes, sir. In fact, if employees who are sitting at a desk at one of DHS's facilities change contracts, without a new contract, without a real change, if they move, we have got an office where we have four contracts and the people sit in the same room. They collaborate together daily. If they end up changing from one contract to the other, they are required to go through fitness again.

Mr. HIGGINS. You gentlemen today have been describing the colossal inefficiency of the Federal Government and it devours of people's treasure and we are duty-bound and sworn by oath to address it and fix it. I will tell you, there is a great deal of IQ sitting at that table and you have all shared very similar testimonies this day. They seem to be focused on inconsistency and redundancy.

I turn to Mr. Allen's written testimony. He stated, "Fitness standards across DHS components precluding reciprocity of favorable suitability assessments when a contractor joins a contract with a different DHS component," and you have experienced this, Mr. LaBonte?

Mr. LABONTE. Yes, sir.

Mr. HIGGINS. Redundancy is tied into the inconsistency. So, it seems to me that this is an Executive fix and I can't understand—I recognize the various components and it seems to tie into what Mr. Allen has stated regarding culture, but I refer to my colleague's question and I just like to repeat it. Is there any reason that you gentlemen can see that within the authority and the infrastructure of the Executive that this could not be addressed at Secretary level?

Mr. ALLEN. My view, Mr. Higgins, is that a great deal of this could be addressed by Executive decision by the leadership of DHS, working with Tom Bossert over at the White House, a lot could be done to improve this significantly and right away.

Mr. HIGGINS. Mr. Pearl.

Mr. PEARL. Well, I don't want to wipe away the fitness standards, but we want them standardized. We want to understand a sense of consistency, a couple of examples. Drugs is one example.

Some agencies don't care. Some agencies may say within the last 3 years, within the last 10 years, that is not necessarily just a security clearance uniform approach. So, different components approach that question. They approach bad debt differently. Some don't even allow the asking of the question. Some set it at 3,000 or 5,000 or 10,000.

All they have to do is justify it to the Secretary. They have to in essence say "This is why we have found that when you are a Border Patrol agent we need more——"

Mr. HIGGINS. But if there is a comprehensive effort and study within the Executive, then, these things could be addressed and standardized.

Mr. PEARL. Absolutely. That is all that we have really been asking for. We have been asking for that.

Mr. HIGGINS. Mr. Berteau.

Mr. BERTEAU. Here is why I think leadership comes into play. In the end, this process of making a determination of whether some-

body is suitable, whether somebody is fit, whether somebody earns the trust of the Government to have a clearance is a judgment call.

Mr. HIGGINS. Right.

Mr. Berneau, if you could automate this, if you could just make it a checklist and automate it, it would be very easy to do that.

In the end, judgment implies some level of acceptance of risk, because you are not going to be right 100.0 percent at a time. So, I think where the leadership comes into play is not only giving the guidance, reporting the data, but giving the coverage that says it is OK to use judgment in a way that does not—you minimize risk by taking forever to do it. If you never say yes, then, you are never in trouble for having said yes to the wrong person.

The Secretary and the officials underneath the Secretary need to provide the coverage that says it is OK to make a decision. What you see all too often is, maybe there is something suspicious out here. Well, maybe if we sit on it a while, the guy will quit and he will withdraw his name and you don't need to finish that.

Mr. HIGGINS. Excellent point.

Mr. BERTEAU. Let him exercise that risk in a way because ultimately it is where is the Government putting its trust. That is an important decision, but it is not one that should take forever.

Mr. HIGGINS. Mr. LaBonte, close us out here, sir.

Mr. LABONTE. I would completely agree. I think there is a lot that can be done within the management of the organization. I mentioned that we can't communicate with DHS about our employee status. That has not always been the case. That changed in 2016 and as best as we can tell, it was just an internal decision to make a change.

So, if they could have changed it to be more restrictive in communication, they can change it to be more transparent with the employers. There is a lot that could be done.

Mr. HIGGINS. Gentlemen, this has been a very enlightening testimony. We very much appreciate your participation.

Mr. Chairman, I yield.

Mr. PERRY. Thank you. Just a couple of final questions before we close up here, I am just trying to determine because I feel like I am missing something. We got a big agency that wants to do the right thing. We got great people there, but somehow, the wrong thing seems to happen more in this case than the right thing.

What is the reason for the secrecy? Why can't they talk to you about where your proposed employee/contractor is in the pipe? Is there some reason we do not know? Is there something that you know? Is there some National security thing that we haven't considered? What is happening here?

Mr. ALLEN. It gets back, Mr. Chairman, to privacy. They do not like to—if there is derogatory information and they are evaluating and adjudicating whether the person is fit or not, I think attorneys and others have made it, inability to communicate well with the—

Mr. PERRY. But other agencies do not have the same problem, do they?

Mr. ALLEN. Yes, they do.

Mr. PERRY. They do.

Mr. ALLEN. The Central Intelligence Agency is very—



Mr. PERRY. How about DOD?

Mr. ALLEN [continuing]. Is very good in seeing—

Mr. PERRY. There are a lot of contractors in DOD. How about DOD?

Mr. ALLEN. They communicate. They have points of contact.

Mr. PERRY. So, if somebody can do it, then, everybody can do it. You got to want to do it though. You have to have a system in place.

Mr. ALLEN. You got to want to do it. You got to have and they have got to have the authority to say “Things are on track. Please hold on and we will give you the security clearance.”

Mr. PEARL. Let me just say I think that that is why the standardization is important because if you do not know what the rules are, you make up your own rules.

Mr. PERRY. Sure.

Mr. PEARL. Because there is a culture of risk aversion particularly at DHS and whether it is the intel community or DOD, but there is right now that culture of risk aversion, and if I am not given the standards and the rules by which I communicate, I am going to avoid it entirely.

I am afraid that if I don't give the right information out, I tell the contractor personal identifiable information about a particular person which I am really not allowed to give and the general counsel's office says—

Mr. PERRY. Wait a minute. Doesn't the contractor who has hired so-and-so have some reasonable expectation to know about the employer or the employee that he just hired that filled out the SF-86?

Mr. PEARL. Absolutely. Yes.

Mr. PERRY. So, what information is the Government going to give him that he does not already know unless the person, the prospective employee lied on the form, right? So, you could just say, “Look. The form doesn't match up. It doesn't comport with reality.” Is that enough information for you? I think if we get that, we can move on, right?

OK. Let me ask you something else here. I understand you want to keep the suitability fitness thing. I am not sure because I don't know of other agencies that do that.

But, Mr. Allen, you have mentioned the TSA minimum standard that that is in statute and that might be a hindrance to—

Mr. ALLEN. I think it is because it puts such excruciating detail for TSA standards that it does inhibit I think other components from common standards—

Mr. PERRY. But is there anything—do any of the other agencies such as the Secret Service or immigration, ICE, or—do any of the other agencies have a lesser standard than that?

Mr. ALLEN. No. I would say not.

Mr. PERRY. There could be a minimum standard at a minimum, right?

Mr. ALLEN. I think there should be common standards and I think they can be agreed upon with the proper leadership of DHS.

Mr. PERRY. It seems to me you could use the security clearance requirement plus, right, for suitability because I agree with you. If you are not conducting an interview, you might miss something, so,

security clearance, plus 10 questions or this criteria and then move on.

Mr. ALLEN. It should be very efficient and very quick.

Mr. PERRY. All right. I think we beat this horse—I think it is dead, but anyhow.

Mr. BERTEAU. No. It is nowhere near dead.

Mr. PERRY. Well, I guess the beating will continue from here. I think me and the fine folks on the committee and the wonderful staff here will try and figure out what the way forward is here and with your input as well.

Did you have something—

Mr. CORREA. Mr. Chairman, if you indulge me again for just one question left, very quickly. We are talking about non-legislative recommendations. We touched upon legislative recommendations in terms of the TSA minimum. Any other thoughts on legislative recommendations?

Mr. BERTEAU. Mr. Correa, I think one thing that is critical here, we are operating right now under a continuing resolution inside the Executive branch. That continuing resolution goes on until March 23.

Presumably, eventually, the appropriators are going to write the appropriations that will do this. I would urge this committee to pay close attention to make sure that the resources necessary to execute this mission and function inside DHS are included in those appropriations. We will be glad to help you pay attention to those and weigh in where appropriate on there.

Mr. HIGGINS. Sir, you mentioned having sufficient resources. If we streamline this thing and introduce efficiencies, won't we devour less of the people's treasure and do a better job?

Mr. BERTEAU. I think that is absolutely the case.

Mr. ALLEN. Absolutely.

Mr. BERTEAU. But I do not think we will streamline it by March 24. I think we are going to—

Mr. HIGGINS. No. I agree completely that we have to fix what is broken within this body in appropriation process, the budgeting process, no doubt. But if we can develop standards and processes within the DHS and its various components that are reflective of best standards in private industry and efficient management, would the entire Department of Homeland Security not run more efficiently?

Mr. BERTEAU. It would entirely cost you less. That false dichotomy that I laid out between speed and security, it is also a false dichotomy between speed and cost.

Mr. HIGGINS. Thank you, sir.

Mr. PERRY. The Chair thanks the witnesses for their really valuable testimony and the Members for their questions. Members may have some additional questions for the witnesses and we will ask the witnesses to respond to these in writing.

Pursuant to Committee Rule VII(D), the hearing record will remain open for 10 days. Without objection, the subcommittee stands adjourned.

[Whereupon, at 3:30 p.m., the subcommittee was adjourned.]