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DEPARTMENT OF HOMELAND SECURITY'S BUDGET SUBMISSION FOR FISCAL YEAR 2006

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

MARCH 9, 2005

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DEPARTMENT OF HOMELAND SECURITY'S BUDGET SUBMISSION FOR FISCAL YEAR 2006

WEDNESDAY, MARCH 9, 2005

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Lieberman, Warner, Lautenberg, Pryor, Coleman, Levin, Dayton, and Carper.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order. Good morning.

The Committee faces a dilemma today. We have four stacked votes at 11:30, and our witness, Secretary Chertoff, has to leave around 1 o'clock. For that reason, I am going to greatly abbreviate my opening remarks, and I hope that my colleague from Connecticut will greatly abbreviate his opening remarks as well, so that we can get as many questions in as possible before we have to adjourn for the votes.

Today the Committee will review the Department of Homeland Security's budget submission for fiscal year 2006, and it is a great pleasure to welcome Secretary Chertoff to his first official appearance before the Committee since his confirmation. We hope that this budget hearing will not be so arduous that you now regret your decision, for which we all praised you, to give up your prestigious lifetime appointment as a Federal judge.

The Administration's proposed Homeland Security budget of $41.1 billion represents a 7-percent increase and recognizes that we have yet to address a great many homeland security threats and vulnerabilities. I applaud many of the initiatives targeted for increased spending in this budget, such as directing more resources to develop and deploy technology that can detect chemical, biological, and nuclear weapons, and to enhance the Immigration and Customs Enforcement Bureau.

In addition, I am pleased that the budget proposes to bring together the various screening activities within the Department under a new Office of Screening Coordination and Operations. It would also consolidate research, development, testing, and evaluation activities of the Science and Technology Directorate. Again, I think all of these are proposals that will increase efficiency, elimi-

nate duplication of effort, and help to promote integration and unity within the Department.

At the same time, however, I find several provisions to be very troubling. The proposed cut of more than 30 percent in State homeland security grant programs in addition to the proposed cuts in other programs for first responders short-change those on the front lines in the war on terrorism. The attacks of September 11 were directed against two great centers of our Nation's financial and military power. But we all know that the enemy we face is nothing if not opportunistic. The enemy relishes the element of surprise and, thus, will strike wherever we leave ourselves vulnerable. The September 11 terrorists planned and trained in small cities and towns throughout the Nation. Two of the hijackers, including the ring leader, departed for their journey of death and destruction from Portland, Maine. Terrorist cells and financing operations have been uncovered in smaller communities. From farms and feedlots to power plants and chemical facilities, the entire length and breadth of our Nation offers targets of interest to the terrorists. All States must receive a fair share of funding, and that funding must be delivered in a way that will allow States to apply it with the flexibility that local circumstances require. At the same time, we all recognize that certain areas in this country are at greater risk, and they do deserve additional funding. But as I have said many times, you cannot simply look at population and population density and equate them with risk and threat. Last month, Senators Carper, Lieberman, Coleman, and several other Members of this Committee, and I reintroduced the Homeland Security Grant Enhancement Act, which in my view provides a flexible and fair formula.

I am also concerned that the budget eliminates the technology transfer grant program. It gets needed anti-terrorism and homeland security technology into the hands of law enforcement and first responders quickly and efficiently, and I believe it should be restored.

I remain concerned about the underfunding of our port security. Incidents of human smuggling aboard cargo containers are becoming increasingly commonplace, and the interdictions that result more from chance than from any coherent policy are cause for concern. The lack of a separate line item in this budget for port security grants does not reflect the importance of international trade to our economy and the vulnerability of these ports. In addition, the Coast Guard is one of our best defenses, yet the deep water modernization program remains underfunded.

I realize that this budget does not necessarily reflect the Secretary's personal views and priorities as it was constructed prior to his nomination. I hope, therefore, that the Secretary will listen carefully to the concerns raised today as he presents what I am sure will be a vigorous defense of a budget that he inherited rather than drew up.

Senator Lieberman.

Senator LIEBERMAN. Nicely done, Madam Chairman. [Laughter.]

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thank you very much. It is an honor and a pleasure to address you, Mr. Chertoff, for the first time as Mr. Secretary and to welcome you here in that capacity.

Not long ago, Porter Goss, the Director of the CIA, told the Senate Intelligence Committee that, "It may only be a matter of time," before terrorists try to attack us with weapons of mass destruction. And I know that he meant here at home.

At the same hearing, FBI Director Bob Mueller warned of possible terrorist operations now under way within our borders and said finding such terrorists is "one of the most difficult challenges" his organization faces.

Protecting Americans from these potential terrorist attacks is your responsibility and ours as we share it with you, and it cannot be done on the cheap. Yet in its fiscal year 2006 budget proposal for the Department of Homeland Security, the Administration, in my opinion, has underestimated what it will take to keep our citizens as safe as possible here at home. There are increases, but they are modest: Only a 3- to 4-percent increase in DHS discretionary spending after inflation, and even that increase largely depends on the adoption by Congress of a controversial airline ticket fee. And that adoption, frankly, may or may not occur.

More important, the increases pale by comparison to what experts have told our Committee is necessary. And some key homeland security funding that was authorized by the Intelligence Reform and Terrorist Prevention Act, the so-called 9/11 legislation, signed into law by the President last November, has simply been ignored.

That, I am afraid, leaves us with too many gaps in our defenses, gaps that range from the inability of first responders to communicate between their own agencies and jurisdictions, to a lack of preparedness for a biological attack, to inadequately defended train, railway, and highway transportation networks.

So what do I think needs to be done? I have done some work with my staff on this, and the result is a letter that I have submitted to the Senate Budget Committee, whose contents I have shared with your office. In that letter I have proposed $8.4 billion in increases in the budget for homeland security governmentwide. Of that amount, $6.3 billion would be for programs within the Department of Homeland Security, and that is over and above the President's proposed $2.5 billion increase. I know that is a significant amount of money in a time of budget pressure, though it remains a relatively small, an extremely small percentage of the $2.57 trillion overall Federal budget. That is an $8.4 billion add-on to a $2.57 trillion budget.

About half of the increase that I am proposing in the DHS budget would go for training, equipment, and support for first responders because, as you know, and I believe you agree—I am confident you agree—these first responders are not only that; they are hundreds of thousands of first preventers against a terrorist attack all around the country.

A significant portion of what I am recommending here would be invested in interoperable communications equipment to allow first responders from different agencies and different jurisdictions to

speak to one another during a crisis, which we know they were not able to do on September 11. I frankly do not understand why the Administration is seeking to cut first responder programs by $565 million in your Department and a truly jarring $1.7 billion governmentwide, which is to say that includes programs recommended for cuts particularly in the Justice Department, the COPS program, the Byrne grant program.

Homeland security expert Steve Flynn, as you know, a former Coast Guard commandant, describes our predicament in his recent book, "American the Vulnerable—How Our Government is Failing to Protect Us From Terrorism." He says, and I quote briefly, "Homeland security has entered our post–9/11 lexicon, but homeland insecurity remains the abiding reality. With the exception of airports, much of what is critical in our way of life remains unprotected."

Mr. Flynn further points out that homeland security spending is still very small compared to the overall Pentagon budget. Now, as a member of the Armed Services Committee, as all three of us here at this moment are, I am a strong supporter of the Pentagon budget. Mr. Flynn says that that discrepancy suggests that the Federal Government continues to believe that our primary terrorist threat will be found outside our borders. We know that the threat from terrorism is both outside our borders and, self-evidently and in some senses most menacingly, within our borders.

So I think we have to listen to the security experts who tell us that this terrorist threat is one we unfortunately must live with and defend against at home and abroad for the indefinite future. And we must listen to the experts who say we should match the threat at home and abroad with the resources necessary to vanquish it.

Mr. Secretary, I note you are already hard at work examining the operations of your Department and the resources available to it. I look forward to hearing from you this morning about how together we can close our country's continuing insecurity gap.

Thank you very much.

Chairman COLLINS. Thank you, Senator Lieberman.

My plan was to turn to our witness for a statement, but the distinguished Chairman of the Armed Services Committee and a Member of this Committee has joined us. Senator Warner, if you want to make some brief comments, feel free.

OPENING STATEMENT OF SENATOR WARNER

Senator WARNER. Thank you very much, Madam Chairman, and our distinguished Ranking Member, Senator Lieberman.

Judge, the honeymoon is over, as you can hear from the opening statements. But I would like to inquire as to what time the Chairman might consider having the Committee vote on the nomination of Mr. Jackson. I would like to be present. We do have three stacked votes. It could be off the floor.

Chairman COLLINS. We will probably end up doing that off the floor. If, however, a quorum appears prior to our going to the floor for the stacked votes, we will do it at that time.

Senator WARNER. Thank you.

Chairman COLLINS. Thank you. Senator Lautenberg, we are going to dispense with opening statements because of the stacked votes, but I want to make sure everybody gets a chance to question, so I just wanted to explain that is why——

Senator LAUTENBERG. Thank you. I would not think, Madam Chairman, that it was discriminatory, and I appreciate the message.

Chairman COLLINS. Thank you. Secretary Chertoff, you may proceed.

TESTIMONY OF HON. MICHAEL CHERTOFF,[1] SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Secretary CHERTOFF. Thank you, Senator Collins, Senator Lieberman, and Members of the Committee. I will also cut my statement even further in the interest of saving time.

I am pleased to be back in front of this Committee as Secretary of Homeland Security. I appreciate your support through the confirmation process, and I look forward to working with you in the months and years to come.

I thought I would simply make two points in my opening statement. One is to indicate that I have initiated a comprehensive review of the Department to better understand what is working and what is not. This is going to involve evaluating every element of our working mission and making sure that the organization of the Department and its operations conform with the threat, not vice versa; that we do not look at the threat in terms of our existing stovepipes.

Our philosophy, our decisionmaking, and our operational activities have to be grounded in risk management as we determine how to best prevent, respond, and recover, if necessary, from attacks. So we have to analyze the threats and our mission and then adapt the organization and our operations and policies to meet those threats and carry out that mission, not vice versa.

Now, a second point I would make, as you said, Madam Chairwoman, is that the President has affirmed again his staunch commitment to the Department with an increase of 7 percent in the 2006 budget over the prior year of $41.1 billion in resources. There are in this budget some critical structural changes: The establishment of a screening coordination office and a domestic nuclear detection office. And we are going to continue to work to protect our borders, strengthen law enforcement, leverage technology, improve preparedness and response, and streamline a 21st Century Department. At the same time, we will continue to recognize the Department's historical functions, including responding to natural disasters, securing our coasts, and providing immigration services and enforcement, as we have traditionally done.

This Committee has supported and taken a very deep interest in the Department, and I welcome that. I look forward to the opportunity in the coming months to engage with Members of this Committee as we refine our ideas and our recommendations about how to best achieve homeland security. Our shared goal is an America

[1] The prepared statement of Secretary Chertoff appears in the Appendix on page 33.

that is safe and secure and also true to our fundamental values and civil liberties.

Thank you, and I look forward to answering questions.

Chairman COLLINS. Thank you very much, Mr. Secretary. We appreciate your abbreviating your statement so that we can get right to questions.

I want to follow up on the comments I made and that Senator Lieberman made as well in our opening statements about the funding for the homeland security grant programs. Former Secretary Ridge often correctly said that homeland security begins with hometown security. When disaster strikes, our citizens do not call the Washington, DC, area code. They dial 911. And it is our police officers, our firefighters, and our emergency medical personnel who are always first on the scene. They truly are the front lines in the war against terrorism.

States and communities have made progress over the past few years in improving their preparedness, but they still have enormous needs. For example, the lack of compatible communications equipment, which was cited by the 9/11 Commission, remains a major problem, and it is one that the Ranking Member and I have introduced legislation to try to address. And it is a very costly problem to solve.

Yet the Administration's budget would cut and reshape the basic grant programs such that smaller States could see as much as an 80-percent decrease in the amount of baseline funding that they could count on. That is not just a small drop. That is a leap off the cliff.

I am very concerned that those proposed reductions also come at a time when the Department is about to issue preparedness standards for States that are pursuant to Homeland Security Presidential Directive No. 8. And the purpose of this directive, is "to strengthen preparedness capabilities in Federal, State, and local entities, and to help the entities meet new domestic all-hazards preparedness goals."

How can you expect States and localities to meet these new preparedness standards to solve the problem of the interoperability of communications equipment and to continue their progress with a budget that proposes to drastically slash the baseline funding that States and communities can count on?

Secretary CHERTOFF. Senator, I think there are a number of principles that we want to observe in our handling of funding, which I think are things I alluded to when I was testifying here last time. We need to be risk-based, and that means looking at threats, consequences, and vulnerabilities. And those characteristics do not necessarily arise in large or small States per se. They depend on a whole host of characteristics: The nature of the infrastructure we are worried about, the exposure and proximity to borders, historical information from intelligence about what kinds of areas are targets.

I think, in general, the budget drives increasingly towards a model of funding and grant-making and deployment of resources that is focused on this overall strategic analysis under these three heads.

I think, therefore, it is kind of hard on an abstract level to say that certain States are going to do better or certain States are going to do worse because frankly the issue is not where State lines are drawn. The issue is where are the vulnerabilities and what are the consequences. If there is a power plant, for example, that serves a number of States and it is located in a small State, that may very well require some funding and some support because there is a major consequence if something happens, and there may be major vulnerabilities.

Obviously, therefore, we have to be the most effective we can in terms of deploying what are necessarily finite resources. One thing we want to encourage in the grant-making process is shared services, and I think we have already built this in, and I want to continue to move forward on this.

The fact of the matter is not every community, for example, needs to have one hazmat suit. That does not do anybody any good. What is useful is when communities in a particular area can pool their operations so that they can centralize a response team, and then we could give hazmat suits to that team that might be located in one community, it might be done through a county, and then get service over an entire area.

So what we are looking for is trying to maximize the way we use resources to get the most effective deployment and, again, to always be focused on where are the greatest potential negative consequences, where are we most vulnerable, and where are the threats.

Chairman COLLINS. Well, I would say to you that the problem, however, with reducing the small–State minimum by such a dramatic amount is that States cannot count on a certain level of funding other than one that is dramatically below what they now receive. Instead, there is going to be what appears at this point to be a very ill-defined process for sorting out risk and threat vulnerabilities. And I agree that we certainly need to focus more of the funding, but I think that, to so dramatically reduce the small–State minimum, all you are going to do is create new vulnerabilities.

This Committee last year had a hearing on agroterrorism, an issue that has not gotten much attention, but which Secretary Tommy Thompson cited as he was departing his post. We cannot assume that the threat is concentrated just in large urban areas, and we have to assume that the terrorists are smart enough to figure out where we are not putting the resources.

So I think we need to proceed very carefully, particularly as the Department is imposing new preparedness standards that every State, regardless of its size or population, will be required to meet.

Secretary CHERTOFF. I completely agree with that, and I think that the example you give is actually a really good one. It might turn out, based on food distribution, for example, that there are risks in a particular State, perhaps a small State, that happens to be the place where there is food distribution that covers a wide area. And for that reason, that State could benefit under our risk analysis approach because we would identify the consequence of something happening, the vulnerability, and the threat. And that is why I quite agree we need to move away from a population-driv-

en or size-of-state-driven model to one which really focuses on what I think there is general agreement, which is that we ought to be focused on risk. And the winners and losers there will depend on what the facts are and not on what some predetermined, cookie-cutter formula tells us.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks again, Madam Chairman.

Secretary Chertoff, in the past this Administration has been reluctant to recommend and allocate funds for rail and transit security. Indeed, in last year's budget, fiscal year 2005, in the budget proposal, there were no dedicated grant programs for non-aviation security. Congress in a bipartisan way rose up and adopted $150 million in rail and transit security grants.

In this budget, the Administration has essentially taken that $150 million and put it together with a series of other grant programs in the so-called TIP, Targeted Infrastructure Protection program, which it will be your responsibility to allocate. But all that will have to go not only for rail and non-aviation transit, but for things like port security grants.

So I feel point-blank that we are not giving enough—we are not investing enough in the security of non-aviation modes of transportation—and I particularly say it after the Madrid train bombings and other indications that we have that terrorists may be tempted to strike at non-aviation transportation, particularly rail, here in the United States.

So I want to ask you: As you come in, what is your philosophy about the Federal Government's role in ensuring rail and transit security and what do you hope the Department's action will be in that regard?

Secretary CHERTOFF. I appreciate the opportunity to talk about that, Senator. Let me first begin by harking back to my statement about doing this comprehensive review because part of my philosophy going into this is that we have various components that are focused on types of threats, we have various funding programs, but I want to step back and look at not where we have the money now and where we have the jurisdictional lines now, but first, where are the actual threats and where are the actual consequences and vulnerabilities.

Clearly, transportation of a non-aviation kind is historically an area that has been subject to threat and is one which plays a very important role in our national infrastructure. So I want to analyze across the board, without regard to what particular box we are talking about, how we deal with the whole gamut of threats. Some of these issues involve how we deal with cargo, for example, that may be currently handled under CBP. Some of them deal with fixed infrastructure. Some of them may deal with rolling stock. Some of them are private-party issues.

Once we look at that, I think we have a strategy we can put on top of that as an overlay the way we are currently organized, and that is one of the reasons I feel that in the next 60 to 90 days as we do this evaluation, we may get a better idea of things we could do to align our structure and our operations with these missions, such as, for example, non-aviation security.

Every type of transportation presents its own issues. Cars and trucks, for example, are essentially heavily operated by the private sector, and so private sector involvement is very important there. We are doing things with respect to rail where we have pilot programs with respect to explosives. We have other kinds of enhancements. And there we have obviously much more government involvement, including, frankly, State and local government.

So I would like to be able to say at the end of this process that we are headed in a direction of, again, increasing the way we deploy our resources and our money in an analytically sound and transparent way so that I can come to you at some point and say, "look, we are doing this because we have the following intelligence and we have made the following evaluations, and we are being consistent and complementary across the board."

Senator LIEBERMAN. I appreciate that. I urge you to do it. I am sure you will do it, anyway, approach that view with the sense of urgency that the reality of the threat justifies. And I urge that we work together on this Committee with you on it.

I want to just pick up and mention, in a related matter to the topic that the Chairman was talking about, the Urban Area Security Initiative, a really important program. And what troubles me, as I have said to you privately, is that the Department now administers the program in such a way that there is a threshold of population of 225,000 in a city before it can qualify for funding under this program. And that just does not make sense to me because there are some—this is slightly different from what the Chairman was saying—there are clearly some smaller cities in which there are real targets for terrorism. And I urge you to review that requirement and basically make a threat assessment free of an arbitrary threshold.

I welcome any comment. If not, I am happy to go on and——

Secretary CHERTOFF. I will certainly look at that issue. I think it is important.

Senator LIEBERMAN. Good. Finally, the 9/11 bill did include, as I mentioned in my opening statement, a number of authorizations which at this point the President's budget does not respond to. And some of them are really quite critical, and I hope are now coming in. I understand the turnaround time between budget preparation and submission and the 9/11 legislation adoption was not long. But these go to equipment that is necessary for transportation security, and the one I want to ask you about, finally, is border security.

The 9/11 legislation authorized 2,000 new Border Patrol agents. The Administration's budget would fund about 200 positions, which I understand to be replacement for agents that were deployed from the Southern border to the Northern border in response to congressional mandates to increase Northern border protection. In my own letter to the Budget Committee, which I referred to earlier, I recommended an increase in funding to allow for a thousand new Border Patrol agents because the best evidence I had was that it would be impossible to really find, train, and hire more than that number in this year.

Would you support an effort to increase funding for the Border Patrol agents that we have working for us in that critical function, antiterrorism function?

Secretary CHERTOFF. Well, of course, protection of the border is critical, and it has to be part of a comprehensive strategy. As you know, the President has advanced the idea of a temporary worker program, and I think that fits well with the enforcement notion, the idea being that by reducing pressure on the border from those who really do not want to do us any harm, we then can deploy our resources more effectively against those who do.

As I understand it, this 210 additional Border Patrol slots represent a net increase. In other words, it does not merely backfill, but it actually raises the bar. So it clearly moves in the direction of what Congress was interested in and what we think is appropriate.

As with anything else, as part of this general review, we want to look at what we need to do to be as robust as possible in protecting the border. That includes things we are doing technologically with unmanned aerial vehicles, our consolidation of air resources, sensors, and also, we are working, frankly, with State and local partners, as we are currently doing with our Arizona border control initiative.

So I look forward to the opportunity to work with you on this issue. I think it is very important to the Committee, it is very important to me, to make sure we are being efficient but also effective in protecting our borders.

Senator LIEBERMAN. Thank you. I do not think 210 is enough, so I hope we can raise it up beyond that. Thanks, Madam Chairman.

Chairman COLLINS. Thank you. Senator Lautenberg.

OPENING STATEMENT OF SENATOR LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chairman.

Secretary Chertoff, it is interesting to see you in a different facility where before we used to meet in the hall of our respective office building. We shared some space in the same building before Secretary Chertoff volunteered for something he, I hope, will never regret. I don't know whether the few days at the job has given you any further trepidation about the massive assignment that you have in front of you, or whether you have had a chance to get enough time with the organization, with the people who will help you run it, to feel like this assignment is something that you can deal with and make differences with and in a relatively short while.

Secretary CHERTOFF. This is a great privilege. I have been tremendously impressed by the people in the Department. I have enjoyed starting to work with Congress on this. I think this issue is one in which there is a real sense of agreement on the mission. And there are areas for honest debate and discussion about how we get the mission accomplished most effectively, which I really look forward to engaging in, and I particularly look forward to hearing from others and getting input from others, including, most importantly, this Committee on what we might do, because we are a young organization, there is an opportunity to really shape the way homeland security is dealt with in the years to come. And that is a very exciting and very important thing to do.

Senator LAUTENBERG. I want to say this in the time I have allotted here. I think that for the most part, DHS has had a good start

on this huge task. I have concerns about some of the areas of particular interest to my home State. I offer no compromise by saying our home State. I just don't want you to forget your past. But some States get their grant money that they really do not need, and others, like New Jersey, I think are on the short side of the grant.

As the Secretary knows, we have a stretch of land, a stretch of territory between the port of Newark and New York and Newark Airport designated the most dangerous 2 miles in the United States when it comes to terrorism. Despite this and other warnings, our funding from DHS was cut last year by $32 million.

The 9/11 Commission report recommended that homeland security grants should be based on risks and vulnerabilities. Senator Corzine and I have introduced a bill to implement that view. And we have our problems, Senator Lieberman discussed it, and that is, it goes far beyond the focus on aviation. We have got 120,000 New Jerseyans who use the Hudson River rail tunnels each day. And with our port situation, a recent report from the DHS Inspector General pointed out that port security funds have not been allocated on the basis of need and money has gone to other States.

So September 11, I think showed that the dependence on one principal mode of transportation leaves us vulnerable. When aviation shut down, not only was it an impediment to our resuming life or continuing life as we knew it before the September 11 tragedy, but we were very dependent on Amtrak and its ability to carry people. And I think that in the evaluation of where we stand ready to respond to terrorist attacks, I believe that we have to make sure that we have all modes of transportation, principal modes, that is, rail, highway, and obviously aviation in mind.

Mr. Secretary, did you have a chance in the production of this?

Secretary CHERTOFF. I actually think I was confirmed after the budget was issued.

Senator LAUTENBERG. OK.

Secretary CHERTOFF. But, of course, I am familiar with it now.

Senator LAUTENBERG. Well, there has been a reduction in the size of the formula grants, the guarantees, by two-thirds. They went from 0.75 to 0.25 in terms of the guarantee that each State would get.

Now, can we assume that the adjustment of the formula is something that we can get your agreement on that the risk-based view of grant-making is the proper way or the best way to do it, as recommended by the 9/11 Commission?

Secretary CHERTOFF. Yes, and I think I have said this now in a number of different places, and I am nothing, if not consistent. I do think we need to be risk-based, and we have within the Department, as we think about a whole host of issues—how we deploy our resources, how we issue grant money, how we develop standards, a strategy which, again, looks at these three pieces. What are the consequences of something happening, what is the vulnerability, and what is the threat.

I recognize that to every community there are things that are important. That does not mean that we can fully fund everything that is important to every community. We have an obligation in dealing with terror, in addressing those elements which would have the most serious consequences, as to which there are the most

vulnerabilities, and where there is an active threat. And those are going to require judgment calls.

What I would like to be able to say, though, as part of this process is that we have a transparent, an analytically sound and disciplined way of making these decisions, and be able to lay that out for the Committee. And I think that is how we get a risk-based funding formula implemented.

Senator LAUTENBERG. Because when we look at the budget proposal and we see that urban area security—I am sorry, State and local grants, Citizen Corps, other grant programs, have been reduced by $425 million in the 2006 proposal. And it is pretty hard to understand how we are going to be able to take care of the obligations that we have with that kind of a substantial reduction in funding. And I hope that between now and the time that the appropriations are finally resolved that we will hear from you, Mr. Secretary, on whether or not there ought to be adjustments made to accommodate these problems.

Now, in New Jersey we saw a decrease in homeland security funding by $32 million, overall 34 percent, city of Newark, which was listed as one of the five targeted places by some material that turned up. And the city of Newark saw its homeland security funding cut by 17 percent; Jersey City, right on the Hudson River, a highly vulnerable place, transportation center, a lot of high-risk buildings, cut by 60 percent. And I know that you are aware of the fact that these are high-risk areas. We are still in reverberation from the days of September 11.

So I don't know whether you are prepared to say now that there would likely be an increase in those places or whether we can expect to have to get by on the skinny, if I can use the word, without having the appropriate funding for the protections we need.

Secretary CHERTOFF. Let me just say I think that, as part of the process of review I want to undertake, we are going to look at the criteria that was used in making grants, which take account of a number of characteristics. Sometimes we may need to refine the characteristics so we get a better sense of what we ought to give more weight to or less weight to. Sometimes, frankly, circumstances change. You can get differences in vulnerability or you can get differences in threat environment.

And so it does not surprise me and it will not surprise me in the future if we wind up seeing that funding levels of particular localities do not remain static. Sometimes they may go up, sometimes they may go down.

Again, what I would like to do is be able to be confident and be able to demonstrate that we have a formula that is risk-based, that is transparent, that is analytically sound, and that is disciplined. Then I think that tool will get us close to where we need to be in terms of implementing this philosophy.

Senator LAUTENBERG. Madam Chairman, I will close with a question that has come up in the last couple of days that I have been very involved with, and that is permitting gun permits to be issued to those who are on the terror watchlist.

Now, we permit that, even though we would not permit those individuals to get on an airplane if we knew who they were at the moment of their boarding. And I don't know how much jurisdiction

Homeland Security is going to have in this area, but I did ask your predecessor, Tom Ridge, when he was here whether he thought that was a necessary thing to permit. And he said he didn't think so. And we had comments from Mr. Mueller yesterday about how questionable he saw this program. They destroy the records of either a purchase or a decline within 24 hours—by mandate destroy those records.

Mr. Secretary, you are not only there to prevent a terrorist act from happening, but also to enforce the law in terms of having an information source that can help other agencies to do their jobs in apprehending these people if, heaven forbid, something does happen. So I hope that you will have a chance to look at that, and perhaps we will get a chance to discuss it in the near future.

Thank you, Madam Chairman.

Chairman COLLINS. I saved you from answering that question, I want you to know, Mr. Secretary. [Laughter.]

Senator Pryor.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Thank you, Madam Chairman.

Thank you, Secretary Chertoff, for being here, and let me just say that I know you have a big job on your hands, and I appreciate the complexity of it and the difficulty of it. But also at the same time, let me say that I have looked through your budget, and as we understand the budget this year compared to last year, from the fiscal year 2005 to the fiscal year 2006 budget, if we run the numbers as we understand them to be, last year Arkansas, my State, got about $21.4 million. This year it looks like we stand to get about $5.4 million. In other words, we are taking a $16 million hit under this budget. You are cutting the resources to our State back by about 75 percent, and it makes it very difficult for me to support your budget when Arkansas is going to suffer such a drastic cut. I just want you to know that.

I guess the way I look at it is in order for America to be safe, all of America has to be safe. And $21.4 million for a State with our geography and our population is not a lot of money. It is not like we are gold-plating what we have down there. We have some critical needs, and I know that some of the smaller States like Maine and Connecticut and others would say the same thing. There are a lot of needs out there, and if we are not strong across the Union, I am just concerned whether the Union can be safe.

So do you have any comments on a State like Arkansas taking a $16 million, about a 75-percent cut in homeland security dollars?

Secretary CHERTOFF. I am happy to address that, Senator, because I think it is consistent with what I have been trying to take as a uniform position, which is that we operate as closely as possible to a risk-based analytical approach to everything that we do—funding, operations, etc.

Senator PRYOR. Well, I don't want to cut you off, but I understand the risk-based. I understand what you are saying. But don't we need to prepare ourselves for the next risk, not the last risk?

Secretary CHERTOFF. Absolutely. That is absolutely right.

Senator PRYOR. And aren't we assuming that because these happened in urban areas before, it is going to happen in urban areas again?

Secretary CHERTOFF. I agree with you, we should not assume that. And I think the approach to developing risk is not based on simply looking at what happened last time. In fact, I could not be in more agreement with you that it would be a huge mistake for us to spend all our time fighting the last war and not thinking about the next one.

So what do I mean by risk-based? I mean that we look at vulnerability and we look at consequence, which is not necessarily related to a State. A particular State may have, for example, a kind of infrastructure, the consequences of an attack on which would be catastrophic. In that case, we ought to put the money to do what we have to do to protect the vulnerability there and to do what we have to do to avoid the threat. So that although the budget proposal may reduce the amount of guaranteed state-by-state funding, it does not necessarily tell you how a particular State or locality is going to do because if a locality or State has a real high risk, they are going to get the money to address the risk.

So what we do want to do is move away from the assumption that risk is divided along State jurisdictional lines. The terrorists don't look at State jurisdiction. We need to look at where the infrastructure is, where the threat is, and where the most serious consequences and vulnerabilities are.

Senator PRYOR. I understand in your formula there is a 0.25 percent minimum. Am I understanding that right?

Secretary CHERTOFF. Right.

Senator PRYOR. Talk to us about that minimum and how that—I mean, is that a guarantee?

Secretary CHERTOFF. Well, my understanding of the way the budget sets it forth is every State would get its funding under this particular State homeland security program based on the characteristics I have discussed.

If a particular State falls below that 0.25 percent using that analysis, they would be raised up to the 0.25 percent minimum. If a particular State exceeded that because on the merits the risk is there, then, of course, the State would get the amount that the merits warrant.

Senator PRYOR. Well, you are saying the 0.25 is a guarantee.

Secretary CHERTOFF. You would get a minimum of 0.25, but, of course, on the merits, if more were warranted, more would be distributed.

Senator PRYOR. Right. I understand that. But that is the floor.

Secretary CHERTOFF. That is the proposal, yes.

Senator PRYOR. I have a concern about that because I have had constituents who have spent their lives and dedicated themselves to homeland security in Arkansas, and they are starting to hear rumors through DHS that the State cannot count on that minimum. I would like for you to comment on those rumors.

Secretary CHERTOFF. Senator, rumors are tough to comment on. I think the proposal is clear that the President's budget contemplates under this particular program, the State homeland security grants, that there be a 0.25 percent minimum, as I have de-

fined it. Rumors abound and I just can't—I have no way of addressing them.

Senator PRYOR. OK. Madam Chairman, thank you, and I would like to say for the record I do concur with Senator Lieberman's letter of February 28, on this subject matter and others, and thank you for your time on this.

Chairman COLLINS. Thank you. Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you very much, Madam Chairman.

Secretary Chertoff, a great pleasure to have you before us, and we are thrilled that you are doing what you are doing, and hopefully we will move quickly to get you some other folks by your side. We had a good hearing with Under Secretary Jackson the other day, and I know the Chairman and the Ranking Member are moving quickly on that.

I had a chance a couple weeks ago to inspect the Port of L.A. and Long Beach Harbor. I think 46 percent of our Nation's container traffic goes through those particular ports. One of the issues of great concern that I have seen some studies on has to do with the threat of nuclear detonation, and the impact that would have in a port area. I think Booz Allen's study found the economic impact of a terrorist attack at $58 billion, spoilage loss, etc.

I understand we have not deployed radiation portal monitors at our Nation's largest ports. Can you talk about that issue?

Secretary CHERTOFF. My understanding is that there are 400 portal monitors now deployed at various ports of entry, including obviously seaports. I hesitate to comment publicly as to whether a particular port has a monitor, but the plan is to have these monitors deployed—I think the balance of the monitors deployed this year.

But I also want to put it in a larger context. I think the President agrees and we agree that the issue of a potential nuclear or radiological device is a very serious issue we must be concerned about. That is why the budget contemplates this Domestic Nuclear Detection Office (DNDO), this nuclear office that would coordinate across the board and essentially almost create a mini–Manhattan Project to move to the next level technologically. And even as we speak, in addition to deploying the portals that we now have, we are dedicating money to doing the research necessary to get to the next generation of portals that will be more sophisticated and more adept at detecting this material.

Senator COLEMAN. And then I believe there is $125 million in the budget for radiation portal monitors.

Secretary CHERTOFF. Yes.

Senator COLEMAN. So it is there. In terms of what you can tell us about the process for utilizing these dollars, is there a sort of focus on high risk? Can you give me a little better sense of how you use this $125 million?

Secretary CHERTOFF. Well, as I say, we want to complete the deployment of the existing technology as we wait, because obviously we do not want to wait until we get new devices. We are heavily focused, first of all, on getting a technology that will be as effective as possible in detecting this material. And, again, because we are

in a public session, I do not want to get too detailed about what some of the challenges are.

Once we get that technology, then I think part of the responsibility of this office will be to deploy it, and that, again, I think needs to be, as with everything else, based on risk and vulnerability and consequence.

So presumably, once we get that technology, we will roll it out in a way that best meets that analytical test.

Senator COLEMAN. Just following up on the Domestic Nuclear Detection Office—and I appreciate the increased focus—can you help me understand the role of this? Will this supplant CBP as the primary agency involved in deployment of nuclear detection weapons? Is it going to be an advisory role? How is it going to function with the existing entities?

Secretary CHERTOFF. The theory is that this is a matter of great importance that requires an interagency approach, so it will be an interagency office. It will report to the Secretary, which I think is indicative of the priority that we place on this, although it will be tied very closely to the existing research we do at the Science and Technology Directorate. And the idea is not to supplant CBP because CBP is ultimately the operational—or part of the operational element that will make use of this technology. And so CBP will be involved in the process.

But what the office will do is not merely advise; it will actually take ownership of the process of identifying, acquiring, evaluating the technology, and then rolling it out and deploying it, although obviously the actual use of the technology will be done in the field by CBP officers.

Senator COLEMAN. Let me, if I can, get perhaps a little parochial, but not really. Minnesota is the home of Northwest Airlines. They, like many of the other legacy carriers, are in a very difficult financial situation for a whole range of reasons. But in the President's proposal, it proposes to increase, to double the airline security fees for passengers traveling on airlines. The airlines say if this cost is transferred back to them, it is going to have a devastating impact on an industry that is already in great difficulty.

The airlines—and I raised this issue with Under Secretary Jackson, and I am not proposing we tax train passengers, I am not proposing that we do other taxes on a range of others. I am just concerned about the equity on airline travel, airline passengers, and ultimately on airlines, but it is going to be shifted over to the passengers, this continued increase in fee. I believe passengers ought to pay $2.50 per flight segment and a maximum of $10 on a round trip. I think it is proposed to be doubled, a segment fee to $5.50 and a round trip fee at $16.

Can you respond to some of the concerns that have been raised?

Secretary CHERTOFF. I would be delighted to. My understanding, Senator, is that, of course, when the original legislation establishing TSA was passed, it was contemplated that eventually it would be largely, if not entirely funded through a user fee. And I think that makes sense because what it does is it matches up the payment of the cost of this fairly extraordinary set of security measures with the beneficiaries. The reality is, speaking as someone who has flown a lot, as everybody else has, I care a lot about

security, and I think everybody else does. And to the extent that we pay for things that we care about, I think passengers would understand the need to pay a small amount of money to guarantee their security so they get where they are going.

I would point out the amount of money we are talking about, I think if you take it on a one-way ticket, the maximum is raised from $5 to $8, a $3 difference, which basically, as I recall it, is about the price of a Coke and a newspaper at an airport when you are waiting around. So it is not a huge marginal cost.

What we should do, and I think it is part of the general philosophy, is we should pay just enough to get us the security we need—in this case, for the airline passenger—not more than we need, because that is wasteful, but not less. We should be able to fund what we do for security.

So I think this is an economically sound idea. I think it will ultimately be something passengers, I would think, would fully understand. And to the extent there are issues with respect to the precise details, of course, I would look forward to working with industry on that.

Senator COLEMAN. I anticipate that some Members of this body will have a differing perspective, and I being one of them.

Secretary CHERTOFF. I expect that. I look forward to discussing that. I think it is something worth talking about.

Senator COLEMAN. Thank you, Mr. Secretary.

Chairman COLLINS. Thank you. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you, Madam Chairman. Welcome, Mr. Secretary.

Secretary CHERTOFF. Thank you, Senator.

Senator LEVIN. I applaud, first of all, your moving towards a more risk-based grant program. I think it is the only way to go, providing that the grants are determined on a rational basis, and you have laid out the criteria for that rational basis. The 9/11 Commission recommended that funding of these grants be allocated on risk, stating that "Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities."

You have moved towards a greater reliance in your budget proposal on that assessment, although you are not strictly on that basis because you still have a minimum 0.25 guarantee. But at least you are moving in that direction, and I commend you for that.

My concern is what happens once you get there as to just how rational your system is in terms of allocation. And I look at your buffer zone protection program, and I look at the allocations made to States that are supposed to be made on risk. That program is supposed to be a risk-based allocation program. But when I look at the amount of money that various States are getting, it does not seem at all rational to me.

For instance, Arizona on buffer zone protection, which, again, is risk-based, gets six times what Hawaii gets. Does that mean that there are more infrastructures, more facilities in Arizona that are subject to attack, more critical infrastructure sites, six times as many in Arizona as Hawaii; Tennessee, 2.5 times Massachusetts; Kentucky more than Michigan.

Can you describe the basis for your buffer zone protection allocations?

Secretary CHERTOFF. I think the rollout of the grant-making process is going on as we speak. I don't know that I can explain how a particular State is scored relative to another because I think, again, the way I understand this should work is it is based on the three characteristics I have described: Consequence, vulnerability, and threat. And that is not something which necessarily is driven by where State lines are drawn.

Let me step back and put it in perspective, first by saying that since September 11, including the 2006 budget, there will have been a total of $17 billion in grants. So there is a lot of money that has been given out there and a lot that is going to be given.

As part of what I have described as my desire to kind of comprehensively review the Department, I want to look at the grant-making process and see if we have as disciplined and as defensible a process for scoring as possible. And it may very well be that there are things we have done historically in terms of scoring things that need to be corrected. Sometimes we get that through feedback; sometimes we get it through looking analytically on our own.

So without specifically being able to tell you as we speak why a particular State in a particular grant got more money than another, I can tell you that the objective and the philosophy, which I think is shared across the Administration, is to have a program that is disciplined in the way I have described.

Senator LEVIN. Well, I agree with the philosophy, but the implementation of that philosophy is critical, or else it is just going to cast a pall on the whole premise.

Secretary CHERTOFF. I agree with that.

Senator LEVIN. And I want to move to a risk-based system, but we have all got to be persuaded that it is a rational risk-based system. And when you look at these States, at least roughly—and I obviously am most familiar with Michigan—it is not a rational allocation from anything that I can see. So as you go through this process, I would like to work with you and your staff on exactly how those criteria are applied. Is that fair enough?

Secretary CHERTOFF. I think it is fair, and I think once I am through this process and my understanding is more detailed, I anticipate and I will insist upon having a formula that will be, I think, transparent and reasonable.

Senator LEVIN. All right. I thank you for that.

The Department of Homeland Security intended to open up five Northern border air wing locations, but has apparently opened up none of the additional ones that were stated to be necessary. Can you give us the status of those Northern border air wing additional bases?

Secretary CHERTOFF. I believe, Senator, you are correct that two were opened up. I know one is in New York. I think the other one may be in Washington or further out West.

I think the plan is to open an additional one each year to get up to the five, and so we are under way with that.

Senator LEVIN. Is that still the plan?

Secretary CHERTOFF. Yes.

Senator LEVIN. Thank you. We have a lot of issues on the Northern border. We have a very inadequate Border Patrol, and we have made huge efforts here to have folks realize that we have got a much longer Northern border than we do a Southern border. There were supposed to be staff increases in the Border Patrol. There were also supposed to be an assurance that at least 20 percent of the additional Border Patrol agents would be assigned to the Northern border, and, again, we have a far longer border and we have got major issues along that border.

Is that staffing, that additional staffing, going to reflect that minimum 20 percent for the Northern border?

Secretary CHERTOFF. I think what happened is it was the Patriot Act that required the movement up to the Northern border. That was accomplished, and I think the 210 Border Patrol agents that will be coming on will essentially be assigned where needed most. I cannot tell you whether that will result in a third based on the original number or a third as you rack it up against the total number that is enhanced. Given the threat on the Northern border, I suspect any significant increase will be beneficial.

Senator LEVIN. Thank you. My time is up.

Chairman COLLINS. Thank you. Senator Dayton.

OPENING STATEMENT OF SENATOR DAYTON

Senator DAYTON. Thank you, Madam Chairman.

Mr. Secretary, I just finished a meeting in my office and I turned on the television and saw Senator Lautenberg trying to hijack money from Minnesota, so I had to rush over here. And I am glad that Senator Coleman is here, too.

Some of these words—and I respect you are just getting started in this. I am not questioning your sincerity at all, but "transparency" and "rationality" and the like—they sound good in generalities. But when they are applied, at least what happened in Minnesota this last time where you got eastern metro counties being eliminated entirely and western metro counties being cut back significantly, it does not appear rational.

It may be transparent in retrospect that we could look back and see that there was a process involved, but there was no forewarning, and with such a drastic reversal of what has been the message from the Administration, from Congress, to local governments, first responders, take these initiatives, do all this, take all these steps, often at their expense, put hundreds and thousands of hours in preparedness, and then someone is going to turn around and say, well, we have done the risk assessment and you get no money. Someone from your Department needs to tell the local officials why it is that they do not need to be concerned anymore and why it is that for the last 3 years they have been told that they should be mounting all these initiatives and making all this effort, and then somebody has decided, for whatever reason, that if they are being eliminated from funding that there is no risk to them whatsoever and justify that.

That is the real nitty-gritty of this. And what I don't see in this budget here, I can look at the general numbers here about the Urban Area Security Initiative, a $135 million increase over the requested funding for 2005, but a $180 million decrease from the ac-

tual appropriation, the FIRE Act grants equal to last year's request, but $250 million less than 2005 appropriated funding.

If I look at these aggregate numbers, it says to me that when this gets translated into whatever rational and transparent process, it is still going to come out with less or no money for certain areas. And then the statement from the Administration is that there are no risks there. If that is not an accurate reflection of the view, then there is not enough money in here in order to fund all these projects in areas that may not be as high risk as New Jersey or other areas, but where there is still risk and where they need to be continuing these first-responder kinds of preparations, training, and the like.

So I need to know, before I can decide whether to support the budget or not, how these aggregate numbers are going to translate through your process into those decisions.

Secretary CHERTOFF. I agree, first of all, that we ought to make sure we are always communicating with our State and local partners about these issues. I don't like to hear unpleasant surprises suddenly, and I think very few people do. And I think we need to commit ourselves, and as I have indicated, I have instructed people that I want to make sure we do not have this happen in the future.

Senator DAYTON. Even if they are not surprised, I don't want them to be eliminated.

Secretary CHERTOFF. Well, on the larger question, what we need to do is to—there is risk everywhere. Risk is a part of life. And I think one thing I have tried to be clear in saying is we will not eliminate every risk. First of all, some risks are risks which State and local governments traditionally bear and have to continue to bear. We can help them with standards and advice, but to take an example, there was an incident I guess a few weeks ago in California with a train derailment. I don't want to talk about it too specifically because I guess there is a pending case. But that was not a terrorist-related incident.

That kind of thing has always happened. The appropriate authorities have to take steps to prevent those risks and protect against them. They have not all become Federal matters simply because a terrorist could also choose to do the same thing.

So we have to say, look, the risks we are most concerned about are those which are highest on our analytical scale. Others certainly we will be helping out in terms of standards and advice and the whole panoply of traditional things we can do with our partners, including information sharing. And we have to be nimble enough when something changes to be able to respond to it.

But the message is not that if we do not give a substantial amount of Federal funding there is no risk. The message is that in the hierarchy of risks, we have to put the resources where the highest risks are. And I know that is a very tough statement, and in coming up and speaking to the Committee and speaking generally, I guess I have had it in my mind, that we owe pretty blunt talk to people about what the limitations are of what we can do and how important it is that what the public expects is that we put our resources to work in a way that most closely approximates the most serious risks with the worst consequences and the greatest vulnerabilities.

Senator DAYTON. The candor would be welcome, but the consistency is also important. And what you are saying here is going to be a 180-degree reversal of what your Department, prior to your coming, and the Administration and the Congress have been saying to these local governments. They are not expecting the Federal Government to fund all of their first-responder activities, but they are expecting the Federal Government to be consistent in providing the resources for those additional efforts—training and preparation and equipment and the like—that they have been told that they should undertake in order to fulfill their responsibilities for these attacks. And nobody knows where they are going to come, what form they are going to take.

Again, this is a total reversal, and if this is going to be the consequence of this budget, I would like to ask if you could respond in writing to what level of funding for these first-responder grants and awards, based on whatever new formula or the like, is going to be necessary to fund every State and local government at the level that it was heretofore. And then we can assess whether or not the amount of money that is being requested is sufficient or not. But if the outcome of this is going to be that a whole bunch of local efforts are going to be zeroed out from any Federal support, I respectfully disagree with that approach.

Secretary CHERTOFF. Well, we will be happy to respond in writing. Let me just add this: There is, I think, in the budget a total of about $3.5 billion which could be available to fund things like local first responders, including the homeland grants, which do have this built-in minimum, the UASI grants. We do still have fire assistance, I think $500 million. So there will be money there.

Some of the hard decisions will have to be made at the State and local level. One thing, for example, that I think is important is sharing of resources. It may not make sense for every single town in a particular geographic area to have the full capability to do hazmat if we can centralize the hazmat response capability in a place that can cover a number of areas, and thereby really put a meaningful level of resource and training into that place.

So this is going to require everybody to think—and, frankly, if a State wants grants and if a locality wants grants, the more able they are to demonstrate effective use of resources, it seems to me we ought to score that higher in the grant-making process.

So I think we want the same things. I do believe consistency is important, and that is what we are going to work to achieve.

Senator DAYTON. Thank you, Madam Chairman.

Chairman COLLINS. Thank you.

Mr. Secretary, my next question actually follows up well on the discussion that you just had, and I think you can see that many Members of this Committee have a great deal of concern about the Administration's budget and its adequacy for homeland security grant programs.

But one issue that ought to unite us is making sure that money is wisely spent, and unfortunately there have been some cases cited by the Inspector General and the Government Accountability Office that suggest that the money is not always wisely spent.

I think it is important to clarify that the vast majority of the money has been well spent and has been very necessary. But the

legislation which this Committee unanimously approved last year and which many of us reintroduced last month had three provisions to help put in better controls to prevent wasteful and potentially fraudulent spending:

First is a requirement for an independent audit, an annual GAO audit and report on DHS grants to the States.

Second is a provision tying spending to standards. This would be a requirement that States distribute the homeland security funding only in ways that measurably help them to meet the preparedness standards to be set by the Department. In other words, to cite one egregious case, you cannot spend the funds on leather jackets unless you can somehow show that leather jackets increase preparedness, which seems to me to be unlikely.

A third provision would be remedies for noncompliance. This would authorize the Secretary to terminate or reduce grant payments if a State or locality failed to comply with these requirements.

What is your position on putting in specific legislative controls to help ensure that the money is well spent?

Secretary CHERTOFF. Well, I think that, as I understand it, HSPD–8 actually imposes on us a requirement to get out—and I think we need to do it this year—a series of metrics that we can use to set a baseline of preparedness for all of our State and local partners. And I think that is an important device to use in order to impose this kind of discipline. What it would do is, first of all, enable us to give clear direction; and, second, if people were not following the direction, at a minimum that would have a seriously negative impact on their ability to get funding in a succeeding year.

Whether there is a need for additional sanction beyond that, I don't know. I think we ought to be able to make ourselves very clear. Money is tight. Everybody wants it. And the surest way to take yourself out of the running for a grant is to buy leather jackets, unless we are missing something on the leather jacket front.

Chairman COLLINS. Thank you. Because money is tight, the Committee has scoured the budget request not only to identify areas that have been underfunded, in my view, such as homeland security grants, but also to look for opportunities to save money. And I want to bring up one such example. Clearly, the Department needs a center that is open 24 hours a day, 7 days a week, to address threats and to respond to incidents. But from our review of the budget, it appears that you have three such centers. The budget justification describes the Homeland Security Operations Center, which is proposed to receive $61 million in fiscal year 2006, as "the primary national level hub for operational communications, information sharing, and situational awareness. It receives and integrates threat information. It maps the Nation's critical infrastructure. And it enables information sharing and collaboration among Federal, State, tribal, local, and private sector entities."

In other words, that sounds to me like exactly the kind of around-the-clock center that the Department should have. But if you look further into your budget, you also have two other around-the-clock centers. The second called the National Infrastructure Coordination Center. That is proposed to receive $10 million. And the

third is a Cyberwatch Center, which is slated to receive $11 million.

From our review, it appears that each of these three 24/7 centers is monitoring critical infrastructure, communicating with State and local officials and the public, and responding to incidents. So when you add that up, that is $82 million—$61 million, $10 million, and $11 million.

Do we really need three separate around-the-clock centers? Wouldn't it be more efficient and save scarce dollars for us to have one consolidated center?

Secretary CHERTOFF. I appreciate the opportunity to answer that, Madam Chairman.

First of all, any cost saving that can be identified to me, I am going to do my level best to exploit because we are tight on money, and if we are wasting money or we are duplicating effort, I want to put the money on the ground somewhere.

In this instance, though, I think there are three separate roles that are played, and, frankly, they have to be played—and they are distinct. They would have to be played—even if we moved all the centers into one building, we would have to triple the size of the building, and there are reasons, by the way, not ever to do that because you never want to put all of your eggs in one basket so if you have a power problem or something like that, you have totally shut down.

The Cyberwatch Center looks at cyber intrusions, obviously a very important issue and increasingly important, and makes sure that we are interconnected with the private sector in terms of warning and response. That is a function which is very sophisticated and requires a great deal of specific information and interaction with people who work in the cyber world. So that is quite a specific and detailed effort.

Likewise, the Infrastructure Coordination Center deals with essentially connecting up different parts of the national infrastructure to allow communication across the board in the case of an emergency, such as, for example, a power failure that could then cascade into communications and refineries.

The HSOC, or the Operations Center, does not deal at that level of granularity with information. It is designed to stand back and take a more comprehensive view and coordinate between incidents that might involve infrastructure, that might involve cyber, and that might involve a whole host of other things, all happening at the same time. And the customer for that is, frankly, me and the people in the leadership of the Department and in the leadership of the other departments.

So that in order to make HSOC capable of doing the robust cyber piece that we want and the robust infrastructure piece, we would essentially have to triple it. And I think if I were given the choice between putting everything in one place and having them in three separate places but connected, I think probably it is prudent to keep them in separate places because if something happens and you get a power failure or a computer crash, at least you have not taken down your entire management structure. You have got a certain amount of redundancy built in.

Chairman COLLINS. Before I yield to my colleague, let me just respond to that by saying if I were the local police chief in Portland, Maine, and there were an incident that involved the technology infrastructure of a local chemical plant, I would be baffled which one of the three centers to call.

Secretary CHERTOFF. I can answer that, and I want to because the point of the Operations Center, the HSOC, is precisely to be the place when you don't know, that is where you go. We might eventually connect you to something more specific elsewhere, but we are very much into the one-stop shop. And that is the central one-stop shop for Homeland Security.

Chairman COLLINS. Thank you. Senator Lieberman.

Senator LIEBERMAN. Thanks, Madam Chairman. I would just share with you an unusual coincidence. I went out to take a call from my Governor, Jodi Rell, and I had something I wanted to talk to her about. And she said, "While I have got you, if you run into Secretary Chertoff, would you please make an appeal for restoration of homeland security funding for Connecticut?" And she specifically asked about New Haven, which is under the urban areas threshold of 225,000. So I now make this as a bipartisan request from Connecticut.

I have a few questions I wanted to ask. One is about Coast Guard research and development. The fiscal year 2006 budget of the Department reflects plans to consolidate all of the Department's research and development activities in the Science and Technology Directorate. There is no reason for you to know this, Mr. Secretary, but last session Congress rejected a similar proposal because of concerns that the Coast Guard's research and development activities in support of its traditional missions would be jeopardized under such an arrangement. And I share that concern.

There is a model, I gather, within the Department that the Secret Service is a distinct entity and has its own research and development programs, but is called on to coordinate closely with the S&T Directorate. I don't know if you have had a chance to look at that and want to comment on it. If not, I will go on to another question, but I wanted to draw that history to your attention.

Secretary CHERTOFF. I am aware of that, and I actually anticipate that I will be looking at that particular issue.

Senator LIEBERMAN. OK. Second is the information-sharing environment, which is a real focus of the 9/11 Commission. In fact, the Commission concluded that the biggest impediment to all-source analysis and to a greater likelihood of connecting the dots was the resistance they found to information sharing. As a result, they urged a new governmentwide approach be developed. Placing a really high priority on a different kind of "ISE" here, information-sharing environment, that the budget, as I read it, does not seem to me to emphasize creating that information-sharing environment, and I wanted to ask you generally what priority you put on it and how you plan to proceed to implement that particular recommendation of the 9/11 Commission and of Congress in our legislation.

Secretary CHERTOFF. I think, Senator, that is one of the most important tasks of the Department, and in the 3 weeks I have been on the job, I have met with State and local partners, and they have all emphasized the importance of that in terms of their own work.

We have stood up this Homeland Security Information Network, which now essentially connects us to 50 State homeland security headquarters so that we can get information out quickly and make sure we are all connected in that respect.

One of the things I want to continue and, frankly, expand is the use of our analytical abilities to share with State and local partners maybe more in-depth and detailed information about the threat that we face, including lessons learned from what we have seen in past experiences where there have been terrorist incidents.

It should not only be about here is a little tidbit of information, let's get it out to everybody. It should be trying to provide a context within which State and local governments can have a better understanding for their own purposes of the nature of the threat that we face.

Senator LIEBERMAN. Good. Thank you.

Earlier in February, the U.S. Commission on International Religious Freedom released a study authorized by Congress on asylum seekers and expedited removal. In some sense, this goes back to the conversation we had at your confirmation hearing about my concern about immigration laws and due process. This is uniquely for those seeking asylum. And, of course, the Commission is concerned about people seeking asylum for reasons of religious discrimination and, worse than discrimination, real danger back home.

The study found that the DHS had procedures to ensure that legitimate asylum seekers were not erroneously sent back to the countries where they might well face persecution, but that implementation of the procedures varied widely. In fact, in some ports of entry, they found that procedures designed to protect asylum seekers were being followed by DHS employees only half of the time; also that these asylum seekers who, in my understanding, are rarely criminal, are being too often detained in maximum security correctional facilities, often in the same cell blocks as convicted criminals who are serving time.

I don't know whether you have been briefed on this report at all. If not, I wanted to draw it to your attention and urge you to take steps to make sure that the procedures of the Department are implemented in a way that the promise at the base of the Statue of Liberty is actually implemented every day.

Secretary CHERTOFF. I will do that, Senator.

Senator LIEBERMAN. Are you aware of the report?

Secretary CHERTOFF. I have read the report. I think I had read actually news accounts of the report, so I am familiar with it. And I remember we talked about it. I have not yet been briefed on it. I do agree these procedures ought to be followed. We have them for a reason.

Senator LIEBERMAN. Let me just say finally on this matter that one of the conclusions of the 9/11 Commission was that the existing DHS organizational structure does not allow problems of asylum seekers to be addressed anywhere other than the Office of the Secretary, because it is the only place with the line of authority down to all three DHS agencies involved in expedited removal: USCIS, ICE, and CBP. Obviously you cannot answer it now, but they recommend the appointment of a refugee coordinator to whom you

would delegate your authority in this area. And I just wanted to draw that to your attention and ask you to consider it.

Secretary CHERTOFF. I will do that.

Senator LIEBERMAN. Thank you. Thanks, Madam Chairman.

Chairman COLLINS. Thank you. Senator Coleman.

Senator COLEMAN. Thank you, Madam Chairman.

I want to just follow up on the grant allocation question my colleague Senator Dayton raised. I try to pose this not solely in a—just kind of looking at Minnesota, although I represent Minnesota, and that is the reality. But I am trying to understand the system.

One of the problems we have that we faced—again, decisions made before your confirmation—is the large fluctuations in the amount of money. You get in St. Paul a $7 million grant 1 year, and then zeroed out the next year, without any notice until the announcement of the overall grants.

So I would just urge you to take a look at this issue. If we are consistently wrong, I could understand that. But there is this sense in working with folks at the local level of clearly not surprise, but I think to be a greater sensitivity about the impact of that kind of action, where all of a sudden you have been given a message and you have acted upon it, you have put in place systems, and then, boom, like that.

In addition, as we deal with this issue of risk—and, clearly, we saw the risk on September 11, but there are other risks.

Secretary CHERTOFF. Sure.

Senator COLEMAN. And God forbid something else happens. We are all going to be talking about other risks. There are three of us up here right now who are Northern border communities. Minnesota has an international border with Canada, a major port of entry for cargo and vehicle traffic in the city of International Falls; two major cities, Minneapolis and St. Paul; two nuclear reactors, one on the Mississippi River; a major port in the city of Duluth.

I am not sure I can get it now, but I hope that we have an ongoing discussion about this question of risk and that it is not just population numbers, but it is—we have the Mall of America, which was at one point the first or second largest tourist attraction in the country.

So I just want to encourage an ongoing conversation rather than kind of by-the-book allocation of numbers based on number of people, etc., I think there are other things that need to be considered.

Secretary CHERTOFF. I would like to do that. I agree with you. I think it has got to be much more subtle and adapted to reality than just a cookie cutter.

Senator COLEMAN. The other issue that I want to raise has to do with the Customs Border Patrol seeking a substantial increase in the C–TPAT program, Customs–Trade Partnership Against Terrorism. A good concept, a good program, and I am not sure how much you have looked at it, but the idea being that companies that submit—that work with the agency in the end have a decrease in certain fees because they have submitted a plan, etc. The increase is, I think, $20 million, bringing total funding of the program to over $54 million. It is one of the highest percentage increases.

I know the GAO—we have submitted—we are looking at this program. In fact, the Permanent Subcommittee will have a hearing

on this issue in early April. My Committee has substantial serious concerns about the implementation of the program. I know that we have requested GAO to do a report, and that report will be finalized and we will have our hearing in conjunction with that. But I think it is fair to say that there are serious concerns about the implementation of the program, that companies are submitting documents with cursory reviews, getting these significant cutbacks in fees, but that there has not been the kind of review and investigation that is needed.

Can you talk a little bit about the increase in funding in a program whose fundamental effectiveness has certainly been called into question?

Secretary CHERTOFF. First of all, I think the program is a very good program, and I think it is, again, part of a general sense that as we deal with an enormous influx of trade, both people moving and goods moving from overseas, we want to balance two things. We want to encourage free trade, prosperity, business, and we also want to keep out bad people and bad stuff. And they work together because the more confidence we have in the reliable trade partners, the more we can focus our resources on the people who are not necessarily reliable.

So that all makes sense, but you are completely correct that from the theory to the practice is the implementation, and let me say first I look forward to seeing the result of the report. Perhaps unusually for someone in Washington, I actually think getting criticism can be helpful because we learn something from it.

In terms of the increase in funding, I think we need to make sure that if this program is to work, we have the resources in place to validate and check these things. The worst thing would be this: To have a program for reliable travel or reliable cargo that was insufficiently robust so that people could sneak in and use it as a Trojan horse. That would be the worst of all worlds. And so I think part of the deal with our going to this model has to be very careful to make sure we are really being stringent.

Senator COLEMAN. I appreciate your openness to review, and certainly the concept is the right concept. And our concern is to make sure that it works well, that it is doing what we are funding it to do.

Secretary CHERTOFF. Mine, as well.

Senator COLEMAN. Thank you, Madam Chairman.

Chairman COLLINS. Thank you.

Before I yield to Senator Levin, let me announce that we obviously were not able to have a quorum of Senators here at the same time to report Michael Jackson's nomination. So we are moving the markup to off the floor during the stacked votes at noon in S–219, which I am told is the Ceremonial Room on the Democratic side.

Senator LIEBERMAN. It is a bipartisan room.

Chairman COLLINS. I hope so. That information did worry me.

Senator LIEBERMAN. It is only on our side. It is not our room.

Chairman COLLINS. OK. So we do hope to report Michael Jackson at that time. I know that you are very eager to have him join you.

The vote has started, but we do have time for Senator Levin's questions.

Senator LEVIN. Thank you, Madam Chairman. Mr. Jackson did very well at his hearing, by the way.

Secretary CHERTOFF. He is terrific, and if confirmed, I think he is going to be a great Deputy.

Senator LEVIN. Mr. Secretary, we have about 17 million containers that come into the United States each year. About half come in by ship at seaports; about half come in by train or truck at land border entries.

We have a program inside your budget for the seaports. I am just wondering whether or not that covers land ports of entry as well, and if not, why not?

Secretary CHERTOFF. Well, I think, again, and this is going to be part of the process I hope to undertake in the next 60 to 90 days. The problem of cargo is really a single problem with unique dimensions for sea, air, and land.

Through the National Targeting Center, we do have a program for identifying high-risk cargo, and I guess it is probably most often discussed in the seaport context, but I believe it applies to land ports as well.

Where I would like to see us move again across the board, this is some variation on what I said previously about a combination of trusted cargo shippers and fast tracking where we can make sure we have properly vetted the cargo, whether it be air, sea, or land, and then that gives us the resources to do a more robust inspection with respect to people who are not in that program.

So that is where we are with that, and once I have finished this process of evaluating across the board, I think we will have some opportunity to make some adjustments perhaps to align the structure with the mission.

Senator LEVIN. And that would include the land ports of entry.

Secretary CHERTOFF. Yes.

Senator LEVIN. The largest port of entry in the world, the largest trade link that we have with the world, is the Ambassador Bridge between Detroit and Windsor, Ontario. Seven thousand trucks a day cross that bridge, and it seems to me to leave out the land entry ports of entry is not a particularly rational system.

We have also asked you to look at a specific problem because a large number of trucks come in each day that are not subject to inspection in an effective way, and those are the garbage trucks that Toronto has decided to bury in Michigan at our landfills, and that is a separate problem. It is part of the larger one. We have asked you to look into that, and we look forward to your response to that issue.

Secretary CHERTOFF. I will.

Senator LEVIN. Mr. Secretary, just two other quick questions. One is on the authorization by Congress last year of not less than 800 additional Immigration and Customs Enforcement investigators, the ICE investigators that are looking at violations of immigration laws. Do you know whether or not the budget request includes those additional inspectors?

Secretary CHERTOFF. I think it includes not the full amount, some number, and I have to say as I am sitting here, I am blanking on what the exact number is.

Senator LEVIN. OK. If you could provide us——

Secretary CHERTOFF. One hundred and thirty-five.

Senator LEVIN. Of the 210, OK.

We had a hearing at the Permanent Subcommittee on Investigations regarding a very troubling Border Patrol and INS policy back in November 2001. This came right after September 11, and what we discovered was that people who were arrested by Border Patrol attempting to enter into the country illegally, outside of the ports of entry, crossing borders at non-ports, so obviously illegal by definition, were nonetheless released on their own recognizance and without criminal background checks.

It was astounding to us that was true since that person by definition is entering the country illegally. There is no doubt about it because they are not coming through a port of entry. And we at that point insisted that we be given studies as to how many of those people show up for their hearings, released on their own recognizance. Obviously if they are trying to get into the country, it is not a very reliable act to say you can just go out on the streets, show up at a hearing someday, and we will give you notice if we can have an address, thank you.

Do you have any idea yet what percentage of people arrested for illegal entry and released on their own recognizance show up at the hearing on their removal?

Secretary CHERTOFF. I don't have the statistics. I remember from my prior life that there were statistics some years back of hundreds of thousands of absconders.

We do, however, now have a program which we have increasingly ramped up on compliance enforcement, where people do abscond going out and tracking them down and bringing them back. So we are trying to address that problem.

Another piece of this is we have a program to try to fast-track people to get them to agree basically to be fast-tracked into deportation, for example, when they clear out in terms of finishing a criminal sentence. So we are trying a variety of methods basically to turn beds around in detention centers more quickly.

The most important piece of this, of course, is who we choose to release, because it is one thing to put someone out on bail who is not a danger to the community; it is something else again if they are. And so one thing I have asked about and I am looking into is making sure that we have a good system in place when we make decisions about who should be released so that at least people of special interest are not the ones being released.

Senator LEVIN. Do we do criminal background checks for anyone before they are released?

Secretary CHERTOFF. I do not know the answer to that, but I will find out.

Senator LEVIN. If you could give us that for the record, but also tell us for the record what is the most recent number, percentage of people released on their own recognizance who do not show up for their hearing.

Secretary CHERTOFF. I will do that.

Senator LEVIN. Thank you. Thank you, Madam Chairman.

Chairman COLLINS. Thank you. Senator Carper, I have never missed a vote, so don't make me miss my first one in my Senate career. We are glad to have you here.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks. Madam Chairman, you are not going to miss a vote today.

Let me say to the Secretary welcome. I think it is the first time we have had a chance to welcome you as Secretary. We are delighted that you are here, and thank you for your stewardship and your willingness to serve.

Madam Chairman, I have a statement for the record. We have been at a markup on the Clear Skies proposal, another important issue, so I have been distracted, as Senator Lieberman knows. And I have a statement I would like to offer, Madam Chairman, and some questions for the record for our witness.

[The prepared statement of Senator Carper follows:]

PREPARED STATEMENT OF SENATOR CARPER

Thank you, Madam Chairman, for convening this hearing today on the President's proposed budget for fiscal year 2006 at the Department of Homeland Security. It's vitally important that we examine this budget proposal closely because, as I read it, it would have a devastating impact on States like mine.

By my calculation, this budget would cut the amount of first responder aid granted to Delaware and all small and medium-sized States by more than 80 percent. It proposes cutting funding for the State Homeland Security Grant Program by about $500 million. At the same time, it would increase the amount of money set aside for the largest urban areas in the country while cutting the baseline allocation used to ensure that every State receives sufficient first responder funding by two thirds.

I agree with the President that more first responder funding should be distributed based on risk and threat. It probably also makes sense to begin distributing more of this funding directly to urban areas, particularly the large urban areas such as New York, Washington, Los Angeles, and Chicago that are probably most at risk. I would draw the line, however, at reducing the baseline in the State grant program so dramatically. Doing so at this point could put some States in great danger.

I admit that the current State grant formula could be improved. After each State receives its baseline allocation, the current formula distributes all remaining funds to each State based on population. While population is one part of what puts a State at risk of attack, this formula ignores other important risk factors such as population density and the location of critical infrastructure. I've also argued in the past that it probably also shortchanges States like Delaware that have smaller populations but potentially significant risk factors.

Chairman Collins and I and a number of our colleagues on this Committee have worked over the years to make our first responder aid programs work better. Our proposed, featured in S. 21, legislation we introduced earlier this year, mandates a State grant formula that would distribute about 60 percent of State grant funding based on risk. It also allows the Department of Homeland Security to award up to 25 percent of State funding to high-risk urban areas. However, it maintains the current baseline allocation so that States like Delaware will continue to receive the resources necessary to protect their population and respond to potential terrorist attacks and natural disasters even if they aren't home to a large city and aren't deemed eligible for a risk-based allocation.

If the President's proposal were enacted, Delaware would lose a significant amount of money. We were allocated $15 million in the current fiscal year. Under the President's proposal, we would likely only receive just over $2.5 million. This is unacceptable and dangerous because my State emergency management agency tells me that they don't have the resources and personnel necessary to handle certain attacks that the Department of Homeland Security has told them have a very real chance of occurring right now in Delaware.

They also tell me that, if our State's allocation were to be cut as dramatically as the President's budget proposes, they might need to cut or eliminate funding for other important non-homeland security programs, including disaster mitigation efforts. Compare this with the fact that, under the President's proposal, large States with large cities will likely receive three layers of funds—a baseline allocation, a threat-based allocation and urban area grants.

I also believe the President's proposal is dangerous because I haven't yet been convinced that the Department of Homeland Security can truly know what level of

funding should be allocated to large States, small States or urban areas. This Committee recently heard testimony from one of the authors of a report published by the Heritage Foundation and the Center for Strategic and International Studies stating that the Department hasn't completed a comprehensive national risk assessment and doesn't plan to have one completed until 2008.

I'd urge you, then, Mr. Secretary, to work with us to develop a SHSGP formula that treats all States fairly and doesn't run the risk of putting some at tremendous risk of being ill-prepared for an emergency.

Senator CARPER. Secretary Chertoff, again, it is good to see you.

Secretary CHERTOFF. Thank you very much.

Senator CARPER. Thank you, Madam Chairman. How is that?

Chairman COLLINS. That was good. Seriously, if you would like to ask further questions—I guess that did work.

Senator LIEBERMAN. Senator Collins and I have an ongoing discussion about the effectiveness of guilt induction. [Laughter.]

Apparently it worked with Senator Carper.

Chairman COLLINS. Mr. Secretary, thank you so much for being here today. We obviously had a great deal of discussion on the best way to allocate homeland security grant funding, and I want to leave you with some sound advice from the RAND Corporation report on this issue. It says, "Homeland security experts and first responders have cautioned against an overemphasis on improving the preparedness of large cities to the exclusion of smaller communities or rural areas, noting that much of our critical infrastructure and some potential high-value targets—nuclear power plants, military installations, agricultural facilities, etc.—are located in less populated areas."

I think that is good advice for the Department, and I hope you will heed it.

We appreciate the opportunity to question you today. The hearing record will remain open for additional comments for 15 days.

Secretary CHERTOFF. I appreciate that, Chairman Collins, and I look forward to working with the Committee. I have one slight correction, if I can have a second. The 2006 budget contemplates 143 ICE agents, not 135.

Chairman COLLINS. You were very close.

Secretary CHERTOFF. I was close.

Chairman COLLINS. Thank you.

Secretary CHERTOFF. I look forward to working with you. Thank you very much.

Chairman COLLINS. This hearing is now adjourned.

[Whereupon, at 11:44 a.m., the Committee was adjourned.]

APPENDIX

Statement for the Record

Michael Chertoff
Secretary
United States Department of Homeland Security

Before the
United States Senate
Committee on Homeland Security and Governmental Affairs

March 9, 2005

Chairman Collins, Senator Lieberman, and Members of the Committee:

I am honored and pleased to appear before the Committee to present President Bush's FY 2006 budget for the Department of Homeland Security. Before beginning to outline our FY 2006 budget request, I want to thank you for the strong support you showed for the Department in the two full budget cycles since it was fully established in March 2003.

The President's FY 2006 budget request includes a total of $41.1 billion for the Department of Homeland Security. This is an increase in total budgetary authority of 7 percent over the enacted FY 2005 funding, excluding Project BioShield, and clearly demonstrates the Administration's continued commitment to making further improvements in the nation's homeland security. Among the operating entities with significant budgetary increases are Immigration and Customs Enforcement (a 13.5 percent increase) and the U.S. Coast Guard (an increase of more than 9 percent, adjusting for transferred programs).

DHS has made great strides since it was fully established in March 2003 and continues to move forward to unify the defense of our homeland. We have continued to integrate 22 distinct agencies and bureaus, each with its own employees, mission and culture into a single, unified Department whose mission is to secure the homeland. Our security requires coordination and a focused effort across all levels of government and throughout our nation to create synergy and new capabilities. The Budget includes several key initiatives that demonstrate how we are continuing to tear down stove-pipes and coordinate key security and operational issues across DHS and the government.

In his February 2nd State of the Union Address, the President underscored the need to restrain spending in order to sustain our economic prosperity. As part of this restraint, it is important that total discretionary and non-security spending be held to levels proposed in the FY 2006 Budget. The budget savings and reforms in the Budget are important components of achieving the President's goal of cutting the budget deficit in half by 2009 and we urge the Congress to support these reforms. The FY 2006 Budget includes more than 150 reductions, reforms, and terminations in non-defense discretionary programs. The FY 2006 budget request for the Department of Homeland Security includes proposals to: 1) better target State and local grant funding, 2) recover most of the cost of aviation screening operations, and 3) transfer resources for polar icebreaking to NSF so that they may pay the Coast Guard for services they receive. The Department wants to work with the Congress to enact these proposals.

The President's Budget includes the establishment of the Domestic Nuclear Detection Office (DNDO). The DNDO will develop, acquire, and support the deployment and improvement of a domestic system to detect and report attempts to import, or transport a nuclear explosive device, fissile material or radiological material intended for illicit use. Because no single agency has the resources to carry out this initiative, the DNDO will be located within DHS and will be jointly staffed with representatives from DHS, the Department of Energy (DOE), the Department of Defense (DOD), and the Federal Bureau of Investigation (FBI), with coordination between the Department of Justice

(DOJ), the Department of State (DOS), the Intelligence Community (IC), and other departments as needed.

A new organizational structure that consolidates screening programs would substantially improve internal coordination, operations and efficiency of screening roles and missions of the Department. The President's Budget consolidates the various DHS screening activities with the formation of the Office of Screening Coordination and Operations (SCO) within the Border and Transportation Security (BTS) Directorate. The mission of this new organization would be to enhance terrorist-related screening through comprehensive, coordinated procedures that detect, identify, track and interdict people, cargo and other entities and objects that pose a threat to homeland security. This new office would bring together several similar ongoing screening efforts under one office. These efforts are: United States-Visitor and Immigrant Status Indicator Technology (US-VISIT); Secure Flight and Crew Vetting; Free and Secure Trade (FAST); NEXUS/Secure Electronic Network for Travelers Rapid Inspection (SENTRI); Transportation Worker Identification Credential (TWIC); Registered Traveler; Hazardous Materials Trucker Background Checks; and Alien Flight School Checks.

The Budget proposes $3.6 billion to increase the effectiveness of State and local homeland security assistance through an approach that closes the most critical gaps in State and local terrorism prevention and preparedness capabilities. Over $2 billion in grants for States and urban areas would be based on assessments of risk and vulnerability, as well as the needs and priorities identified in State and regional homeland security plans. The proposed Targeted Infrastructure Protection program would provide $600 million in integrated grants to supplement State, local and regional government efforts to protect critical, national infrastructures such as seaports, mass transit, railways, and energy facilities.

In FY 2006, DHS seeks to continue to consolidate its research, development, test and evaluation (RDT&E) activities within the DHS Science and Technology (S&T) Directorate. This consolidation, in the amount of $127 million, will bring the scientific and engineering personnel and other RDT&E resources of the Department under a single accountable authority. The S&T Directorate's vision for this RDT&E integration will be to start the development and expansion of collaborative relationships, foster and leverage an environment of collective capabilities, maximize the efficiency and effectiveness of the Department's RDT&E capacity as well as develop and expand synergistic RDT&E programs that cut across the Department's activities.

In the event of a national emergency, it is crucial that first responders, State and local governments and the Federal Government are able to communicate with each other. The Budget recognizes this and includes initiatives to strengthen communication capabilities. The S&T Directorate has established a new Office of Interoperability and Compatibility which includes the SAFECOM (Wireless Public SAFEty Interoperable COMmunications) program that was created to coordinate public safety communications to achieve national wireless interoperability. Interoperability has also been the top

funding priority of our state and local grantees, and will continue to be a major focus of State and local homeland security grants in the Budget.

The Department will also work to expand airport contract screening opportunities at those airports wishing to opt out of federal screening operations. Preliminary analysis at five contract screening airports currently in place found there was no detrimental effect on security using contract screeners, and that functions could be performed more efficiently and effectively through contractor-led operations. The Budget proposes $146 million to maintain the five pilot airports.

Aviation security is a shared responsibility of the Federal Government, airports, airlines, and the traveling public. The Budget proposes to increase passenger fees by $3.00 starting in 2006, raising the fee on a typical one-leg ticket from $2.50 one way to $5.50. For passengers traveling multiple legs on a one-way trip, that fee would increase from the current maximum of $5.00 to $8.00. The additional revenue will ensure that fees cover nearly the full cost of aviation screening operations. Furthermore, TSA is currently analyzing the pilots conducted at five airports using contract screeners. These costs should be borne primarily by the beneficiaries – the traveling public – of screening services.

The President is committed to ensuring that America welcomes the contributions of immigrants. The Budget continues funding for the President's multi-year $540 million initiative enabling U.S. Citizenship and Immigration Services (USCIS) to reduce the backlog of applications, and ensure a six-month processing standard for all applications by the end of 2006.

Before beginning to outline the major themes of the Department's FY 2006 Budget request, I would like to highlight a few of the Department's accomplishments over the past year, including the following:

- The Department established "the One-Stop-Shop" for first responder grants which allows a single point of entry to the Federal Government for homeland security preparedness resources.
- DHS agencies have provided an unprecedented $14 billion in funding and resources since 9/11 to State, local and private sector partners to protect and prepare America's communities and individual citizens. We continue to improve ways for first responders across the nation to be better equipped, better trained and more capable of communicating across the public safety community.
- USCIS' Backlog Reduction Plan has increased productivity, refined processes and automated services that have yielded a significant reduction in the backlog of applications for immigration services and benefits - from 3.8 million cases in January 2004 to 1.4 million in December 2004. This equates to a 21-percent increase in productivity. This increased productivity expedited the processing of immigrant benefits such as work authorization, permanent residence and

naturalization allowing USCIS to deliver services and benefits to qualified applicants in a more-timely manner.

- United States-Visitor and Immigrant Status Indicator Technology (US-VISIT) was successfully implemented at all 115 U.S. international airports and 14 seaports and immediately demonstrated results by preventing individuals with criminal records and immigration violations from entering the U.S. In addition, US-VISIT successfully deployed initial capability to the 50 busiest land border ports of entry in December 2004.
- The U.S. Coast Guard (USCG) developed, reviewed, and approved 9,000 domestic vessel security plans; 3,200 domestic facility plans; 48 Area Maritime Security Plans and Committees; and verified security plan implementation on 8,100 foreign vessels.
- USCG interdicted nearly 11,000 undocumented migrants attempting to enter the country illegally by sea.
- USCG saved the lives of nearly 5,500 mariners in distress and responded to more than 32,000 calls for rescue assistance.
- In support of Operation Iraqi Freedom the USCG protected, safely secured, and escorted to sea over 200 military sealift departures at ten different major U.S. seaports, carrying over 25 million square feet of indispensable cargo.
- The Homeland Security Operations Center's (HSOC) Homeland Security Information Network (HSIN) Secret level connectivity has been expanded to State level Emergency Operations Centers in all 50 States.
- Working closely with importers, carriers, brokers, freight forwarders and others, Customs and Border Protection (CBP) has developed a seamless, security-conscious trade environment resistant to the threat of international terrorism. The Customs-Trade Partnership Against Terrorism (C-TPAT) has become the largest government/private partnership to arise from September 11th.
- The Federal Emergency Management Agency (FEMA) provided $4.9 billion in aid, including hurricane relief efforts for victims and communities affected by disasters. DHS responded to 65 major disaster declarations and seven emergencies in FY 2004.
- Passenger screening kept 6,501,193 prohibited items from coming on board aircraft during FY 2004.
- A total of 428 million people, including 262 million aliens, were processed at land, air and sea ports of entry. Of that number 643,000 aliens were deemed inadmissible under U.S. law.
- Immigration and Customs Enforcement (ICE) officers achieved a 112 percent increase over the prior year for fugitive apprehensions resulting in more than 7,200 arrests. ICE removed more than 150,000 aliens in 2004.

- Border Patrol agents apprehended almost 1.2 million illegal aliens between our official ports of entry.
- The Container Security Initiative (CSI), which involves pre-screening shipping containers to detect and interdict terrorists' weapons and other illegal material, was expanded to include 21 countries. CSI is now operational in 34 foreign ports in Europe, Asia, and Africa.
- Approximately 600 million checked bags were screened using advanced explosive technologies in 2004.
- More than 2,500 criminal investigations were conducted involving the illegal export of U.S. arms and strategic technology, including Weapons of Mass Destruction (WMD).
- The Federal Law Enforcement Training Center (FLETC) provided basic and advanced law enforcement training to more than 44,750 students, representing 81 Federal agencies, as well as State, local and international law enforcement organizations.
- Border and Transportation Security (BTS) assumed responsibility for visa policy under the Homeland Security Act and implemented improvements in visa review times and transparency.
- The United States Secret Service (USSS) planned, designed, and implemented security for five events designated as *National Security Special Events* (State of Union Address, G-8 Economic Summit, Former President Ronald Reagan Funeral, Democratic National Convention and Republican National Convention).
- USSS arrested 30 individuals involved in global cyber organized crime, domestically and internationally. Industry experts estimate that $1 billion in total fraud loss was prevented.
- The Science and Technology (S&T) Directorate has implemented initiatives in chemical, biological, radiological, nuclear, and explosive (CBRNE) countermeasures, cargo security, border and transportation security, interoperability, standards for emergency responders, and cyber security. These initiatives have resulted in improved security of U.S. borders, transportation systems and critical infrastructure, and resulted in the greater preparedness of our nation. To date, Department officials have visited more than 200 chemical, petrochemical, water, energy, (i.e. electricity, oil, liquefied natural gas, pipelines, storage, etc.) agriculture, commercial assets, national icons, soft targets, and mass transportation centers.
- The Department established the National Cyber Response Coordination Group (NCRCG) in partnership with the Department of Justice and the Department of defense, as a forum of 13 principal agencies that coordinate intra-governmental and public/private preparedness operations to respond to and recover from large-scale cyber attacks.

- The Department co-sponsored Blue Cascades II and Purple Crescent II, two regional tabletop cyber exercises in Seattle, WA and New Orleans, LA. Each exercise brought together more than 200 government and private sector officials to examine cyber security readiness and response procedures, highlight the importance of cyber security in critical infrastructure protection, and discuss solutions for integrating physical security and cyber security. Region-specific coordination and communication plans between first responders, the Federal Government, and critical infrastructure owners/operators were exercised.

- The Department established the US-CERT Control Systems Center to bring together government, industry, and academia to reduce vulnerabilities, respond to threats, and foster public/private collaboration to improve the security of the data and process control systems that operate our nation's critical infrastructures.

- The Department established the Control Systems Security and Test Center (CSSTC) in conjunction with Idaho National Environmental and Engineering Laboratory, to provide an opportunity for government and industry to collaborate on cyber vulnerability enumeration and reduction activities for control systems currently in use across critical infrastructure sectors. The CSSTC models map the cause and effect relationships of cyber attacks on control systems, assess the outcomes of actual events in a simulated environment, and provide the US-CERT with response and mitigation actions to share with partners in the control systems community.

- DHS and the Germany Ministry of the Interior jointly hosted a Multilateral Cyber Security Conference in Berlin, Germany. The conference brought together cyber security policymakers, managers from computer security incident response teams with national responsibility, and law enforcement representatives responsible for cyber crime from 15 countries. The conference program included a facilitated tabletop exercise and interactive discussions on how to develop an international framework – as well as near term actionable steps – for watch, warning, and incident response.

- IAIP developed and disseminated warning products (i.e. warning messages) to Federal, State, territorial, tribal, local, private sector, and international partners to protect citizens, governments, critical infrastructure, and key assets.

- Pursuant to Homeland Security Presidential Directive – 7, IAIP, distributed the Interim National Infrastructure Protection Plan (Interim NIPP) to the NIPP Leadership Council, the State Homeland Security Advisors, and the private sector stakeholder groups (i.e. the Homeland Security Advisory Council, Sector Coordinating Council, ISAC Councils, National Infrastructure Advisory Council, etc.) The Interim NIPP outlines the Federal role for critical infrastructure and key resources protection in 17 specific critical infrastructure and key resource sectors.

FY 2006 Budget Request

The Department's FY 2006 Budget request revolves around five major themes: Revolutionizing the Borders; Strengthening Law Enforcement; Improving National Preparedness and Response; Leveraging Technology; and Creating a 21st Century Department.

I. Revolutionizing the Borders

September 11, 2001, demonstrated the sobering reality that the U.S. is no longer immune from catastrophic attack. No longer do vast oceans and friendly neighbors provide the buffer against aggressive adversaries. In order to maximize the security of our nation against persons determined to undermine the economy of the U.S., our way of life and the freedoms we enjoy, the Department is determined to deter, thwart, and remove any threat to the nation long before it reaches our borders. During FY 2005, we will continue to strengthen our border security. For FY 2006, the President's Budget includes several initiatives aimed at revolutionizing the Borders.

Weapons of Mass Destruction (WMD) Detection Technology is an integral part of the Domestic Nuclear Detection Office (DNDO) that includes a comprehensive strategy to address the threat of nuclear and radiological terrorism. The Budget includes $125 million to purchase additional Radiation Portal Monitors (RPMs) and pilot advanced next generation RPMs to detect both gamma and neutron radiation at our borders. In addition, the Container Security Initiative (CSI), which focuses on pre-screening cargo before it reaches our shores, will have a preventative and deterrent effect on the use of global containerized shipping of WMD and other terrorist equipment. Egypt, Chile, India, the Philippines, Venezuela, the Bahamas and Honduras have been identified as pilots for this initiative in FY 2006. An increase of $5.4 million over FY 2005 is included in Customs and Border Protection (CBP) budget for CSI. The total amount in the President's Budget for CSI is $138.8 million.

CBP's America's Shield Initiative (ASI) enhances electronic surveillance capabilities along the Northern and Southern land borders of the U.S. by improving the sensor and video surveillance equipment deployed to guard against the entry of illegal aliens, terrorists, WMDs and contraband into the U.S. The Budget includes $51.1 million for ASI, an increase of $19.8 million. With additional technology investments, the President's Budget proposes to increase Border Patrol staffing over current levels to backfill staff vacated along the Southwest border, as well as increase staffing levels assigned to coastal areas. Since September 11, 2001, some Border Patrol agents were shifted to the Northern border in order to increase the number of agents assigned there. An increase of 210 positions and $36.9 million is included in the Budget for the Border Patrol. This increases the number of Border Patrol Agents to 10,949.

The Customs Trade Partnership Against Terrorism (C-TPAT), which began in November 2001, is another essential cargo security effort. C-TPAT focuses on partnerships along the entire supply chain, from the factory floor to foreign vendors to land borders and

seaports. The President's Budget includes an increase of $8.2 million for this effort, bringing total funding for C-TPAT to $54.3 million. These funds will be used to enhance our ability to conduct additional supply chain security validations.

In addition to enhancing secure trade programs, the President's Budget also seeks to support additional investments in CBP's National Targeting System. CBP Targeting Systems aid in identifying high-risk cargo and passengers. The Budget includes a total of $28.3 million for these system initiatives, of which $5.4 million is an increase over the FY 2005 level. Further, US-VISIT, which will be consolidated within the Screening Coordination Office, will increase from $340 million to $390 million in the Budget. The increase will provide for the accelerated deployment of US-VISIT at the land border and enhanced access for border personnel to immigration, criminal and terrorist information.

The President's 2006 Budget includes $966 million for the Integrated Deepwater System (IDS) to help address the Coast Guard's declining readiness trends and to transform the Coast Guard with enhanced capabilities to meet current and future mandates through system-wide recapitalization and modernization of Coast Guard cutters, aircraft, and associated sub-systems. Among other things, the IDS request funds production of the third Maritime Security Cutter-Large and continues HH-65 helicopter re-engineering to eliminate safety and reliability issues in the Coast Guard's operational fleet of short range helicopters.

Finally, within CBP, Long Range Radar technology is used by the Office of Air and Marine Operations to detect and intercept aircraft attempting to avoid detection while entering the U.S. CBP and the Department of Defense will assume responsibility for operating and maintaining these systems from the Federal Aviation Administration (FAA) beginning in FY 2006. CBP's share is $44.2 million in the Budget.

II. Strengthening Law Enforcement

Law enforcement is a critical element in preventing terrorism across the nation. Whether at the Federal, State, or local level, law enforcement agencies perform this vigilant task. As we know from unfortunate first hand experience, the known threats are creative, clever, and sophisticated. The Department's law enforcement agencies need to stay ahead of the threat. To achieve this, the Budget includes funding for numerous key initiatives to maintain and strengthen current law enforcement initiatives both within and beyond our borders.

The United States Coast Guard (USCG) is the nation's leading maritime law enforcement agency. The President's Budget seeks additional investment in USCG assets to enhance its ability to carry out its mission. The President's budget provides $11 million to increase port presence and Liquefied Petroleum Natural Gas (LNG) transport security, funding additional Response Boat-Smalls and associated crews to increase presence for patrolling critical infrastructure, enforce security zones, and perform high interest vessel escorts in strategic ports throughout the nation. This initiative also provides additional

boat crews and screening personnel at key LNG hubs such as Baltimore, MD and Providence, RI to enhance LNG tanker and waterside security.

In addition, in the President's Budget, the Armed Helicopter for Homeland Security Project increases by $17.4 million. These funds will provide equipment and aircraft modifications to establish armed helicopter capability at five USCG Air Stations. This will provide the USCG and DHS with the tools needed to respond quickly and forcefully to emergency maritime threats. A total of $19.9 million is included in the Budget for this project. Finally, the Response Boat-Medium Project increases by $10 million the effort to replace the USCG's 41-foot utility boats and other large non-standard boats with assets more capable of meeting all of the USCG's multi-mission operational requirements. A total of $22 million is proposed in the Budget for this effort.

U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security (DHS), is responsible for identifying and shutting down vulnerabilities in the nation's border, economic, transportation and infrastructure security. The President's Budget seeks a 13.5 percent budget increase for ICE, including increasing the Detention and Removal program by $176 million. For the Temporary Worker program, the Budget seeks to more than double the resources available for worksite enforcement including employer audits, investigations of possible violations and criminal case presentations. An increase of $18 million is proposed in the Budget for this effort. The President's Budget seeks a total of $688.9 million for ICE's Federal Air Marshal Service. This funding will allow ICE to protect air security and promote public confidence in our nation's civil aviation system.

The Department's FY 2006 Budget includes several other funding enhancements for law enforcement, including:

- The Federal Law Enforcement Training Center's (FLETC) budget increases by $2.7 million for Simulator Training Technology to teach officers and agents how to avoid collisions and reduce the dangers associated with pursuit driving.

- Federal Flight Deck Officers (FFDO)/Crew Member Self-Defense (CMSD) Training is increased by $11 million in FY 2006. This allows for the expansion of the semi-annual firearm re-qualification program for FFDO personnel and to fund the first full year of the CMSD training program. A total of $36.3 million is included for FFDO/CMSD in the Budget.

- Enhancing law enforcement training through co-location of the Coast Guard's Maritime Law Enforcement Training program with the Federal Law Enforcement Training Center, increasing maritime law enforcement training throughput and promoting better coordination among field activities with other Federal, State, and local agencies.

III. Improving National Preparedness and Response

Though the primary mission is to protect the nation from terrorism, the Department's responsibilities are diverse. No DHS effort has a greater scope, reach and impact upon the citizens across the U.S. than our efforts to prepare the nation to respond to major acts of terror or natural disaster. This Budget continues to support the President's homeland security directives that establish the methods and means by which our nation prepares for and responds to critical incidents. Since its establishment, the Department has, and continues to provide, an unprecedented level of financial support to the State, local, and tribal governments and to certain private sector entities. The Budget builds on these efforts and proposes significant resources to provide direct financial assistance to our nation's first responders, emergency managers, and citizen volunteers. There are several initiatives in the Budget geared towards improving national preparedness and response.

The FY 2006 budget continues to support the nation's first responders and seeks a total of $3.6 billion to support first-responder terrorism preparedness grants, administered by the Office of State and Local Government Coordination and Preparedness, with better targeting to high-threat areas facing the greatest risk and vulnerability. This funding will support State and local agencies as they equip, train, exercise, and assess preparedness for major emergencies, especially acts of terrorism. While there may be gaps in State and local capabilities, we believe special emphasis must be given to communications interoperability, catastrophic planning, WMD awareness, critical infrastructure protection, and cross-jurisdictional/regional cooperation and interaction.

For FY 2006, the President's Budget proposes $20 million for the Federal Emergency Management Agency's (FEMA) enhanced catastrophic disaster planning. This funding will support catastrophic incident response and recovery planning and exercises. FEMA will work with States and localities, as well as other Federal agencies to develop and implement plans that will improve the ability of Federal, State, or local governments to respond to and to recover from catastrophic disasters quickly and effectively. FEMA will address the unique challenges a catastrophic disaster situation poses, including food and shelter, transportation, decontamination and long term housing needs.

On October 1, 2004, the Department of Homeland Security launched the Office of Interoperability and Compatibility designed to help State and local public safety practitioners improve communications interoperability. The Office of Interoperability and Compatibility (OIC), part of the Science & Technology directorate, oversees the wide range of public safety interoperability programs and efforts currently spread across Homeland Security. These programs address critical interoperability issues relating to public safety and emergency response, including communications, equipment, training, and other areas as needs are identified. The OIC allows the Department to expand its leadership role in interoperable communications that could be used by every first responder agency in the country. The OIC has currently identified three program areas: Communications, Equipment, and Training. With $20.5 million in FY 2006, the OIC will plan and begin to establish the training and equipment programs, as well as continue existing communication interoperability efforts through the SAFECOM Program.

The President's FY 2006 Budget for the Department proposes other enhancements to improve our national preparedness and response, including:

- Replacement of the USCG's High Frequency (HF) Communications System. Funded at $10 million in the Budget, this system will replace unserviceable, shore-side, high power high frequency transmitters, significantly improving long-range maritime safety and security communications.

- The Budget increases Cyber Security to enhance the U.S. Computer Emergency Preparedness Team (US CERT), a 24/7 cyber threat watch, warning, and response capability that would identify emerging threats and vulnerabilities and coordinate responses to major cyber security incidents. An increase of $5 million is proposed, bringing the program total to $73.3 million.

- The Rescue 21 project is funded at $101 million in the Budget to continue recapitalizing the Coast Guard's coastal zone communications network. This funding will complete system infrastructure and network installations in 11 regions and begin development of regional designs for the remaining 14 regions.

IV. Leveraging Technology

Rapid advances in technological capability are allowing the Department personnel to protect the homeland more efficiently and effectively across many components. To prepare the nation to counter any WMD threat—threats from CBRNE substances—this Budget includes an increase for new initiatives that support research and development to counter these weapons and their potentially devastating effects.

First, the Domestic Nuclear Detection Office (DNDO) is being established as a joint national office to protect the nation from radiological and nuclear threats. This office will consolidate functions within DHS and establish strong interagency linkages for the deployment of a national domestic nuclear detection architecture, the conduct of transformational research and development (R&D), and the establishment of protocols and training for the end users of equipment developed and deployed through the new office. The DNDO will integrate domestic nuclear detection efforts undertaken by individual Federal agencies, State and local governments, and the private sector and be closely linked with international nuclear detection efforts. A total of $227.3 million is requested for this effort in FY 2006.

Second, TSA's emerging checkpoint technology is enhanced by $43.7 million in FY 2006 to direct additional resources to improve checkpoint explosives screening. This request responds to the 9/11 Commission Report's finding that investments in technology may be the most powerful way to improve screening effectiveness and priority should be given to explosive detection at airport checkpoints for higher risk passengers immediately. This new equipment assures that TSA is on the cutting edge, ahead of the development of increasingly well-disguised prohibited items. This proposed increase

will result in investing more than $100 million in FY 2005 and FY 2006 for new technology to ensure improved screening of all higher risk passengers.

In addition, to improve TSA's information technology network, the President's Budget includes $174 million to complete installation of High Speed Operational Connectivity (Hi-SOC) to passenger and baggage screening checkpoints to improve management of screening system performance. Within the Screening and Coordination Office, funding is sought for the Secure Flight and Crew Vetting programs -- an increase of $49 million to field the system developed and tested in FY 2005. The funds will support testing information systems, connectivity to airlines and screen systems and daily operations. This also includes an increase of $3.3 million for crew vetting.

Third, the President's Budget also proposes additional funding for two critical Department programs – the Homeland Secure Data Network (HSDN) and the Homeland Security Operations Center (HSOC). For FY 2006, the Budget includes $37 million for HSDN. This funding will streamline and modernize the classified data capabilities in order to facilitate high quality and high value classified data communication and collaboration. Funding for the HSOC is increased by $26.3 million, bringing its FY 2006 funded level to $61.1 million. This includes an increase of $13.4 million for the Homeland Security Information Network (HSIN) and an increase of $12.9 million to enhance HSOC systems and operations. The funding will provide the HSOC with critical tools for sharing both classified and unclassified information and situational awareness with Federal, State, local and tribal governments.

Fourth, a key element of the Department's Maritime Security Strategy is to enhance Maritime Domain Awareness (MDA), leveraging technology to improve sharing of accurate information, intelligence, and knowledge of vessels, cargo, crews and passengers, mitigating threats to the security, safety, economy, or environment of the U.S.. The FY 2006 budget funds several key MDA initiatives, including $29.1 million for the nationwide Automatic Identification System (AIS) and $16.5 million to provide additional maritime patrol aircraft flight hours in support of detection, surveillance and tracking activities.

Finally, the Department is seeking additional technology investments in other critical areas, such as:

- $20 million for developing a Low Volatility Agent Warning. This system will serve as the basis for a warning and identification capability against a set of chemical agents whose vapor pressure is too low to be detected by conventional measures;

- Increasing Counter-Man Portable Air Defense Systems funding by $49 million to a total of $110 million in the Budget. This program will continue to promote the viability of technical countermeasures for commercial aircraft against the threat of shoulder-fired missiles by improving reliability and affordability; and

V. Creating a 21st Century Department

The Department has made significant progress in strengthening the management of its business processes from inception to implementation. The Office of the Under Secretary for Management focuses its efforts on the oversight, integration and optimization of the Department's human capital, information technology, financial management, procurement and administrative operations. Over the past year, this office has made strides in designing, planning, and supporting new standards for business processes and resource allocation in order to achieve a cohesive organization while ensuring maximum return on investment. This organization is focused on establishing the overall framework, developing management methods, and monitoring the progress of each management function.

Examples of major enterprise initiatives included in the Budget that contribute to Creating a 21st Century Department include the following:

- The program for electronically managing enterprise resources for government effectiveness and efficiency – or eMerge^2 – to continue implementation of a DHS-wide solution that delivers accurate, relevant and timely resource management information to decision makers. The Budget includes $30 million for this program. By delivering access to critical information across all components, the Department will be able to better support its many front-line activities. It focuses on the areas of accounting and reporting, acquisition and grants management, cost and revenue performance management, asset management and budget that will be integrated with MAX ^{HR}.

- MAX ^{HR} funding of $53 million involves designing and deploying a new human resources system. The $53 million is requested to support the development and deployment of the new HR personnel system as published in the Federal Register on February 1, 2005. These funds will be used to fund the detailed system design for our labor relations and pay-for-performance programs, provide appropriate training and communication for our managers and employees and to provide proper program evaluation and oversight. In this effort, our goal is to create a 21st Century personnel system that is flexible and contemporary while preserving basic civil service principles and the merit system.

- The Information Sharing and Collaboration (ISC) program will affect the policy, procedures, technical, business processes, cultural, and organizational aspects of information sharing and collaboration, including coordinating ISC policy with other Federal agencies, drafting technical and operational needs statements, performing policy assessments, and analyzing new requirements. The total funding for FY 2006 will be $16.482 million.

These initiatives will help move the Department toward an efficient and effective shared services environment, avoiding duplication of effort across the program areas.

Conclusion

We have a dedicated and skilled team in DHS who understand that what they are doing is important. We have the support of our partners in government and the public and private sectors. I thank the Congress for its support, which has been critical to bringing us to this point.

Our homeland is safer than it was a year ago, but we live in dangerous times and cannot count on times to change. That is why the Department of Homeland Security was created, and why we are moving forward. I am grateful to be here today to talk about the work we are doing to make America a safer home for us, for our children and generations to come.

Thank you for inviting me to appear before you today. I look forward to answering your questions and to working with you on the FY 2006 budget and other issues.

Questions For the Record
Senate Homeland Security and Governmental Affairs Committee
Hearing on DHS FY2006 Budget
March 9, 2005
Secretary Michael Chertoff

Questions from Chairman Susan Collins

1. The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA) significantly expands the statutory responsibilities of the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties, to include (1) reviewing and assessing information concerning religious profiling; (2) investigating complaints; (3) assisting DHS in policy development; and (4) overseeing DHS's compliance with relevant laws, regulations, and policies. However, DHS's budget request continues funding of this Office at $13 million, the same level from Fiscal Year (FY) 2005. Why is DHS not requesting an increase in funding for this Office?

Response: The budget for the Office for Civil Rights and Civil Liberties is adequate to fully respond to the many responsibilities placed upon the office. The Department is developing an implementation plan for the new provisions set forth in IRTPA. As soon as the implementation plan is finalized, the Department will notify Congress regarding the new steps that will be put in place.

2. The DHS Inspector General (IG) is intended to serve as an independent watchdog against waste, fraud, and abuse - a function that is particularly important in a department that is still undergoing development. In addition, the IRTPA gives the IG new responsibilities with respect to handling allegations of civil rights and civil liberties abuses. However, DHS's budget request increases the IG's funding by less than 1% in FY 2006 despite a 7% increase in the overall DHS budget. This small increase comes on top of a 3% cut in the IG's budget in FY 2005. Please explain why the IG's budget is stagnant.

Response: The IRTPA does not give the DHS Office of Inspector General (OIG) new duties but, rather, codifies the IG's responsibilities in the handling of allegations related to civil rights and civil liberties abuses. As such, the IG has not requested additional resources to undertake what has been an ongoing responsibility. Also, by way of clarification, the IG did not receive a 3% cut in FY 2005 but an increase of 2.4% percent over its FY 2004 appropriation. Furthermore, the FY 2006 request includes an almost 1% percent increase to cover cost of living increases that will allow the OIG to continue its important work in the area of civil rights and civil liberties abuses. As we begin the FY 2007 budget and planning process, the IG's budget needs will be considered carefully in developing future DHS-wide priorities.

3. Project Seahawk aims to create a partnership among DHS, the Department of Justice, State governments, local governments, and private-sector entities to foster port security. During your recent trip to Charleston, SC, you reportedly described Project Seahawk as "a great example of partnership." Certainly the phrase "one team, one fight" comes to mind when we view efforts like Project Seahawk. I would hope that any potential 'turf issues' could be avoided as we work to protect our homeland and believe that your experience at DOJ, and now with DHS, could prove beneficial in avoiding such conflict. How will DHS support the Project Seahawk program and expand it to other ports?

Response: DHS is supporting Project Seahawk ensuring the full agency participation. The Coast Guard and DOJ are currently partnering to facilitate information sharing and operational

coordination in Charleston. The Coast Guard has established a Maritime Domain Awareness (MDA) watch within Seahawk that provides 24 x 7 watch-standers to monitor sensors and relay information to port partners. The Coast Guard also provides maintenance support to Seahawk sensors and command and control systems. To strengthen this partnership, the Coast Guard intends to relocate its Sector Command Center watch within the Seahawk Command Center. Additionally, CBP and ICE have established local representatives within Seahawk and participate in coordinated operations on a daily basis.

The Department fully supports expanding the Seahawk concept to other ports. It is an exceptional example of partnership and coordinated operations through use of advanced technologies. Expansion of the concept to other ports is planned to commence in fiscal year 2007 via the Coast Guard's MDA Command 2010 project and will include an analysis of the unique needs of each location to ensure that an appropriately scaled solution is implemented.

4. The Information Analysis and Infrastructure Protection Directorate (IAIP) is charged with assessing vulnerabilities in our nation's critical infrastructure, mapping threats against those vulnerabilities, and issuing timely warnings. The budget request for Fiscal Year 2006 includes $873 million for IAIP, which is a $20.4 million decrease from the Fiscal Year 2005 appropriated level due to a one-time transfer of funds. Given that IAIP is maturing, the amount of information available to it is increasing, and DHS needs to foster a strong intelligence capability, please explain what the main challenges facing IAIP are and how request for level funding is sufficient to meet those challenges.

Response: Changes to the IAIP budget between FY 2005 and FY 2006 reflect a more distinct alignment of roles and responsibilities among the agencies within DHS, and including DHS' role in the intelligence community. Major changes to the FY 2006 IAIP budget are the result of decreases from transfers of funding for grant programs and reduction in technology efforts offset, in part, by increases for operations centers, program enhancements and realignments, additional staff, and facilities improvements.

The FY 2006 budget request was structured with emphasis on the following challenges:

- Operations Center Systems Enhancement: Increase of $31.3 million for enhancements to Homeland Security Operations Center Systems; Homeland Security Information Network connectivity; and the U.S. Cyber Emergency Readiness Team.

- National Infrastructure Protection Plan Implementation: Increases of $3 million for planning and implementation.

- Protected Critical Infrastructure Information (PCII) Data Collection and Control: Increase of $5.5 million for enhancements for program execution.

- Information Sharing and Collaboration Improvement: Increases of $5.4 million for program planning and execution.

- Organizational Capability Development: 146 additional positions to enhance information analysis, operations support, and program implementation.

- Infrastructure Establishment and Support: $57.4 million was requested to support facilities and the continued establishment and maintenance of the Homeland Security Data Network (HSDN).

The Administration subsequently proposed in July a budget amendment that restructured the IAIP budget consistent with Secretary Chertoff's Second Stage Review changes

5. During a Committee hearing in January, Richard Falkenrath, former Deputy Homeland Security Advisor to the President, repeatedly expressed the need to secure this nation's chemical facilities. He stated that, "since 9/11, we have essentially done nothing in this area and made no material reduction" in security vulnerabilities of the chemical sector. A March 16, 2005, New York Times article outlined the fifteen hypothetical catastrophic terrorist attacks apparently included in DHS's draft "National Planning Scenarios" document. Of these fifteen scenarios - described by the New York Times as "the most plausible or devastating and that represented a range of the calamities that communities might need to prepare for" - four of them involve chemical attacks. As this Committee has studied what role the federal government should play in keeping the nation's chemical facilities secure, we have talked with various stakeholders, a number of whom have expressed an ardent desire to legislate in this area. They are largely concerned with ensuring a level-playing field - that all industrial companies who utilize hazardous chemicals in their production facilities abide by the same safety standards. They are also concerned with consistency from State to State. Some States have already developed or are developing their own regulations for chemical security. Would you support or consider supporting legislation to safeguard our nation's chemical facilities?

Response: As part of my Second Stage Review of DHS policies, operations and structure, I tasked my team to review the current state of security and ensure that we have the proper tools to address threats facing the chemical industry, now and in the future. I now have concluded that from the regulatory perspective, the existing patchwork of authorities does not permit us to regulate the industry effectively. To close the existing gaps and reduce risk across the chemical sector, the Federal Government should adhere to certain core principles.

First, we must recognize that not all facilities present the same level of risk, and that the most scrutiny should be focused on those that, if attacked, could endanger the greatest number of lives, have the greatest economic impact or present other very significant risks. There are certainly many chemical facilities in the United States that pose relatively low risk. Second, facility security should be based on reasonable, clear, and equitable performance standards. The Department should develop enforceable performance standards based on the types and severity of potential risks posed by terrorists, and facilities should have the flexibility to select among appropriate site-specific security measures that will effectively address those risks. Third, we should recognize the progress many responsible companies have made to date. Many companies have made significant capital investments in security since 9/11, and we should build on that progress. The Department looks forward to working with Congress to develop appropriate, risk-

based legislation that recognizes these core principles in addressing the issue of chemical site security.

Questions from Senator Norm Coleman

1. Border Security / CBP
The C-TPAT program requires that the information provided by applicants in the supply chain be validated by CBP personnel to ensure that they implement and adhere to an accepted amount of security practices and procedures. In return, CBP offers their company expedited inspections from CBP. However, CBP has received numerous applications for this program and only a small percentage of those applicants under the program have been validated. Yet the FY 2006 budget only calls for an additional $8.2 million and no FTE.

Can CBP accomplish the remaining validations with current personnel?

Response: CBP initiates validations based on risk. A quantitative risk assessment tool is used to identify those C-TPAT certified members with high-risk supply chains, and validation resources are directed accordingly. Staffing for this program was significantly increased in FY05 (120 new positions provided for conducting validations), which will allow CBP to conduct validations of all high-risk supply chains. Additionally, 38 field officers received training in FY05 to help assist in the initiation of validations, further increasing the cadre of officers involved in the validation process. CBP is also employing new validation approaches, which allow for greater effectiveness and efficiency in the validation process.

2. Domestic Nuclear Detection Office (DNDO)
As you mentioned in your opening remarks, DHS is proposing the formation of the DNDO (Domestic Nuclear Detection Office) for FY 2006. The DNDO is being proposed to manage a nuclear detection architecture to optimize your department's efforts in the deployment of nuclear detection equipment and to coordinate research and development in this area. However, information received from your department emphasized that, although each agency's nuclear detection efforts must conform to DNDO's established architecture, the agencies would nonetheless operate independently and retain control of their own program.

Based on the last statement, is it the intention of the department to have the DNDO strictly serve in an advisory and coordinating role or will the DNDO supplant CBP as the primary agency involved in the procurement and deployment of detection equipment?

Response: The DNDO will be a jointly-staffed, national office established to develop the global nuclear detection architecture, and acquire, and support the deployment of the domestic detection system to detect and report attempts to import or transport a nuclear device or fissile or radiological material intended for illicit use.

The DNDO role within the Department is far larger than that of "an advisory and coordination role." The DNDO will conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational research and development program and a rigorous test and

evaluation program to support the implementation of well-characterized and highly capable technology. Additionally, the DNDO will support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments. It will provide information to these entities and further enhance and maintain continuous awareness by analyzing information from all DNDO mission-related detection systems.

With respect to procurement and deployment of detection equipment to the Nation's borders, primary responsibility for deploying nuclear detection assets has previously, as you noted, fallen upon CBP. However, the DNDO will now be responsible for the procurement of these assets, as well as any other detection assets that constitute the domestic nuclear detection system. CBP will maintain their current responsibility as the primary agency for deployment of this equipment at the border, to include installation, construction, commissioning, and training, in coordination with DNDO.

Why is the DNDO located in your office and not within the Science and Technology Directorate where other programs to combat biological and chemical WMD are coordinated?

Response: The DNDO has a much more expanded mission than just coordination across the Department, including procurement programs and technical support to operations (to include development of training and response protocols); the DNDO mission clearly extends beyond the bounds of programs that have, in the past, been executed through the Science and Technology Directorate. Additionally, as a national, jointly-staffed office, the level of interagency interaction and critical coordination required merits great visibility and emphasis within DHS. To this end, locating the DNDO as a direct report to me within the Department will ensure that the Director of the DNDO will have the authorities and day-to-day access necessary to perform this very comprehensive and important mission.

3. Border Patrol Agents
The northeastern border of Minnesota is readily accessible from Ontario through the Boundary Waters Canoe Area (BWCA). Since 9/11, the number of Customs and Border personnel in that area has tripled. The President's budget provided an additional $36.9 million for 210 new border patrol agents. However, the budget states that these additional agents will go for southern border protection.

Do you think the current staffing and equipment on our northern border is adequate to protect against unauthorized entry?

Response: Following the terrorist attacks of September 11, 2001, the CBP Border Patrol has accelerated its efforts in increasing its enforcement presence along the northern border to achieve the definitive goal of operational control. This accelerated and focused effort has clearly provided the nation with a more secure northern border. Moreover, Emergency Supplemental Legislation and President Bush's FY06 Budget call for the hiring of an additional 710 agents by the end of FY06, and CBP is taking aggressive steps to recruit, hire and train candidates to fill these spots. New agent positions will be allocated based on risk-based priorities. That said,

effective control of the border – Northern or Southern – requires a more comprehensive approach than simply adding more agents.

DHS is accordingly in the midst of a systems-level review of its border control architecture -- including evaluating how best to implement effective surveillance technology and integrate it through command and control systems with agents on the ground. Changes in infrastructure, so agents can move more quickly, are also being examined. DHS will identify a program manager to oversee the development of a specific set of border security plans.

4. DHS Planning & Policy
My subcommittee, the Permanent Subcommittee on Investigations, has been overseeing several of the security programs initiated by the Department of Homeland Security. Although several of those programs, such as CSI and C-TPAT, show great promise as components within our national security framework, we continue to see several commonalities among them indicating a lack of planning and, occasionally, an adherence to policy. As pointed out in several GAO reports, including one on the C-TPAT program just released this month, we've seen programs that have received considerable amounts of funding since 911 that have yet to produce strategic plans, human capital (personnel) plans or reliable performance measures.

Since the agencies within this department have been initiating numerous creative programs to protect our homeland, do you have a proposal to ensure that those programs are strategically planned and overseers, either within congress or your own department, can be assured of their performance and use?

Response: The Department has established a long-term comprehensive planning, programming, budgeting, and execution system to support developing the Future Years Homeland Security Program (FYHSP) – our five-year resource and performance plan. The FYHSP links programs and performance goals to the DHS Strategic Plan. To develop the FYHSP, we have a step-by-step strategic decision-making process that links the threat assessments, resource constraints, and the policy intentions of our leadership to the thousands of detailed readiness actions needed to meet the missions of the Department of Homeland Security. Annually as part of building the FYHSP, each individual DHS entity is required to develop a five-year budget and performance plan that includes resource requirements for infrastructure needs.

By identifying our long-range strategies and resource requirements, DHS will better ensure that priority programs can be executed over the long term and that we are positioned to more readily accommodate changing circumstances. The annual budget request is based on the FYHSP and contains a Performance Budget Overview section that identifies key performance measures for each program.

5. Financial Management
It has been well documented that some of the components of the department have experienced administrative hardships since the department was stood up. Immigration and Customs

Enforcement (ICE) in particular has experienced financial difficulties that have led to budgetary shortfalls of millions of dollars. Those shortfalls have been attributed in some degree to its financial management Information Technology (IT) system. Yet, it was learned recently that DHS is currently relying on that same ICE system for financial management IT at the departmental level until the new department-wide financial management system, "eMerge2," is operable.

What is the timeframe for the roll-out of eMerge2? Will all department agencies and directorates eventually be part of that system?

Response: The *eMerge²* integrated financial, procurement, and asset management solution will be implemented using a phased-release strategy. In FY 2006, *eMerge²* plans to implement a consolidated financial reporting tool that covers all of DHS.

6. Grant Allocation
My home state of Minnesota has a wide range of homeland security interests given that we share an international border with Canada, have a major point of entry for cargo and vehicle traffic in the city of International Falls, two major cities in Minneapolis and St. Paul, two nuclear reactors in Red Wing and Monticello, and a major port in the city of Duluth. Unfortunately, however, Minnesota witnessed an average 48% reduction in the allocation of federal homeland security dollars, including a 71% reduction to our urban area security initiative alone. The President's budget for fiscal year 2006 proposes to distribute Homeland Security grant funding based on the Department of Homeland Security's determination of risk and vulnerability.

What factors do you think should go into determining levels of risk and vulnerability to our cities?

Response: The Department will consider risk factors such as threat, presence of critical infrastructure, vulnerability, population, and population density, international borders, and ports of entry in making final award determinations for the State Homeland Security Grant Program (SHSGP). In the consideration of need, the Department will undertake an assessment with the States and territories to identify their capabilities and gaps consistent with the capabilities and tasks identified under Homeland Security Presidential Directive 8 (HSPD-8).

As you know, each State has submitted an updated homeland security strategy as a requirement of receiving and distributing Fiscal Year 2005 State and Local Government Coordination and Preparedness (SLGCP) funds. Additionally, SLGCP will expand the focus of the current Inter-Departmental Urban Area Working group to examine state-level factors closely before finalizing the list of risk factors that will be considered when making final funding decisions on the State Homeland Security Grant Program (SHSGP) funds. It is the Department's expectation that these strategies, and periodically updated strategies, will provide invaluable information to determine appropriate funding levels for all States – large and small, urban and rural.

Terrorism and the threat of terrorist acts are not static, as is the current formula included in the USA PATRIOT Act. Instead, threats, risks, and vulnerabilities are fluid and can change based

on a number of factors. The Department of Homeland Security should not be constrained by a formula and distribution method that does not change to meet current and future security needs.

What measures can be put in place to prevent large fluctuations in the amount of grant money awarded to a particular location from year to year?

Response: DHS cannot completely predict funding levels from year to year, not least because appropriations are determined annually. Currently, portions of the Homeland Security Grant Program, such as the State Homeland Security Program and the Law Enforcement Terrorism Prevention Program, are based upon population, in accordance with the USA PATRIOT Act. The Urban Areas Security Initiative (UASI) funding allocations, however, are allocated on a risk-based formula. The Fiscal Year 2005 UASI formula included additional enhancements to the funding criteria, which caused some urban areas to receive different amounts than they had received in Fiscal Year 2004.

UASI urban areas are selected based upon both static and dynamic criteria, such as the current threat picture. Accordingly, in addition to potentially differing funding allocations from year to year, the urban areas may change as well. Currently, these programs embody the two main methods for allocating funds: a population-based formula, or a risk-based formula. Both funding methods may cause fluctuations based on new data. Finally, the Department must abide by direction included in its annual congressional appropriations.

What systems are in place within the Department to move a large amount of resources quickly if a location's risk and vulnerability rise dramatically over a short period of time?

Response: The Office for Domestic Preparedness (ODP) within SLGCP is well-versed in moving large amounts of resources to the State and local response community. Over the past seven years, ODP has seen its appropriation rise from tens of millions of dollars to over $4 billion dollars. Although the funding amounts have increased exponentially, the basic mechanism of providing Federal assistance, through grants to the States, has remained the same and provides the States with the ability to obligate and draw down funding through the U.S. Treasury within a 24-48 hour period. Additionally, a waiver in the Fiscal Year 2005 DHS Appropriation allows States to draw down funds up to 120 days prior to expenditure, which is a direct result of the work of the Homeland Security Funding Task Force.

DHS believes that it would be helpful to have more flexible grant funds that can be allocated based on the most up-to-date risk and vulnerability assessments, which is why the Administration requested $600 million in Targeted Infrastructure Protection grants for FY 2006. In addition to Federal financial assistance, ODP can provide technical assistance and training courses for the State, local, and tribal community. Should a particular location's risk or vulnerability rise dramatically, program capacity can be quickly reallocated to that jurisdiction to provide immediate assistance. ODP executed such a reallocation after the events of September 11th, following a request from New York City. Based on the request, ODP provided immediate assistance and extra resources, including training and other on-site support.

7. Cuts to FIRE Grants and COPS Grants
Secretary Chertoff, many of my constituents in rural Minnesota are very concerned about the 30% cut in the homeland security FIRE grants and the virtual elimination of COPS program funding. For many rural areas, these grants are the only way they can put extra deputies and firemen in the field. Now on one hand we are telling people to be vigilant and to report anything suspicious to the police. But for most Americans, that means mentioning it to their Deputy Sheriff when they bump into him at the barbershop or an American Legion post. My concern is that if we start removing these deputies, I think a lot of suspicious activity may go unreported and important crime fighting tips may be lost.

Do you think cuts to these programs will compromise our ability to stop terrorists and criminals if they set up shop in rural communities?

Response: With respect to the Fiscal Year 2006 budget request for the Assistance to Firefighters Grant (AFG) program, the Department believes that it reflects a strong commitment to enhancing the response capabilities of our Nation's fire service by providing $500 million for the AFG program. The Fiscal Year 2006 request is consistent with the Administration's budget requests since Fiscal Year 2003 for the AFG program. As you may know, the Administration has sought to encourage the AFG recipients to improve their preparedness for terrorism and major catastrophes. Furthermore, Congress has directed the AFG program to achieve a balance of awards among rural, suburban, and urban fire departments. To date, the Department has made 7,712 Fiscal Year 2004 AFG program awards. Over 84 percent of these awards to date have been granted to rural fire departments.

DHS is currently implementing the Interim National Preparedness Goal, which includes Firefighting Operations and Support among 36 critical target capabilities for responding to major incidents, especially terrorism. Specific baseline capability levels and performance targets will be developed for the Firefighting Operations capability by September 2005. This analysis will greatly contribute to our understanding of how prepared the fire service needs to be, and where Federal grant funds should be targeted.

As the COPS Program is administered by the Department of Justice, I would defer questions on that Program to the Attorney General and the COPS Office.

8. Transportation Workers Identification Credential (TWIC)
The transportation workers identification credential (TWIC) has been in the testing and evaluation process for more than two years with full scale application in Florida, Los Angeles and Long Beach.

What have been the results of this deployment and do you think modifications need to be made. Also, how soon will the TWIC be applied nation wide?

Response: The TWIC Program completed the Prototype Phase on June 30, 2005. TSA will evaluate the results of the prototype phase and incorporate the lessons learned from the prototype

into the implementation plan and schedule. TSA plans to provide its implementation recommendations to the Department shortly. The Department is also reviewing comprehensively all credentialing programs within the Department, and this review may affect the full implementation of TWIC.

Questions from Senator Robert Bennett

1. The Nuclear Regulatory Commission (NRC) is currently considering a license application for the construction of a proposed nuclear waste storage facility in Utah. Has the NRC solicited any safety or security information or analysis from the Department of Homeland Security (DHS) with regards to this licensing process?

Response: DHS does not determine whether such licenses should be granted. DHS has performed a site visit in order to advise regarding security measures that should be taken if the NRC grants the license.

2. In your opinion, should DHS have a role in the licensing process of a proposed storage facility that would consolidate nearly all the nation's spent nuclear waste in one location? If so, what would that role be?

Response: The facility in Utah is the first of what is expected to become a long list of new license applications to the Nuclear Regulatory Commission (NRC). DHS and the NRC are working together to evaluate the security posture of the Skull Valley Facility. DHS, however, will not be providing a recommendation to the NRC regarding the granting of a license.

3. To your knowledge, has there been any terrorism threat assessment conducted in relation to the proposed nuclear waste storage facility in Utah?

Response: DHS has visited the site of the proposed facility solely in order to advise regarding security measures that should be taken in the event that the NRC grants the license.

4. In your opinion, should a terrorist threat assessment regarding the proposed storage facility be completed before a license for the facility is granted?

Response: DHS will conduct a security assessment of the proposed site and provide the results to the NRC. DHS will advise the NRC of the protective measures that would be required to ensure adequate security if a facility was located at this site.

5. What role, if any, would DHS have in planning or overseeing security measures for the transportation of nuclear waste from private nuclear reactors throughout the country to the proposed storage facility in Utah?

Response: As directed by HSPD-7, the Department of Homeland Security, acting through the Transportation Security Administration (TSA), is the lead agency for transportation security. TSA is a member of the National Tracking Panel that monitors the transportation of nuclear

waste throughout the transportation system. TSA will continue to work closely with representatives from the National Tracking Panel and, will work with the Department of Transportation, the Nuclear Regulatory Commission and other Federal entities to develop security standards to ensure the secure movement of nuclear waste.

6. What role, if any, would DHS have in planning or overseeing security measures at the proposed waste storage facility once the waste had arrived at the proposed site?

Response: The Nuclear Regulatory Commission (NRC) and DHS are currently working in partnership to provide oversight of security measures at commercial nuclear reactors and associated facilities as directed by the interim National Infrastructure Protection Plan (NIPP). The framework of the NIPP outlines vulnerability identification and reduction strategies. A Sector Specific Plan (SSP) is presently being developed by the Office of Infrastructure Protection (IP), in conjunction with the NRC, for the Commercial Nuclear Sector.

To facilitate the coordination between DHS and the NRC, an interagency working group has been formed with the goal of improving the security of commercial nuclear power plants and associated facilities to ensure that all are hardened against potential terrorist attack. This working group includes representatives from the NRC, DHS (including IP, the United States Coast Guard, and the Federal Emergency Management Agency), the Federal Bureau of Investigation (FBI), and representatives from the nuclear industry.

Questions from Senator Daniel Akaka

1. Mr. Secretary, during your testimony you listed a number of factors, including vulnerabilities, consequences, intelligence about threats, and the nature of the infrastructure, that would be included when calculating the basis for determining risk assessments. Could you provide a comprehensive list of the factors to be included in these assessments and by what amount each factor is weighted?

Response: Risk is the function of consequences, vulnerabilities and threats. DHS assesses risk in a number of different contexts. Common factors used by DHS in risk assessments are the following:

Within each factor, there are components that are aggregated within the framework of the same scale. For example, in calculating the consequence factor, the components are typically *loss of life*, *economic losses* and *psychological impact* on the nation. *Mission interruption* is also sometimes included where critical infrastructure continuity issues are involved. Within the framework of calculating total consequences from the components above, numerical values are assigned. These values are added to arrive at a consequence rating but are not additionally weighted.

For the threat factor, the individual components, when informed by intelligence, are typically *intent* and *capability* of the adversary or adversaries. Again, these are additive, with numerical

values assigned by those that design and perform the evaluation, and are considered equally within threat calculations.

For the vulnerability factor, many ways of calculating vulnerabilities exist, and are typically based on the needs and specificity required of the assessment.

The aggregation used to combine these factors (and their subordinate components) is typically based upon the mathematical operation of multiplication. The numerical rankings of each factor are multiplied to produce a consistent, evenly weighted product, which is typically considered to be relative risk.

2. The Department is creating a Domestic Nuclear Detection Office (DNDO), which will have the lead on nuclear and radiological research and development (R&D), and placing it in the Office of the Secretary of Homeland Security. At the same time the Department is consolidating most other R&D activities under the Science and Technology Directorate (S&T).

a. Why is nuclear and radiological R&D being removed from S&T at the same time most other R&D is being consolidated in that directorate? Won't this undermine the consolidation effort?

Response: The national response to the nuclear threat is unique in that the focus must first be on prevention while simultaneously developing essential response and recovery capabilities. Unlike other threats, nuclear and radiological material can much more easily be detected and interdicted before an event occurs. The DNDO serves as a unique entity within the Department to consolidate all nuclear-detection related activities, allowing for the development of an integrated office that will be responsible not only for research and development, but also for developing a global nuclear detection architecture and developing and implementing a domestic detection system to include acquisition programs for detection assets and operational support functions. This integration, as well as coordination with nuclear detection programs in other departments, will allow for the development of a single global nuclear detection architecture to protect the Nation from attempts to import or transport a nuclear device or fissile or radiological material intended for illicit use.

DNDO will continue to closely interface with the S&T Directorate on joint projects, as appropriate, for the development of technologies that may provide countermeasures against multiple threat types. The separation of the DNDO nuclear detection research, development, test, and evaluation (RDT&E) from the RDT&E conducted within the S&T Directorate will be conducted so as to not have any detrimental affect on potential collaborative efforts that would be gained through the S&T consolidation effort. The goal is to make sure that this Nation maintains a preeminent research and development program to address the technical challenges in radiation detection science and technology, while at the same time capitalizing on the benefits of integrating this program with larger acquisition and operational support efforts.

b. What is the policy rationale for placing the proposed DNDO under the control of the Office of the Secretary instead of under the S&T Directorate?

Response: The DNDO has a much more expanded mission than just coordination across the Department, including procurement programs and technical support to operations (to include development of training and response protocols); the DNDO mission clearly extends beyond the bounds of programs that have, in the past, been executed through the Science and Technology Directorate. Additionally, as a national, jointly-staffed office, the level of interagency interaction and critical coordination required merits great visibility and emphasis within DHS. To this end, making the DNDO as a direct report to my office will ensure that the Director of the DNDO will have the authorities and day-to-day access necessary to perform this very comprehensive and important mission.

3. Some of the offices within the Department of Homeland Security maintain classified programs. These include the Federal Emergency Management Agency and Customs and Border Protection.

a. Could you provide a list, classified if necessary, of all the classified programs funded or proposed to be funded within the Department?

Response: The Department of Homeland Security has portions of programs within the Information Analysis and Infrastructure Protection (IAIP) Directorate, United States Coast Guard (USCG), and Department Office of Security that are included within the National Intelligence Program. This information is classified and specifics are provided in a separate classified document.

b. Please provide the amount budgeted for each program in FY 05 and FY 06, a short description of the program, and identify the directorate or office responsible for overseeing the program.

Response: The information is classified and specifics are provided in a separate classified document.

4. The Department has requested $10,000,000 for communication and training programs related to Max^{HR}. Please answer the following questions regarding how the Department anticipates using these funds:

a. How much money will be spent on designing the training programs? Will the training programs be different from the programs designed and implemented in FY 2005?

Response: In FY 2006 the vast majority of the funds will be used to deliver training for DHS executives, managers/supervisors, employees and HR professionals. FY 2005 funding was used to support both program training and program communications. As DHS was preparing for publication of the MAX^{HR} regulations during FY 2005, funds were used to provide a variety of communication and outreach activities designed to heighten employee understanding and awareness of planned program changes including, employee briefings, focus groups, and production of a satellite broadcast. FY 2005 training activities also included development of program training plans and logistics, training of all Employee Relations/Labor Relations

(ER/LR) professionals on new regulatory provisions, and delivery of initial course offering to DHS executives and managers/supervisors. An estimated 500 SES equivalent and 13,000 DHS managers have been identified for leadership and MAX^{HR} training, which will be conducted spanning FY 2005 and FY 2006.

FY 2006 funds will be used to continue delivery of executive and supervisory training across the DHS complex, with a heavy emphasis on supervisory readiness for new performance management responsibilities. Training is also planned in FY 2006 for all DHS employees covered by the new system to support performance management deployment. HR professional training will also be expanded beyond the ER/LR communities and will focus on new pay and performance provisions. Separate training activities for pay changes are also being discussed for participants in the first phase of conversion from the General Schedule.

b. How much money will be spent on training related to:
the process for measuring performance?
the new appeals process?
other?

Response: Training activities for FY 2006 will focus on readiness for new performance management provisions, including training modules such as measuring and distinguishing performance, linking organizational and individual performance expectations, and coaching and feedback. General leadership training will also be provided to ensure readiness for new HR system responsibilities. Training for appeals and Labor Relations changes will be largely accomplished with the FY 2005 budget. A portion of the FY 2006 $10 million will likely be directed to training on new pay provisions for the 8,000 employees covered in the first phase of conversion.

c. Please list the number of employees who will receive training using these funds by category of employee (such as human resource professionals, covered employees, managers, etc.).

Response: During FY 2006, it is anticipated that all covered DHS employees (currently estimated at 90,000) will receive training with respect to at least one aspect of the new HR system. The type of training may vary from instructor-led classes to computer-based learning. The categories and approximate number of employees in each category are:

Executives	500
Managers/Supervisors	13,000 (including some military supervisors in Coast Guard)
Employees	80,000
HR Professionals	900

d. Please describe the types of training different categories of employees will receive.

Response: Executives will receive training on the new HR system from a broad perspective, which also will focus on their role as leaders and how this new system will integrate with the DHS vision, mission, goals, values, structure, and component roles/responsibilities.

Managers/supervisors will be completing training via instructor-led courses and eLearning on how to develop a high performance culture and exercise leadership skills to coincide with the rollout of the new performance management program in late 2005. Much of the training will occur prior to the rollout, but some will occur during FY 2006, including end-of-cycle refresher classes regarding process, roles, and responsibilities. In addition, those managers/supervisors who will be a part of Phase 1 of the rollout (HQ, IAIP, S&T, FLETC and FEMA) will receive detailed training on pay for performance and the new pay system.

Individual employees will be trained on performance management skills, such as giving and receiving constructive feedback and setting measurable objectives, as well as on the performance management process itself. Similar to the managers and supervisors, the employees will receive end-of-cycle refresher/just-in-time training. Those who will be a part of Phase 1 of the pay for performance rollout will be trained on the detailed fundamentals of the new pay system. All employees will receive general training and information about the new pay structure in FY 2006.

HR professionals in FY 2006 will be receiving more intensive training on the fundamentals of MAX^{HR}, including the tools, resources, processes, and roles and responsibilities for administering pay pools to ensure the HR staffs are prepared to support employees through the implementation. This group will be receiving very detailed training in FY 2005 on labor and employee relations because this aspect of the new system will be implemented in FY 2005. Refresher training may be necessary in 2006.

e. Will the training be conducted at one time or on an on-going basis? If on-going, how often will employees receive training?

Response: While much of the training will be prior to conversion of employees to new programs, additional training also will be conducted to refresh what was learned prior to the conversion and to provide training in a "just in time" manner. For example, managers, supervisors and employees will receive training on skills necessary for an effective performance management process prior to converting to the new program. Near the end of the performance cycle, these individuals also will receive refresher training on the process and the skills and techniques necessary for implementation. Additionally, training designs are geared to support a continuous learning approach, meaning that pre-work and post-work activities will be outlined for participants to ensure that classroom training is put into action.

5. The Department has requested $6,000,000 for the Homeland Security Labor Relations Board. As you know, the final regulations on the DHS personnel system issued on February 1, 2005, stated that the HSLRB could consist of three or five members. How many members will be on the HSLRB based on the requested funding?

Response: There will be three members on the HSLRB -- two members and one chair. The funding also covers a small staff for the board to support caseload processing and timely disposition.

6. The final personnel regulations also create a Mandatory Removal Panel to review cases involving yet to be determined mandatory removal offenses. How much money has the Department requested to pay for the MRP?

Response: At the present time, DHS has not requested any funding to stand up the MRP.

7. The DHS IG reported in December on the lack of language training for temporary duty officers serving overseas in the Border and Transportation Security Directorate. Please answer the following questions regarding funding for foreign language training at the Department.

a. Please describe the language training that DHS employees receive.

Response: The IG report cited specifically addressed the Visa Security Program within the Immigration and Customs Enforcement Office of International Affairs (ICE/OIA). While DHS/ICE disagreed with the IG's finding in this example, DHS/ICE remains committed to providing language training to permanent VSP personnel as necessary and to the extent possible in accordance with section 428(e)(6)(A) of the Homeland Security Act. If personnel are selected who do not possess language capability and such capability will enhance the employee's ability to perform the requirements of the mission, then ICE will make best efforts to provide language training. ICE may utilize the Department of State's Foreign Service Institute, commercial training providers, or local training delivered overseas, as feasible and appropriate to the situation.

With respect to the IG's finding, it also should be noted that fluency in a foreign language is useful but not necessarily required for a law enforcement office to conduct effective operations overseas. The benefit of assigning such an officer, in terms of unique law enforcement capability, must be fully weighed in any potential situation in which the individual does not speak the local language. This is particularly relevant for locations where language resources (including translators) are readily available at post, but law enforcement resources are not.

b. What level of proficiency are they required to have?

Response: The language guidelines will vary from location to location, and will take into account the individual requirements of each post, country conditions, the recommendation of the Ambassador, the length of individual tours of duty, and other factors.

c. How much money is spent on language training?

Response: Costs for language training would reflect the specific requirement for the location and the individual's existing proficiency. As an example, a basic, 44-week course provided by the Department of State's Foreign Service Institute to achieve a basic (not fluent) proficiency in a difficult language such as Arabic or Chinese would cost approximately $39,000 for tuition, $150,000 in salary and benefits for a law enforcement officer, and $48,000 in TDY expenses. In total, this particular type of training program would cost approximately $237,000 per officer and would require one year. More limited forms of language training would cost less.

d. How many employees at DHS receive language training on an annual basis and how often do they receive continuing language education?

Response: Currently, language training is considered "technical training" and is under the purview of each organizational element within the Department of Homeland Security.

At present, ICE does not offer agency-wide foreign language training. The Office of Investigations, Office of International Affairs, plans to provide language training to Visa Security Officers as described above. To date, no foreign language training has yet been provided because VSP's permanent selections include individuals with language capability. ICE will determine whether and how to provide language training to future selectees on a case-by-case basis, taking into account the mission need at each location, any existing language ability, and other factors.

The Secret Service currently provides annual language training to 105 individuals. 22 individuals receive classroom training with supplemental on-line training, and 83 receive solely on-line training. The on-line training is provided as both supplemental and continuous training for the purpose of maintaining proficiency.

Coast Guard personnel filling certain billets receive formal language training. The Coast Guard is currently developing a centralized program and policy to more efficiently manage foreign language training required to conduct Coast Guard missions. Formal language training is provided in the following areas, none of which has continuing education:

- Attachés: The Coast Guard sends 2-3 active duty personnel through language training each year to fill attaché billets. Each is trained at the Department of State's Defense Language Institute (DLI) in Washington, DC.
- International Training Team: The Coast Guard sends 4-5 active duty personnel each year to language immersion training programs in host countries when they are assigned to the International Training Team.
- Coast Guard District 7 and Pacific Area Law Enforcement Detachments (LEDETS): The Coast Guard sends 22-24 active duty LEDET personnel through a language immersion training program each year.
- Intel: The Coast Guard sends 7-8 active duty Intel program personnel to Spanish Language Training at the DLI each year.

Customs and Border Protection (CBP) provides basic Spanish language training to all of its newly hired Border Patrol agents, and to all newly hired CBP Officers assigned to select ports of entry. Approximately 1,000 CBP officers and Border Patrol agents will be enrolled in basic Spanish language training in FY 2005.

CBP, through the State Department, provides language training to its CBP employees assigned to foreign duty posts, including employees assigned to the Container Security Initiative, attachés assigned to embassies, and other employees assigned to foreign duty posts for one year or more. No more than 200 CBP employees will receive language training in connection with foreign

postings in FY 2005. CBP's only organic language training capacity is basic CBP workplace Spanish for newly hired CBP officers and agents.

The DHS Training Leaders Council and the Workforce Planning Council coordinate efforts to ensure any current and potential competency gaps, such as foreign language, are addressed through appropriate human capital strategies (e.g., recruiting, training, retention)

Transportation Security Administration (TSA) does not have a centralized Instructor-Led language training course, but there are a number of job aids on the TSA's Online Learning Center (OLC). These "Language Cards" are 30 minute reading assignments that were created by the agency. These cards are targeted to the Screener workforce, and they include common phrases for travel and screener-type dialogue. The languages include Japanese, Spanish, Chinese, and Korean.

8. In a February 16, 2005, briefing TSA provided to Committee staff on Secure Flight, it was stated that final test results of the matching of Passenger Name Records against the Terrorist Screening Centers Database, would be provided to the Administrator by the end of February 2005.

Has the testing shown an improvement over the existing pre-screening done by the airlines? How are you securing passenger data and ensuring that the data is not used for purposes beyond what it was collected for?

Response: On November 15, 2004, the Transportation Security Administration (TSA) published in the Federal Register a document which, among other things, directed U.S. aircraft operators to provide to TSA, by November 23, 2004, a limited set of historical Passenger Name Records (PNRs) for testing of the Secure Flight program. Utilizing the data provided by air carriers, TSA commenced testing of the watch list matching function for Secure Flight beginning in November, 2004. The testing involved 15 million PNRs relating to flights flown domestically on every U.S. carrier in June, 2004. That test demonstrated that the system was effective in matching PNR data with data contained in terrorist watch lists and that the system can handle the expected load of more than 1.8 million passengers per day. As a result, the testing showed that the government could enhance security by assuming the function of watch list screening from the airlines and could thereby add consistency to the process. The preliminary testing also enabled TSA to determine that it must obtain, at a minimum, an individual's full name and date of birth in order to perform an effective comparison of that individual against those individuals identified on the No-Fly and Selectee Lists. Testing showed that use of date of birth is helpful in distinguishing a passenger from an individual on a Federal watch list with the same or similar name and would improve the existing watch list screening done by the airlines by significantly reducing the number of false positive watch list matches.

TSA has employed data security controls, in consultation with the TSA Privacy Officer, to protect the data used for Secure Flight testing activities. The procedures and policies that are in place are intended to ensure that no unauthorized access to records occurs and that operational safeguards are firmly in place to prevent system abuses. Information in TSA's record systems is

safeguarded in accordance with the Federal Information Security Management Act of 2002 (Pub.L.107-347), which established Government-wide computer security and training standards for all persons associated with the management and operation of Federal computer systems. The systems on which the tests are or have been conducted were assessed by TSA CIO for security risks, and TSA has implemented security policies and plans consistent with statutory, regulatory and internal Department of Homeland Security (DHS) guidance.

TSA, in consultation with the TSA Privacy Officer, has established chain-of-custody procedures for the receipt, handling, safeguarding, and tracking of access to the PNR data, and TSA maintains the data at its secure facility in Annapolis Junction, Maryland. Access to the data is limited to individuals with a need for access in order to conduct testing activities. The information is protected in accordance with rules and policies established by both TSA and DHS for automated systems and for hard copy storage, including password protection and secure file cabinets. Moreover, access is strictly controlled; only TSA employees and contractors with proper security credentials and passwords have permission to use this information to conduct the required tests, on a need-to-know basis. Additionally, a real-time audit function is part of this record system to track who accesses the information resident on electronic systems during testing.

All TSA and assigned contractor staff receive DHS-mandated privacy training on the collection, use and disclosure of personal data. In addition, contractor employees completed training for handling sensitive security information and entered into non-disclosure agreements covering all data provided by the Government for use during the test. Copies of these agreements are maintained by TSA's security office.

Records of transmission of PNR data to TSA contractors are maintained by TSA, and TSA's commercial data test contractor also has measures in place to control access and handling of PNR data. With respect to commercial data, TSA conducted a very limited test to determine whether the use of commercial data could improve the effectiveness of the watch list comparisons undertaken in the Secure Flight program as well as to assist with the identification of passenger information that is incorrect or inaccurate.

In the Homeland Security Appropriations Act, 2005 (P.L. 108-334, Section 522(d)), Congress mandated that prior to commercial data testing, TSA would be required to develop measures to assess the impact of using commercial data on aviation security, and that the Government Accountability Office (GAO) is to review those measures. TSA is complying with all Congressional requests on this issue and the GAO will continue to evaluate TSA's development of performance measures throughout the test phases.

TSA's testing of the use of commercial data is governed by privacy and data security protections, including strict prohibitions on the use of any passenger information provided by commercial data sources. TSA will not incorporate the use of commercial data into Secure Flight unless testing confirms that:
it enhances security;
it does not result in inappropriate differences in treatment of any category of persons; and

robust data security safeguards and privacy protections can be put in place to ensure that commercial entities do not gain wrongful access to or use passenger personal information inappropriately.

TSA will not incorporate the use of commercial data into the Secure Flight program prior to the completion of testing, assessment of results, final approval by the Administration, and publication of a new System of Records Notice and Privacy Impact Assessment announcing the use of commercial data.

Results of the testing, the comparisons of Passenger Name Record (PNR) information against names in the Terrorist Screening Database and the use of commercial data, will be as publicly transparent as possible without compromising national security. Testing and eventual implementation will be governed by strict privacy protections including passenger redress procedures, data security mechanisms, and limitations on use.

9. The Department has requested $18,000,000 for the implementation of Max^{HR}, which is to include pay and performance activities.

Does any of this money go to awarding performance pay increases? If so, how much? Is this amount in excess of the amount DHS would use to pay the across the board pay increase to federal employees as well as within grade increases?

Response: None of the $18 million that is referenced is to pay or award performance pay increases. It is for detailed system design and breaks down approximately as follows:
$2.7 M - Performance Mgmt. Design
$1.4 M – Performance System Design
$5 M – Competency Development and Assessment
$3.9 M – Pay and Performance Integration
$5 M – Market based pay research/implementation

In addition, we have requested $10 million in 2006 to buy out the within grade increases for the group of DHS employees converted that year from the GS pay system to the new DHS pay system.

10. How much money has the Department requested to pay for the DHS Scholar and Fellows Program? How many students studying foreign languages will receive scholarships under this program in FY 2006?

Response: Of the request for $63.6 million for University Programs for FY 2006, approximately $20 million is planned for the Scholars and Fellows program and related education outreach programs. We cannot advise at this time on the number of students receiving such scholarships as applications are currently being reviewed for the 2006 Class of Scholars and Fellows. The Scholars and Fellows program supports individuals who have the potential to advance scientific discovery in disciplines that are critical to the Department's mission. Students and scholars in this program are from the sciences, technology, engineering, and mathematics disciplines. The

University of Maryland has also been recently designated as a DHS Center of Excellence. Its work will draw on the expertise of the Center for Advanced Study of Language and will focus on language acquisition for national security. Undergraduate and graduate students will participate in and contribute to the Center's work.

11. According to the Government Accountability Office, the Department has 11 data mining systems either planned or in operation that use personal information. Four of those systems use information from the private sector and eight of them use information from other government agencies.

a. How much money does the Department spend on these data mining systems?

b. How much money does the Department spend to obtain personal information from the private sector?

c. From what private sector sources does DHS obtain personal information for its data mining activities?

Response for A, B, & C: In pursuit of our critical mission, the Department is committed to using all available tools and resources, within the law, to protect Americans from terrorist attacks. The conferees to the Department of Homeland Security Appropriations bill for FY 2005 asked the DHS Privacy Officer to inventory all of DHS' data mining programs and report back within 90 days of the close of the fiscal year (December 31, 2005) on the following: (1) a thorough description of the data-mining technology, the plans for use of such technology, the data that will be used, and the target dates for the deployment of the technology; (2) an assessment of the likely impact of the implementation of the technology on privacy and civil liberties; and (3) a thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to protect the privacy and due process rights of individuals and to ensure that only accurate information is collected and used. The Department is in the process of complying with that directive and will report back by December 31, 2005.

In addition, all new DHS programs that use personally identifiable information or any significant changes to existing programs that use personally identifiable information, regardless of the source of that information, are required to conduct privacy impact assessments (PIAs) that explain what data is collected, how it is used, and what security and privacy protections are in place. These PIAs are reviewed by the Chief Privacy Officer to make sure that DHS is using personal information in a way that complies with privacy law requirements and in a respectful manner. These PIAs, moreover, are made publicly available. Additionally, if the Department obtains personally identifiable information and incorporates it into a record system from which it is retrieved by name or personal identifier – regardless of the source of the information – we issue Privacy Act systems of records notices to explain our activities. In these ways, our data mining activities, to the extent that we are involved in such programs, are made transparent.

12. In your testimony, you stated that states and communities need to share certain homeland security resources, such as hazmat suits, instead of each buying their own. My home state of Hawaii is located 2500 miles away from the West Coast and has no neighbors with whom it can share resources.

Do you believe this factor should be taken into account when homeland security funding is allocated?

Response: Leveraging resources from adjacent communities and adopting a cooperative approach toward regional planning and preparedness is essential if we are to be successful in our efforts to be truly prepared as a Nation. With resources scarce at all levels of government, adopting a capabilities-based approach to planning and broadening our regional framework for prevention, response, and recovery operations will enable agencies at all levels of government to maximize the benefit derived from their preparedness investments. At the core of this approach, however, is an understanding of what capabilities exist that can be leveraged, and the challenges associated with deploying that support. The Interim National Preparedness Goal released on March 31, 2005, and associated planning guidance, lay out baseline capabilities that need to be in place in all communities nationally, whether maintained within that community or accessed through mutual aid or other agreements. Communities must understand these capability levels, compare them against current levels of capability, and identify gaps which they can then apply for homeland security funding to help close. Given Hawaii's geographical location, it faces some unique challenges in leveraging external assistance to achieve its baseline capability levels.

13. The President's FY 2006 budget requests $12.1 million to continue development of a Critical Infrastructure Protection (CIP) Decision Support System (DSS) which would help prioritize recipients of critical infrastructure protection. The National Infrastructure Protection Plan is a document currently being finalized by the Department which is supposed to address, among other things, critical infrastructure protection prioritization. DHS plans to have the NIPP complete by the end of 2005.

How will the DSS support critical infrastructure prioritization if the NIPP is completed at least a year before the DSS?

Response: The NIPP will set out the framework and processes that will be used to identify assets, assess risks, and prioritize protective measures, but the NIPP alone will not produce a list of prioritized projects, protective measures, or assets. Many of the tools and methodologies that support the implementation of the NIPP are still under development. The DSS is one of the tools that will be used to assess interdependencies and to assist in developing priorities. By setting out the framework in which the DSS will operate within the NIPP, DHS will ensure that it develops a useful tool for the Department and other Sector-Specific Agencies to support critical infrastructure prioritization.

14. The Emergency Management Performance Grant Program (EMPG) is the only source of federal funding to states and localities for all-hazard emergency management preparedness and response. Most grant recipients use the money to fund key emergency management personnel

positions that could not be filled otherwise. In fact, 50 percent of Hawaii's Civil Defense staff are funded through these grants.

The National Emergency Management Association and officials in Hawaii reported that the Office of Management and Budget (OMB) is pursuing a 25 percent cap on the amount of EMPG funds that can be used for salaries and other personnel expenses. If this happens, states and localities would lose a significant number of their trained staff. This would severely cripple emergency management capabilities.

Is the information I received about OMB's intentions accurate? What is DHS's position on such a cap?

Response: The information you received is accurate. The Administration has consistently stated that emergency management is a responsibility shared by Federal, State, and local governments. Although emergency management salary and personnel expenses should be primarily funded by State and local governments, the Department recognizes the need for some Federal assistance in these areas and has allowed up to 25% of the EMPG funds to be used for personnel and salaries, accordingly.

15. The President's FY 2006 budget request has almost $50 million for the DHS regions initiative. According to a Committee briefing from DHS officials, this money is intended to fund the establishment of the regional structure and determine where the regional offices would be located. The briefers indicated that none of the $50 million would be used to establish the actual offices. The regional structure was first proposed in the FY 04 budget, and I had heard unofficial reports that DHS was close to naming the regional offices in December 2004.

Why is so much time and funding required to determine what the structure will be and where the regional offices will be located?

Response: The proposed regional structure and concept is currently under consideration. The $49.895M requested provides the initial operating funds, facilities, and equipment required to establish a DHS field structure at a minimum level of operations.

16. In response to questions at your confirmation hearing in February regarding the use of student loan repayment to recruit individuals you said, "I understand that the Department of Homeland Security provided guidance last year on the use of incentive programs for recruitment and retention, including repayment of student loans, but that the student loan program has received little to no use. If confirmed, I will ensure that the Department reviews the adequacy of the guidance and the criteria used to remove any unnecessary restrictions limiting its use."

How much money will the Department set aside for FY 2006 for the use of this important recruitment and retention tool?

Response: Funds for incentive programs, such as student loan repayment, are not budgeted independently, but are included with other benefit costs (object class 12.1), some of which -- such as the student loan repayment program -- can be used optionally.

The initial Department of Homeland Security guidance on the use of this authority was based on the continued use of legacy plans developed by Organizational Elements prior to the creation of the Department. We plan to issue a Department-wide plan and guidance for use of the student loan repayment program during FY 2005.

I support the use of the student loan repayment program and believe that the Department-wide plan, currently under development, will standardize our requirements and increase its use.

Questions from Senator Thomas Carper

First Responder Grants

1. Under the President's budget proposal, small states like Delaware would, by my calculation, suffer a more than 80 percent cut in their allocation under the State Homeland Security Grant Program. The baseline allocation used to ensure that all states receive sufficient funding to meet basic homeland security needs would be cut by two thirds. No state would be guaranteed an additional threat-based allocation after receiving their baseline allocation and only the very largest cities in the country would get any funding under the urban area grant program. What's the rationale behind this proposal? Did the administration take into account the impact these proposals would have on states' preparedness efforts before the President's budget was submitted?

Response: There is nothing the President's Budget proposal that would mandate or require such an 80 percent cut. Instead, the Department believes funding should be based on demonstrated homeland security needs, for which we believe flat percentage is a poor proxy.
The previous funding formula has granted all States, territories, and tribal government significant funds over several years to improve preparedness at the State and local levels. Since September 11th, Congress has appropriated and the Administration has granted $11.3 billion to State and local governments to improve the Nation's homeland security. The State of Delaware has received $69.8 million in grants to help support its homeland security endeavors.

The Department will consider risk factors such as threat, presence of critical infrastructure, vulnerability, population, and population density, international borders, and ports of entry in making final award determinations for the State Homeland Security Grant Program (SHSGP). In the consideration of need, the Department will undertake an assessment with the States and territories to identify their capabilities and gaps consistent with the capabilities and tasks identified under Homeland Security Presidential Directive 8 (HSPD-8). This will allow the Department the flexibility to respond to changing risks and manage resources in a more effective way. If the risk assessment changes for a particular location, then the funding will necessarily fluctuate.

Before the development of application guidelines and methodologies, it is impossible to speculate on the specific amounts states and localities will receive in Fiscal Year 2006. The homeland security needs in the State of Delaware, however, will be addressed by the new comprehensive funding strategy. Moreover, despite the change in grant formula, the State Homeland Security Grant Program will continue to provide a baseline of homeland security funding to assist all of the Nation's States and localities.

2. Earlier this year, this committee heard testimony from one of the authors of a report published by the Heritage Foundation and the Center for Strategic and International Studies. That report states that the Department of Homeland Security has never completed a comprehensive national risk assessment and does not plan to have one completed until at least 2008. I believe the kind of threat information contained such as assessment is vital to much of what the department does. It is especially vital in determining how to allocate first responder grants.

In the absence of a comprehensive national risk assessment, what knowledge about state and local preparedness levels, first responder needs and potential terrorist threats informed the changes to the State Homeland Security Grant Program proposed in the President's budget?

Response:

Upon award of the Fiscal Year 2004 Homeland Security Grant Program grant, each State Administrative Agency (SAA) was required to provide ODP with an Initial Strategy Implementation Plan (ISIP) sixty days after the grant award date. Additionally, each SAA must update their grant reporting every six months through a Biannual Strategy Implementation Report (BSIR). Both the ISIP and the BSIR were designed to provide the SAA, ODP, other DHS offices, and the Administration with a comprehensive "snapshot" of how each State and territory is implementing its State and Urban Area Homeland Security Strategies with ODP grant funds. Through the ISIP and BSIR process, grantees are required to tie all funds received to specific, actionable projects, and must link each one to the goals and objectives identified in their State Homeland Security Strategy, and where appropriate, Urban Area Homeland Security Strategies. The reporting process enables states and ODP to track grant expenditures against State and Urban Area Homeland Security Strategies for all funding streams, as well as collect critical project output and performance data. The ISIP and BSIR process has been implemented for Fiscal Year 2005.

Based on the knowledge gained from the SHSAS and ISIP/BSIR, DHS is proposing to redesign the homeland security funding process to award funds based on an evaluation of *risk and needs*. The allocation would reflect a results-based planning process that supports achievement of minimum baseline capability levels nationally. Through the State Homeland Security Grant Program, and the Urban Areas Security Initiative (UASI), all 50 states, the District of Columbia, Puerto Rico, and the U.S. territories will be eligible to apply for funding. States will submit detailed applications, including macro-level goals and activities, and associated justification detailing how those activities address capability shortfalls and enable achievement of the minimum baseline capability levels laid out in the Interim National Preparedness Goal,

disseminated on March 31, 2005. The Interim National Preparedness Goal is a key component of implementing Homeland Security Presidential Directive 8: *National Preparedness.* The Interim National Preparedness Goal establishes measurable priorities, targets, and a unified approach to developing preparedness capabilities that will drive how the Nation pursues its homeland security objectives.

The Department firmly believes that the Fiscal Year 2006 budget request includes significant funds to address the needs of the Nation's emergency prevention and response community. The proposed redesign of the State Homeland Security Grant Program will allow the Department to direct limited funding where it is needed most based on a comprehensive assessment of risk and needs. Further, it must be stressed that homeland security is a shared responsibility. While Federal funds should be focused on enhancing overall preparedness levels, States and localities must be willing to focus their funds on developing and sustaining basic operations. We look forward to working with Congress in the coming months to ensure that the emergency prevention and response community have the resources they need to secure our Nation.

3. My state emergency management agency tells me that they don't have the resources and personnel necessary to handle certain attacks that have a very real chance of occurring someday in Delaware. They also tell me that, if our state's allocation under the State Homeland Security Grant Program were to be cut as dramatically as the President's budget proposes, they might need to cut or eliminate funding for other important non-homeland security programs, including disaster mitigation efforts. Compare this with the fact that, under the President's budget, large states with large cities will likely receive three layers of funding – a baseline allocation, a threat-based allocation and urban area grants. I'm fully supportive of any effort to direct more homeland security funding to those large states and large cities that need it most. I'm also fully aware no emergency management agency, whether from a large state or a small one, will ever truly be satisfied with the amount of aid they get under these programs. There needs to be some balance, though, and some recognition that there are small states with real homeland security needs. How will you ensure that those needs are recognized and addressed? Will you commit to working with this committee in the coming weeks to craft a grant formula that takes those needs into account?

Response: Despite changes in the funding formula, the State Homeland Security Grant Program will continue to provide States and localities, large and small, with a significant baseline of homeland security funds. We recognize that small States have legitimate homeland security needs. This is why the Administration has proposed a funding formula that takes into account the unique threats, risks, and consequences of each state. The new focused spending will identify each state's capabilities and gaps consistent with the capabilities and tasks identified under Homeland Security Presidential Directive 8 (HSPD-8). The Department looks forward to working with Congress to craft a funding formula that ensures Federal homeland security funds are distributed in a manner that addresses the Nation's homeland security needs based on a thorough analysis of risk and need.

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Rail Security

4. Senator Boxer and I offered an amendment to the fiscal year 2005 homeland security appropriations bill making Amtrak among the entities eligible to apply for rail and transit security grants. The transportation security funding included in the President's budget, however, would only go to states and urban areas. As someone who's lived and worked in the Northeast, I'm certain that you have some experience traveling on Amtrak. You might also know that, even though Amtrak is in the midst of what could be one of its worst fiscal crises in its history, more people still ride the train between Washington and New York everyday than use all three of New York's airports combined. We all should know today, nearly a year to the day after the train bombings in Madrid and only a few weeks removed from the deadly rail accidents in South Carolina and California, that passenger trains are an inviting target for terrorists. Will you support making Amtrak eligible for rail security grants again this year?

Response: The Department's Office of State and Local Government Coordination and Preparedness (SLGCP) is providing $6,373,730.00 in grant funding to Amtrak in Fiscal Year 2005 for security enhancements for intercity passenger rail operations in the Northeast Corridor (service between Washington, DC and Boston, Massachusetts) and at Amtrak's hub in Chicago, Illinois. In addition, a further $726,270.00 in technical support is being provided to Amtrak in Fiscal Year 2005 through the SLGCP Mass Transit Technical Assistance Program. This support will entail a facilitated risk assessment of Amtrak's Northeast Corridor and Chicago operations designed to provide Amtrak with a risk management strategy and roadmap for making funding allocation decisions on security enhancements to the most critical portions of its system.

5. What is the status of the of the rail and transit security funding included in the fiscal year 2005 homeland security appropriations bill? Have any grants been awarded? What types of proposals have been funded?

Response: The Department's Office of State and Local Government Coordination and Preparedness (SLGCP) announced the week of April 4 the availability of more than $140 million in grants for security enhancements at the Nation's largest transit and passenger rail service providers. On July 15, the Department awarded more than $134 million of these funds under the Transit Security Grant Program, which provided $107,900,000 for security enhancement for rail transit systems; $22,357,076 for security enhancements for intra-city bus systems; and $3,887,161 for ferry systems security. Further, on July 18, the Department awarded an additional $7.1 million to Amtrak for security enhancements and a risk assessment along Amtrak's Northeast Corridor and at its hub in Chicago, Illinois, which represent the most highly traveled passenger routes in the Nation.

6. Much of the President's budget proposal for the Transportation Security Administration focuses on aviation security and improving and managing air passenger screening processes. How much of TSA's budget will be dedicated to other modes of transportation? What will TSA employees be doing in the coming year to address vulnerabilities in other modes, especially rail and transit?

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Response: DHS is taking the following steps to address vulnerabilities in non-aviation transportation modes:

- *Technology:* DHS is working to develop next generation technology for explosives detection, biological and chemical detection and enhanced screening capabilities.

- *Vulnerability Assessments:* DHS is developing best practices for training. TSA is in the process of hiring 100 new transit inspectors who will work directly with transit agencies to conduct vulnerability assessments, apply best practices and ensure ongoing compliance with establish security standards.

- *Information Sharing and Preparedness:* DHS is continuing to develop our intelligence capabilities and apply threat based intelligence to share with State and local officials so that they can tailor information to their unique challenges. DHS has held numerous security exercises that bring together rail carriers, Federal, State, and local first responders, and security experts to test preparedness and response and identify best practices and lessons learned.

- *Resources:* The Administration's FY06 budget requests $600 million -- a 60% increase -- for the Targeted Infrastructure Protection (TIP) Program, which incorporates rail security, port security, inter-city bus, highway watch and buffer zone protection programs. Those five programs combined received $365 million in FY05.

24 Hours Post London Bombings

- *Communication:* When we raised the threat level for mass transportation systems to Orange- or High- we were in direct communication with State and local homeland security officials as well as with transportation and law enforcement authorities. We are asking for their increased vigilance and security precautions for all major rail systems.

- *Coordination:* Consistent with any period of increased precaution, DHS has pulled together the Federal government's interagency incident management group to maximize awareness and coordination of Federal efforts. We have been working closely with allies in Britain and I had the opportunity to speak with my British counterpart – the Home Secretary – to offer our deepest sympathies and to reiterate America's resolve in the war on terror.

In addition, the United States Government has made significant enhancements to rail and transit security since September 11, and put additional specific measures in place since the Madrid attacks. DHS, in conjunction with other Federal agencies, have taken several steps to enhance rail and transit security in partnership with the public and private entities that own and operate the Nation's transit and rail systems. Our efforts have focused on greater information sharing between the industry and all levels of government, addressing vulnerabilities in the rail and transit sector to develop new security measures and plans, increasing training and public awareness campaigns and providing greater assistance and funding for rail transit activities:

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DHS/DOT Specific Security Enhancements Since September 11

- Through the State Homeland Security Grant Program and the Urban Area Security Initiative, DHS has allocated $8.6 billion since its creation for counterterrorism preparedness. These funds can be allocated by State and local governments for rail security efforts.

- As noted above, the Administration's FY06 budget requests $600 million -- a 60% increase -- for the Targeted Infrastructure Protection (TIP) Program.

- To date, DHS' Transit Security Grant Program (TSGP) has provided $250 million to State and local governments and owners of transit security systems.

- In April 2005, DHS announced $141 million in TSGP funding, of which more than $107 million has been dedicated for owners and operations of rail systems.

- As noted above, an additional $6 million was awarded to Amtrak through the Inter-city and Passenger Rail Security Program for security enhancements to rail operations in the Northeast Corridor and at Amtrak's hub in Chicago.

- Based on the results of the vulnerability assessment of the DC Rail Corridor, Information Analysis and Infrastructure Protection (IAIP), in coordination with the Transportation Security Administration (TSA), developed and funded a $9.6 million pilot initiative focused on the DC Rail Corridor. This pilot includes:

    - Portals that will screen trains prior to entering the corridor and provide video monitoring of trains, IFF (friend or foe) monitoring of personnel, chemical monitoring, and radiation/contamination monitoring and detect hazardous materials coming from rail cars;
    - Establish a virtual fence along the corridor to prevent intruders from tampering with the rail lines or trains.

- TSA has held numerous security exercises that bring together rail carriers, Federal State and local first responders, and security experts and is addressing gaps in antiterrorism training among rail personnel. In addition, rail personnel have received counterterrorism training at DHS' Federal Law Enforcement Training Center.

- TSA has coordinated closely with the Federal Transit Administration (FTA), which launched a comprehensive public transportation security initiatives program funded primarily through a $23.5M supplemental security allocation from the Department of Defense. The program included:

- Conducting threat & vulnerability assessments at 37 of the largest transit agencies, most of which operate one or more rail modes (subway/heavy rail, light rail or commuter rail);
- Deploying on-site security technical assistance teams to the 50 largest transit agencies;
- Awarding security drill & exercise grants of up to $50,000 per transit agency to over 80 transit agencies;
- Developing and distributing, via the National Transit Institute and the Transportation Safety Institute, a security awareness training program curriculum;
- Developing and hosting 18 Connecting Communities Regional Forums at major cities across the country, in order to improve security coordination and integration of transit agencies with emergency responders, fire and police departments and other key stakeholders; and
- Developing and launching with industry partners a Transit Watch security public awareness campaign focusing on various issues including greater emphasis on unattended baggage.

    - DHS takes a comprehensive and risk based approach to domestic rail security, prioritizing passenger, cargo and infrastructure security.

    - In the wake of the Madrid bombings, TSA has developed additional rail security initiatives based on risk and criticality assessments. The assessments were developed and executed in conjunction with the private sector, Department of Transportation (DOT), and other government entities. These initiatives support the Department's overarching goal and mirror its approach to counterterrorism by addressing protection, preparedness, response and recovery.

Passenger

- TSA issued Security Directives on May 20, 2004 for passenger rail carriers, reinforcing established industry best practices that include:
- Designating Security Coordinators as contacts between TSA and rail operators to oversee compliance with TSA Security Directives.
    - Utilization of canine explosive detection teams where available. TSA allocated $4.9 million in FY '04 and $4.7 million is budgeted for FY '05.
    - TSA conducts frequent inspections of key facilities including stations, terminals, and passenger rail cars for suspicious or unattended items. As of September 30, TSA has hired 97 rail security inspector staff to monitor compliance with security standards and will increase that number to 100 by October 28, 2005.
    - Requiring passengers to present identification when tickets are checked (Amtrak and Alaska Railroad).
- Mobile Mass Transit K9 response teams assist local law enforcement to provide additional training and assistance. These teams have been used at events such as the

Democratic National Convention, the Republican National Convention and the Presidential Inauguration, as well as, in cities such as Atlanta and Washington, D.C.

- TSA has successfully tested the Transit and Rail Inspection Pilot (TRIP) program, which could be implemented if threats were made against a specific rail or transit system or in support of a National Security Special Event. The TRIP pilot was launched in March 2004 in partnership with DOT, Amtrak, Maryland Rail Commuter and Washington DC's Metro Authority, and used advanced automated X-ray explosive detection equipment and canine patrols to screen thousands of passengers and baggage.

Cargo

- TSA and IAIP worked together to enhance security in the Nation's capital with the DC Rail Corridor project. The pilot established a seven mile long Rail Protective Measures Study Zone to protect hazardous materials traveling through the city. The task force included private stakeholders and government agencies that conducted vulnerability assessments and identified critical areas and mitigation strategies to enhance hazardous materials (HAZMAT) security along the DC Rail Corridor.

- TSA continues to improve HAZMAT materials security through the High Threat Urban Areas (HTUAs) Corridor Assessments. The DHS/DOT team is conducting vulnerability assessments of HTUAs where toxic inhalation hazard materials are transported by rail in significant quantity. TSA, IAIP and Federal partners from the Department of Transportation (Federal Railroad Administration and Pipeline and Hazardous Materials Safety Administration) have completed the New Jersey corridor and Cleveland, Ohio corridor. An assessment team is in the process of concluding a vulnerability assessment in the New Orleans corridor. The goal of DHS is to complete nine corridor assessments of selected high-threat urban areas by the end of 2005.

Infrastructure

- TSA has completed over 2,600 criticality assessments for rail/mass transit transportation systems – including 848 for rail and 1,778 for mass transit.

- DHS has conducted 50 Site Assistant Visits (SAVs) in the transportation sector including mass transit systems, tunnels, bus terminals/systems, rail lines, and bridges.

- DHS has conducted 132 Buffer Zone Protection Plans (BZPPs) on transit systems nationwide.

- DHS and TSA personnel continue to review the security plans, countermeasures, and mitigation strategies and technologies that are being put into place by industry. DHS and TSA intend to document best practices.

- TSA has funded "Operation Respond," which is a Geographic Information System developed to assist in locating and responding to emergencies involving passenger trains and structures.

Hazardous Material Rail Shipments

- In addition, the Federal Railroad Administration (FRA) has administered and enforced the hazardous material shipment regulations promulgated by the DOT Pipeline and Hazardous Materials Safety Administration (PHMSA) since the 1970s, which cover subjects including the loading, unloading, transloading, placarding, rail car placement in train, and documentation of the movement of HAZMAT by rail.

- There are nearly 100 FRA and state inspectors involved in aggressively inspecting and enforcing the HAZMAT regulations on railroads, shippers, and tank car manufacturers. The FY2005 FRA budget provides funding specifically for HAZMAT inspectors for tank car design, construction, quality, and maintenance.

- A DHS/DOT working group was created in April 2004 to improve the security of toxic inhalation hazard (TIH) shipments by rail. The group is conducting studies of rail corridors in high-threat urban areas; enhancing the ability of rail cars to withstand attack; improving compliance with security plans; developing protocols for protective measures; establishing communication standards on rail car tracking systems; and requiring improvements for rail car security during storage.

7. As you know, the President's budget doesn't propose allocating specific amounts of money to address vulnerabilities in specific modes of transportation. It instead proposes that all transportation-related projects compete with other critical infrastructure protection projects for a piece of the Targeted Infrastructure Protection grant program. How will you decide how to allocate TIP funding? How much of the $600 million the President proposes spending on TIP grants could and should be spent on transportation projects, particularly rail and transit projects?

Response: Enhancing the security of the Nation's critical infrastructure, including transportation, continues to be a high priority for the Department. The Department has proposed the development of a Targeted Infrastructure Protection Program (TIPP). This program would consolidate Port Security, Rail/Transit Security, Intercity Bus Security, Trucking Security and Buffer Zone Protection Program grants into a single program. Under this approach, the distribution of these funds is not siloed within a specific program at the time of the budget request. Instead, all TIPP funding requests are consolidated and their disbursement is reevaluated at the time of funding to allocate valuable resources to address needs, risks, and national priorities that may have altered in the interim between a presidential request and congressional funding.

Once the requested TIPP funding is appropriated, the Department will match the available funds to a constantly reevaluated listing of national critical infrastructure security requirements. This prioritized listing will be risk-based and include consequence, vulnerability and threat factors. Because the program is designed to provide maximum flexibility in the allocation of these funds, the Department will not be able to determine exactly how much funding will be allocated for rail and transit projects in Fiscal Year 2006 until the funds have been provided and matched with the reevaluated risk-based listing of national critical infrastructure security priorities.