

Senate Homeland Security and Governmental Affairs Committee Holds Hearing on President Obama's Proposed Fiscal 2012 Budget Request for the Homeland Security Department

LIST OF PANEL MEMBERS AND WITNESSES

LIEBERMAN:

The hearing will come to order. Thank you.

We'll open the hearing. And thanks to Secretary Napolitano.

This is our committee's annual hearing on the Department of Homeland Security budget request, in this case, of course, for fiscal year 2012.

Before we begin, as you know, Madam Secretary, the Department of Homeland Security emerged as a -- as a legislative proposal from this committee. We feel close to the department and to everybody who works for the department and in the department.

LIEBERMAN:

In that sense, we've felt the loss this week of ICE, Immigrations and Customs Enforcement agent Jaime Zapata, who was shot and killed Tuesday in an ambush on a Mexican highway, and his colleague, Jaime (sic) Avila, also shot, remains hospitalized. Maybe -- perhaps you could give us a report, but he's in our prayers and I gather that he's doing better.

This savage attack, and coincidentally a suicide bombing that killed a retired CBP officer in Afghanistan last week, reminds us of the risk assumed every day on our behalf by the men and women who work at the Department of Homeland Security.

And so I want to just at the beginning to -- to express our thanks to all of them, each of them for their commitment through you, their leader, and tell them how much we honor and appreciate their service.

These attacks also remind us of the variety of threats our nation faces and therefore the department's equally varied set of responsibilities and missions to protect us from those threats.

Clearly, one of the most important missions DHS has is to prevent terrorism against our homeland. It was the motivating event for the creation of the department. As you noted last

wreck, the threat of terrorism today, quote, "may be at its most heightened state," end quote, since the attacks of 9/11. I'd like to talk to you during the question and answer period about that.

But to get to the bottom line here, the president's budget request for fiscal year 2012 asks for \$43.2 billion in net discretionary funding. That's an increase of 1.5 percent from the current level of funding and it is a decrease of 0.8 percent from the department's request for fiscal year 2011.

Given the enormous deficits and national debt that we're struggling with today, it seems to me generally speaking that the president's budget request for the Department of Homeland Security is responsible and it is fair. It doesn't include everything I would have wanted in the best of times, but I appreciate that we're not living in the best of times economically and that the president and you have had to make some tough decisions in putting the budget together.

I do want to say I was pleased that the budget request does put additional resources into critical mission areas such as terrorist travel security and cyber security. And I think those are the right priorities.

I also want to express my appreciation for the fact that the budget funds these increases and a few other programmatic increases by cutting administrative costs by \$800 million, including a significant, and from my perspective, welcome reduction in personal services contracts. That's just about the best way to fund some of the critical needs for extra support in the budget, which is to say by finding economies within your own budget.

And you've also identified selected programmatic decreases across the department, as you must in tough times.

There are some reductions, which I'm sure trouble other members of the committee, as they do me, and we'll undoubtedly talk about them with you. FEMA takes a hit in its operating budget. There's some cuts in the program of federal grants for local fire departments, which have a lot of support here in Congress.

But overall, I repeat what I said at the beginning, in a tough time for our federal government, with probably the major focus that all of us have, as you can see from the day-to-day developments around here, is how do we bring federal spending back into balance with revenues. I think this is a fair and responsible budget.

I almost said "fair and balanced," but I got worried that it would be confused with other activities in Washington.

So I look forward to your testimony and, of course, to continuing to work with you in this session of Congress, as we did very productively in the last one, to ensure that the Department of Homeland Security has the resources and the authority it needs to carry out its critical mission on our behalf.

Senator Collins?

COLLINS:

Thank you, Mr. Chairman.

Mr. Chairman, in the interests of time, I'm just going to make a few comments and I would ask that my full statement be inserted in the record.

LIEBERMAN:

Without objection.

COLLINS:

First, Mr. Chairman, let me associate myself with your comments about the two ICE agents, one of whom was killed, the other wounded. It does remind us of the tremendous risk that law enforcement officials at every level of government, particularly since we're here today on the Department of Homeland Security, we want to recognize those efforts, but law enforcement at every level make on our behalf each and every day.

When the Congress and the administration formulate the budget for this country, we are in essence establishing our national priorities. Controlling spending, reducing our ruinous level of debt, and funding highly effective programs to protect our nation are among those priorities.

Many of us are disappointed in the president's budget. We believe that it does far too little to rein in spending to bring the federal debt under control. It spends and borrows too much. It will lead to a record \$1.6 trillion deficit in the next fiscal year. It will double the publicly held debt by the year 2013, and triple it by 2020. That's simply not sustainable and puts our nation on a ruinous fiscal course.

Today, we're gathered to review one component of that budget, the proposal for the Department of Homeland Security. Protecting our nation and our citizens is not just a line item. It has to be a top priority. In fact, I think most people would agree that the number one responsibility of a government is the protection of its citizens.

With tight budgets, we must work together to eliminate wasteful and unproductive programs and to increase the effectiveness and efficiency of government operations. The criteria used by the administration in making these decisions for the Department of Homeland Security, however, seem to be opaque because some very important programs appear to have been cut, while others remain unscathed.

For example, the homeland security grants that help our local first responders improve their effectiveness and serve as a force multiplier for federal resources have been reduced. That could

undermine our state and local partners who are first on the scene whenever disaster strikes, whether it's a natural disaster or a terrorist attack.

In testimony before the House last week, Secretary Napolitano stated that in some ways, the terrorist threat facing us is at its most heightened state since 9/11. And that's why we have to take a close look at the funding levels.

I'm also disappointed that the administration again has proposed to limit Operation Stonegarden to just the southwest border. This effective program, which relies on partnerships with state and local law enforcement, should be used to help secure both our northern and southern borders. Senator Lieberman and I recently released a GAO report that found, shockingly, that the Border Patrol has effective control of only 32 miles of the 4,000-mile northern border and has situational awareness of only about a quarter of that border.

And while the northern border does not have as many problems as the southern border, it is vulnerable nonetheless to illegal crossers, including individuals seeking to illegally come to this country; criminals trafficking in humans and drugs; and potentially terrorists.

COLLINS:

I mentioned before that the smuggling of methamphetamine is one example of the growing problem along our northern border and it's a particular problem in the state of Maine.

The Stonegarden funds have been extremely successful in my state in allowing local and county and state law enforcement to work with our Border Patrol and other federal officials.

The chairman has mentioned the fire Grant program, a program that works with a minimum of bureaucracy to ensure that fire departments have the support they need.

Let me just finally mention one area of great concern to me and that is the budget for the Coast Guard.

The Coast Guard's fleet is among the oldest in the world. Yet the men and women of the Coast Guard continue to perform ever-expanding missions with a high degree of success. They deserve a fleet worthy of their efforts.

But the president's budget proposes a 22 percent reduction in the Coast Guard's Deepwater program. That's a cut of \$259 million. Much of this cut is due to the fact that no funding is proposed for the sixth National Security Cutter. That will push completion of the eighth and final cutter back to 2018. And as we know, the high-endurance cutters, of which there are 12, are aging rapidly and causing a great deal of problems -- number of problems for the Coast Guard.

I am, like the chairman, pleased to see the increases in the cybersecurity budget. I think this is an emerging threat that is getting worse with each passing day.

Finally, I will be pursuing my questions, but I remain disturbed that FEMA has done so little to recoup the improper payments that occurred in the wake of Hurricane Katrina. The investigation we did showed that those improper payments approached a billion dollars, and the I.G. has identified more than 160,000 applicants that have received improper payments, totaling more than \$643 million that have yet to be recouped.

Again, I look forward to discussing these issues with the secretary. I do want to acknowledge that I appreciate the efficiencies and business practices that the secretary's worked very hard to achieve.

Thank you.

LIEBERMAN:

Thanks, Senator Collins.

Secretary Napolitano, it's great to welcome you back. Been a real pleasure to work with you the last couple years, and we look forward to the next two as well.

NAPOLITANO:

Well, thank you, Chairman Lieberman, Senator Collins, members of the committee for the opportunity to discuss President Obama's fiscal year 2012 budget for the Department of Homeland Security.

The demands on DHS have never been greater. This is especially true as we remember those at the department who have given their lives and service to our mission of securing America, including, as you have noted, most recently Border Patrol Agent Brian Terry, ICE Special Agent Jamie Zapata, and our retired CBP -- our retired CBP agent in Kandahar this past week.

Now, Mexico is leading the criminal investigation into the death of Agent Zapata, and we are supporting them through a joint DOJ-DHS task force that the attorney general and I announced yesterday. I can speak for the entire administration when I say we are not only saddened by the loss of an agent, but we are outraged by this act of violence against an officer of the United States.

And make no mistake, justice will be brought to those involved. We owe nothing less than to the memory of Agent Zapata and to those of who are still on the job in Mexico.

We remain relentless in efforts to keep our border secure and to assist Mexico in breaking up the cartels that are plaguing that country.

The loss of these brave agents is a stark reminder of the sacrifices made by the men and women of the Department of Homeland Security every day. It also strengthens our resolve to do everything we can in our power to protect against, mitigate and respond to threats and to make our nation more resilient for years to come.

It's also a reminder of the solemn duty of the Congress and this committee to support and oversee the department. I want to thank you, Mr. Chairman and members of the committee, for the support you have shown to the men and women who carry out our many missions.

Today's threat picture features adversaries who evolve quickly and are determined to strike us here at home, from the aviation system and the global supply chain to surface transportation, critical infrastructure and cyber-networks.

We are leading the administration's unprecedented effort to strengthen Southwest border patrol security, coupled with a smart and effective approach to enforcing immigration laws in the interior of our country. And we continue to prepare for, respond to and recover from disasters of all types.

President Obama's F.Y. 2012 budget for the department allows us to continue to meet these evolving threats and challenges by prioritizing our essential operational requirements, while reflecting an unprecedented commitment to fiscal discipline that maximizes the effectiveness of every security dollar that we receive.

Reflecting the current fiscal environment in building the F.Y. 2012 budget, all DHS components identified savings associated with the department's 33 efficiency review initiatives, and we cut administration and overhead, including my own office's budget, by over \$800 million.

Savings were realized through efficiencies in acquisition, asset and real property management, as well as employee vetting and credentialing, hiring and onboarding of personnel, and information technology. And we cut professional services contracts, travel and non-mission-critical training.

We also delayed construction of FEMA at the new DHS headquarters at St. Elizabeth's and deferred numerous office co-locations, as well as building maintenance and enhancements that would have furthered our mission.

My written statement includes a comprehensive list of the operational priorities in our budget request, and today I'd like to highlight a few of them for you here.

As you mentioned, Mr. Chairman, our first priority is preventing terrorism and enhancing security. This was the founding mission of the department, remains our top priority of the day.

The budget safeguards transportation modes through a layered detection system, including the deployment of additional transportation security officers, behavioral detection officers, canine teams and advanced imaging technology machines at domestic airports, while expanding

watchless vetting through the Secure Flight program and enhancing screening and targeting of international travelers before they board U.S.-bound flights through the Immigration Advisory Program.

The budget also strengthens surface transportation security by supporting 12 new multimodal VIPR teams -- stands for Visible, Intermodal Prevention and Response -- which conduct operations throughout the transportation sector to prevent potential terrorist activity.

The request also provides funding for the Securing the Cities program to protect our highest-risk cities from a radiological or nuclear attack, and makes a significant investment in the National Bio and Agro-Defense Facility -- NBAF -- which will provide enhanced diagnostic capabilities to protect our country from foreign animal and emerging diseases.

The request expands support for the national network of state and local fusion centers to enhance baseline capabilities and provide local law enforcement with the tools to address threats in their own communities.

Our second mission is to secure and manage our borders. The request continues the administration's historic border security efforts by supporting 21,370 border patrol agents and 21,186 U.S. Customs and Border Protection officers, both all-time highs.

The budget includes \$242 million for the continued deployment of proven effective surveillance technology along the highest-trafficked areas of the Southwest border to better meet the operational requirements of our agents on the front lines.

For the northern border, the budget request supports investments in technology tailored to the maritime and cold weather environment, including proven stand-alone technology to provide immediate operational benefits.

NAPOLITANO:

And for our nation's maritime borders, this budget includes funding to continue the essential National Security Cutter program and makes historic investments to recapitalize the Coast Guard's aging assets, including six fast response cutters, 40 response boats, as well as a sizable investment in the renovation and restoration of shore facilities.

I look forward to talking about that part of the budget with you, Senator Collins.

The budget request also continues the department's focus on smart and effective enforcement of our country's immigration laws, while streamlining and facilitating the legal immigration process.

Building on our record over the past two years, the department will continue to prioritize the identification and removal of the criminal aliens who pose a threat to public safety, and we will target employers who knowingly and repeatedly break the law.

This request enables U.S. Customs and Immigration Enforcement, ICE, to fund 33,400 detention beds, remove over 200,000 criminal aliens and deploy secure communities to 96 percent of all jurisdictions nationally in F.Y. 2012.

While promoting compliance with work-site-related laws through criminal prosecution of egregious employers, Form I-9 inspections and continued expansion and enhancement of E-Verify.

The request also funds immigrant integration efforts, including programs supporting English language and citizenship education, and continues detention reform efforts currently under way.

To safe guard and secure cyberspace, the budget increases resources to identify and reduce vulnerabilities in our nation's key cybernetworks. The request includes significant investments to expedite the deployment of EINSTEIN 3, to prevent and detect intrusions on government computer systems; increase federal network security of large and small agencies; and continue to develop a robust cybersecurity workforce to protect against and respond to cybersecurity threats.

The budget also focuses on combating cybercrime and preventing attacks against our critical infrastructure.

To ensure resilience to disasters, our next mission area, the budget request focuses on moving resources out of Washington, D.C. and into the hands of state and local responders who are often best positioned to detect and respond to terrorism, natural disasters and other threats by sustaining federal funding for state and local preparedness grants, providing over \$3.8 billion in F.Y. 2012.

The funding includes \$670 million for assistance to firefighter grants, including \$420 million to rehire an estimated 2,300 laid-off firefighters and retained veteran first responders.

And to lead and support essential national and economic security efforts, the budget expands the Coast Guard's operational capacity by funding 50,682 military and civilian positions and establishing the Coast Guard's first incident management assistance team, which will be deployed rapidly to support incidents of national significance.

The request also continues to support ICE and CBP's enforcement and investigative efforts to protect the United States' intellectual property rights, as well as the Secret Services' state-of-the-art forensics support to several missions, including the National Center For Missing and Exploited Children.

This budget is the culmination of a major first-of-its-kind effort by the department, through the quadrennial homeland security review and the bottom-up review, to align our resources with

a comprehensive strategy to ensure a safe, secure and resilient homeland, while making an unprecedented commitment to fiscal discipline.

I would be remiss, however, if I did not note that all of this progress is at risk in the continuing resolution currently being debated in the House. It's somewhat of a moving target, as we know.

But the current proposal cuts technology investments in security improvements on the Southwest and northern borders; aviation security measures, including new technology; funding to sustain the progress that's been made in enforcing our immigration laws; critical cybersecurity tools and operations; intelligence personnel in state and local fusion centers; Coast Guard funding to support the war efforts abroad; and grants that support counterterrorism and disaster response at the local level.

I'd be happy to answer some of those questions as well.

Chairman Lieberman, Senator Collins, members of the committee, thank you for this opportunity to testify. I ask that my full statement be included in your record. And I'm happy to answer your questions.

LIEBERMAN:

Thanks, Madam Secretary. And of course, we will include the full statement in the record, without objection.

Let me ask you to begin by focusing on the -- one the -- in a sense, the catalyzing mission of the department after 9/11, which is the terrorist threat, and the statement you made last week that the terrorist threat may be at its most heightened state since the attacks nearly 10 years ago.

Talk, a little bit, if you would, about why you said that, what you had in mind.

NAPOLITANO:

I said that because, in addition to core Al Qaida, we now have spinoff groups of Al Qaida, including, I think importantly, AQAP, who have demonstrated their intent to attack the West and to attack the United States.

They continue to focus on transportation nodes, particularly aviation security, which is why the aviation part of this budget is so important. But combined with that, we now are seeing the rise in the so-called homegrown terrorism, which is, I think, accelerated by connection with the Internet.

So we're dealing with more dissipated sources abroad, but also from within the country. That means that we have to be working both things at the same time. That's why the fusion

centers are so important here in the country, in our effort to push information and intelligence analysis out to states and to cities.

But it's also why we're so focused on aviation security at domestic airports and internationally, as well as adding support to surface and other transportation, as we know from the Zazi case, for example, just a very recent one, with the attempt to attack surface transportation.

LIEBERMAN:

Right. Let me ask you about the threat of homegrown radicalization. As I'm sure you note, Senator Collins and I recently released a bipartisan staff investigation into the murders at Fort Hood in November of 2009.

And in addition to specific recommendations to the Department of Defense, the FBI, et cetera, we -- we recommended that there be a review done, preferably under the auspices of the White House, probably Mr. Brennan, to -- which would include DHS -- to determine what we can do to better, with a whole-of-government approach, counter homegrown radicalization.

We had a hearing on our report this week. And with a group of excellent witnesses, one of them, Phil Mudd, who, as you know, was with the CIA for a long time and was almost with DHS, was with the FBI. And he said this is a needle in the haystack problem. And Charlie Allen, your former director of intelligence and analysis, was here, and he quoted numbers I don't remember exactly, but since -- from 9/11/01 to 2009 there were something like 46 or 48 cases of homegrown radicalization, 13 of them in 2009. So there was an increasing pace.

Obviously, 46 or 48 is a -- over a nine-year period is a very, very small percentage of the Muslim-American population. So the question, though, an individual, as we saw with Hasan at Fort Hood, can do terrible damage, 13 people killed, 32 injured, some seriously.

Do you have any ideas about what the department can do, along with other federal agencies, to better identify, counter and prevent the -- the existence, certainly, the spread of homegrown radicalization of Muslim-Americans into Islamist terrorists?

NAPOLITANO:

Well, first of all, I did -- I read your report, even though it was about DOD, FBI and the Hasan matter. But I thought it was a very important report to -- to review. So I thank you for having that review done. It was very well -- well written, well done, I must -- I don't know if the -- the actual scripter is -- you wrote it yourselves? OK.

(LAUGHTER)

Well, I thought you did a very nice job.

LIEBERMAN:

Thank you. Thank you.

(LAUGHTER)

NAPOLITANO:

Here's -- here's where we have been focused. We looked at this and we had the Homeland Security Advisory Committee, which is chaired by William Webster, the former head of the FBI...

LIEBERMAN:

Right.

NAPOLITANO:

... especially look at this whole issue of homegrown and (inaudible) how do you counter violent extremism.

And we decided that the most effective way, from the homeland security perspective, was to focus on local police departments and techniques that have been shown to work in the past, where neighborhood and community policing, where you have police who are specially trained but who really are located in a particular area, all the time; they get to know the people; the people get to know them; you begin to build trust. That's how information can flow.

So just this past week at (inaudible), we test-drove a -- a training curriculum on -- on this kind of homegrown violent extremism. And we had representatives there from a number of different police and sheriffs' organizations to give us their comments so that we can rule that out.

But this homeland security architecture that we are building, I think one of the things we have to recognize is the federal government alone is not going to be the only player here. The folks who are really front lines are state and local police, sheriffs, medical personnel, you know, and you know, the people who are in the detention facilities, who work as guards in our jails and our prisons.

These are all people who need to be woven into what we're doing. And we also met this past week with the FBI and have joined efforts with them on the detention populations...

LIEBERMAN:

Right.

NAPOLITANO:

... and their potential when they are released for radicalization. So there are a whole number of efforts under way there.

But our key focus, Mr. Chairman, is on what we can do to support state and local law enforcement from a community-oriented policing strategy to identify tactics and techniques and behaviors that could be a real tip-off to a terrorist.

LIEBERMAN:

I think that's a very significant conclusion. It sounds -- it makes a lot of sense to me.

We know in a couple of cases, as in the NYPD, they're operating something like that quite effectively. We also know just from years of local law enforcement experience that the cop on the beat programs, in previous years, dealing with crime, have a -- have a very positive effect. So I'm actually heartened to hear that.

And I guess the final question, bottom line, is are there resources in this budget that will allow to you begin to move forward on assisting local police departments that don't have that kind of program going now?

NAPOLITANO:

Mr. Chairman, a few things. One is, there are resources in this budget for the fusion centers. And we have been, first of all, upgrading the quality of the fusion centers. They're a nascent kind of development.

We looked at all 72 of them this last year and, you know, identified which ones were meeting certain baseline standards, which needed to come up. We're making sure that they all have access to classified information networks.

And we're moving intel analysts from D.C. to the fusion centers in the -- in the country, not only to help with intel analysis, but to train state and locals on intel analysis. So there's money in the -- in the budget for on fusion centers.

There's money in the budget to support grant programs that can be used by state and local police and first responders. And when I get to Senator Collins, I think we can have a colloquy, perhaps, about how the grant money is actually budgeted in the president's budget.

The third part of this, however, is the COPS program.

LIEBERMAN:

Right.

NAPOLITANO:

And that, of course is not in our budget. That's in DOJ's. And so -- and so -- and so that part, I don't -- I don't have.

LIEBERMAN:

OK. That's great. And I take you to say you're going to be driving training at least of local police departments in a -- in a counter-homegrown radicalization program?

NAPOLITANO:

That's true.

LIEBERMAN:

That's great.

Senator Collins?

COLLINS:

Thank you, Mr. Chairman.

Before I get to the Coast Guard and the grant money, there are two other issues that I want to bring up with you.

The first is the improper payment problem at FEMA. Hurricane Katrina was back in 2005. And the American people were very generous in responding, as I know Senator Landrieu would attest.

But they're also very frustrated when they see improper payments. It was disheartening to see the latest I.G. report which indicates, and here we are, six years after Hurricane Katrina, that there is still outstanding at least \$643 million in improper payments related to Hurricanes Katrina and to Rita.

Now, I know there were some court developments which slowed the recoupment process. But the fact is, according to the I.G., FEMA has yet to implement a new process to recoup those payments.

We just can't afford to have \$643 million in the improper payments at a time when the budget is under such pressure. We can't afford it at any time. I think it's unacceptable. Why aren't we recouping that money or prosecuting the cases of fraud that exist within those 160,000 cases?

NAPOLITANO:

Well, Senator Collins, this is an area that I think we need to work with the Congress on. And you and I may have a respectful difference of opinion here.

But, first of all, one of the problems is, an I.G. report that comes out so many years after the fact, and there are some, I must say, some disagreements with their conclusions on some of the payments.

Secondly, it's not as if one, two, three or four entities received that money. It's spread over literally thousands and thousands of beneficiaries, most of whom are spread across the country now.

And I'm informed by FEMA that the average overpayment, even accepting the I.G.'s conclusions would be about \$2,500. So it's not like big -- it's a lot of money when you add it all together, and, I -- believe me, I respect the value of the dollar. But this is now going back years and years, after the fact, to try to find people to recoup relatively small amounts of money.

We may want to look at this whole recoupment process as it affects Katrina, Rita. It was such an unusual disaster with such unusual requirements that I don't -- I don't think it should be the pattern. So I'd be happy -- I really would like the opportunity to meet and talk with you more about that as we move along in this budget process.

COLLINS:

I'd be glad to, but let me suggest that I've talked to the I.G. just within the past week about this. And he's told me that the discouraging part of his report is that the same problems and lack of internal control that allowed these improper payments to occur have been evident for decades, literally. And they've just never been remedied.

And I think to most people who are struggling right now, \$2,500 is a lot of money.

NAPOLITANO:

It is a lot of money.

COLLINS:

And in the aggregate, it's a huge amount of money.

NAPOLITANO:

Agreed.

COLLINS:

I would be glad to work with you, but FEMA needs to actually start recovering this money and making sure that the controls are in place so that when the next disaster strikes, and inevitably it will, the same thing doesn't happen again.

In talking to Inspector General Skinner, he said he could go back to 1993 and show me the same kinds of problems. I held hearings prior to Hurricane Katrina that showed improper payments with Florida hurricanes.

So this seems to be a systemic problem in FEMA. And it's one that we need to do correct once and for all.

NAPOLITANO:

And it may be. And, again, I don't -- it merits a more substantial conversation, particularly where the Katrina/Rita victims or survivors are concerned.

But there is a real tension between getting money out quickly to people who immediately need -- who immediately need monies to get a home, to get reestablished and so forth, and the controls on that, versus four or five years after the fact going back and saying well it should have been this much, not this much, that sort of thing.

That's different from actual cases of fraud. Fraud should be prosecuted.

COLLINS:

Of which there were many. I remember in our investigation that we discovered prisoners who were applying for housing assistance after Hurricane Katrina and received checks in jail for housing assistance. I mean, there really were some blatant, fraudulent schemes.

NAPOLITANO:

Indeed.

COLLINS:

Let me switch to another issue. I was surprised to see that president's budget includes a proposal to begin imposing a \$5.50 inspection fee on travelers entering the United States by air or sea from Canada.

Now, as you know, Canada is our biggest trading partner. There is \$1.5 billion in commerce transacted between the two nations on a daily basis. People are flying -- arriving by ferry back and forth all the time.

What is the rationale for this fee? My concern, for example, is that it will discourage cruise ships from coming to the state of Maine from Canada. That is a popular route right now, but if there's going to be this additional inspection fee on the thousands of people who may be on a cruise ship, that may discourage the cruise ship from even stopping here.

So -- and I'm also concerned about the impact on tourism and families going back and forth in general.

What -- what's the rationale? And did the department look and assess what the impact would be on commerce and tourism?

NAPOLITANO:

Yes, the rationale is fairness. We charge that fee for travelers from every other country except Canada and Mexico, the Caribbean. It has always, in my understanding, been the intent to implement that fee. It's not for land. It's just for the air and sea.

We thought and looked at potential impacts, but to give you an example, if you have a traveler coming from London to the United States, they fly direct. They pay that fee. But if their plane stops in Canada, so they're coming from Canada, they don't pay the fees. So, you know, some real discrepancies in the system.

In terms of effects on tourism and travel, I think we can look at the ESTA fee, which went into effect. And it just -- things are things that get added to the ticket price and so that the travelers from other parts of the world are not essentially underwriting travelers who are from Canada or Mexico.

COLLINS:

Thank you, Mr. Chairman.

LIEBERMAN:

Thanks, Senator Collins.

In order of both arrival and being seated seniority at the gavel, Senator Landrieu, Senator McCain, Senator Johnson and Senator Tester.

(CROSSTALK)

I asked about that, and I was reminded that when the gavel falls, it goes by seniority -- whoever is here by seniority on the committee. It's the Armed Services rule.

(LAUGHTER)

LANDRIEU:

I thank Senator McCain, who was actually here right before, but I will appreciate going now.

Madam Secretary, thank you for being here today, and I look forward to having you before my new subcommittee for appropriations very soon, I think on March 2nd, as I'm taking the chairmanship of that subcommittee.

I -- I have to say, I want to commend you. This has been a very tough year for the department. You've had -- the Coast Guard has fought to contain the largest oil spill in American history. Our agents have responded to terrorist attacks at Fort Hood and Times Square. ICE and Border Patrol agents mobilized to quell unprecedented violence along the southwest border. TSA learned of a terrorist plot to detonate air cargo. FEMA has responded to 106 separate instances -- incidents this year.

So I want to say I appreciate your leadership of this department. I also appreciate your willingness to cut, reduce, and modify based on the challenges before us. But I do want to say that we've got to be very careful about how we go about that exercise so that we can continue to provide the security that our nation needs and has come to depend on under your leadership and with this department.

My first question has to do, however, with something that is related to disaster relief that's concerning, because it's a big number. The senator from Maine was just referring to a number associated with failure to recover in large measure \$2,000 payments equaling about \$640 million. That's a lot of money and I want to comment on that in a minute.

But there's an issue that's \$1.6 billion that is affecting this year's budget. And I think you are aware that both in the House resolution -- the House concurrent resolution that's being debated, and in the president's proposal they're both recommending that we basically fund disaster response out of the base budget of Homeland Security, which in my mind is a radical departure from the past and will absolutely, if left unchecked, undermine your department's ability to respond to all the things that I just said and have been pointed out.

Could you comment? And what is your position on that? And are you prepared to, you know, work with us and the president to see if we could get that not designated as an emergency -- it is an emergency -- funded as an emergency?

NAPOLITANO:

Thank you, Senator, and I do look forward to appearing before you at the approps subcommittee hearing.

Yes, what's going on -- this is the DRF, and the way we budget the DRF is to take a five-year rolling average of what -- what is -- what has -- what basically emergency response costs. But added to that, then, you have so-called "catastrophic" disasters. And those are disaster that are over \$500 million. And you know, it is difficult to predict when you are going to have those or how many you will have in a given year, if you have any.

And so historically what the Congress has done is approve the five-year rolling average and then via supplemental when we know what we're looking at, then they appropriate the rest. By not proceeding in that fashion, you have two challenges. One is it requires us to have really, really good crystal balls, perfect crystal balls as to how many disasters of a catastrophic type we will have in any given year. And our crystal balls are not that clear.

Secondly, we have to pay for disaster response. I mean, it's really nonnegotiable. So what that means is that if you don't have a mechanism to fund them, it's just a hidden cut to FEMA and it's a substantial one, as you have noted.

LANDRIEU:

Well, I just want to bring this to the committee's attention. Of course, as the Appropriations Committee, I'll be focusing on it, but I really want the members to fully appreciate the numbers here. It's \$1.56 billion in F.Y. '11 that is not being funded appropriately. But the next year for F.Y. '12, FEMA is estimating \$6.7 billion.

Those are outlying bills from Katrina, Rita, Gustav, Ike and Rhode Island, Tennessee, and the 106 subsequent disasters since Katrina and Rita. That's not in any budget and it most certainly cannot come out of Homeland Security budget or we won't have a Border Patrol.

Senator McCain?

Or you know, we won't have a Border Patrol or we won't -- we have to use that as the emergency that it is so that this department can do its other responsibilities, which are border control and Coast Guard, et cetera.

So I just really wanted to bring that up. And my final question in my final minute, the national disaster recovery framework, not response framework, but recovery framework, is a difference. It's very important, Madam Secretary, and I understand that it is not yet fully operational and it gets a little bit back to what Senator Collins was saying about we know Katrina was an exception. It was not blanket fraud, but it was just mismanagement of distribution of monies, of \$2,000 approximately per families. We didn't have the computers for the addresses. We double-paid some families. It's going to be difficult.

But we can find a better way, a more accurate way to make sure we're giving out those payments. But for this national recovery framework, I understand that it's still not in place. So do you know what the status of that initiative is? Does this budget include sufficient funding to complete it? Because it's very important that we get it completed before we have an earthquake in Memphis.

NAPOLITANO:

Yes, Senator, but it's also -- it crosses many lines and many agencies, and it also crosses state and locals. So there has been, as you might imagine, a lot of consultation that has gone into drafting recovery framework responses -- the immediate stuff you do right away. Recovery is how you restore communities, housing, small businesses, and the like.

We -- in terms of the department's that are impacted, we have made a strong recommendation to the White House about how this should appear and be organized. We're waiting now for the White House to agree, concur, amend, disagree. And my understanding is at that point we may need to make some adjustments. But under the current practice of what we have now, the budget request is adequate.

LANDRIEU:

Thank you.

LIEBERMAN:

Excuse me.

Thanks, Senator Landrieu.

Senator McCain?

MCCAIN:

Thank you, Mr. Chairman.

And, Madam Secretary, thank you for being here. Thank you for your hard work. Thank you for the frank and very candid conversations we have concerning the issue of border security.

And I also want to appreciate the time and effort you take to keep me and other members of the border states informed as to the efforts you're making on border security. And I think it's important that we continue the conversation. I appreciate the briefing that you gave me just the other day.

As you know, there's a February 15th GAO report that contains some very interesting information. And among that -- in that report, it says, "As of February 2011, CBP did not have an estimate of the time and efforts that are needed to secure the Southwest border as it transitions to a new methodology for measuring border security."

I think this is part of our problem in our dialogue, because you, I think, very appropriately point out that there's been an increase in assets, an increase in apprehensions, certainly increases in efficiencies. And yet, at the same time, if you look at the same situation from another viewpoint, we've seen the violence in Mexico go up dramatically, as I predicted to you.

An American was just killed and another one injured. And I am convinced tragically that if the status quo remains, that violence will continue to spill over onto our side of the border.

Everyone knows that these drug cartels have become more aggressive, better armed, better equipped, more efficient. And the level of violence in Mexico continues to go up dramatically. Some 30,000 Mexican citizens, as you know, or more have been killed during President Calderon's presidency.

So you can look at it from one viewpoint, that we have made some significant improvements and investments. But I also find, when I go to the southern part of my state, as you have on numerous occasions, one, they don't feel safe; two, they are still subject to home invasions; three, in the Tucson sector, it was 91,000 illegal aliens were apprehended on federal lands and the estimates are by almost every objective observer that three times as many get through.

Well, if you do the math on that, you've still got over 200,000 people crossing the Tucson border -- or Tucson sector -- illegally and not being apprehended. I don't think that that is acceptable.

And then last week, I have a hearing with -- a meeting, I'm sorry, a meeting with the HIDA (ph) office of friends of yours, in fact, the great U.S. attorney, who was a former assistant of yours, was there. And they said that there's anywhere from 100 to 200 spotters positioned in

mountain ranges of Arizona, using two-way radios to communicate with marijuana load drivers or human smugglers.

Now, it doesn't give my constituents a feeling of confidence if there's 200 spotters in Arizona living on mountaintops, directing drug smugglers. And they maintain that Arizona has become the funnel, from Nogales up through Pinal County, into Maricopa County, and then all over the country (inaudible) major -- because the Sinaloa cartel, it a major distribution for the entire country of these drugs.

And, again, I've had the privilege of visiting with your people, and knowing them. They are outstanding, hardworking, dedicated. Those that are working in the forward operating bases on our border are -- that's a hardship duty. And obviously we have seen cases where it is not without danger.

So I guess my question to you is, and I'm sorry for the long opening comment, we have to agree on certain criteria on what is successful securing of our border. Jon Kyl and I have a 10-point plan. We think that secures the border.

I think it would be very helpful to all of us if you could lay out what is necessary and what statistics, what assets need to be devoted, and what statistics would show us that the border is being secured. And at that time, I think we could move forward with comprehensive immigration reform.

Thank you.

NAPOLITANO:

Well, thank you. And there's no one more admitted to securing that border than I am. I've spent the greater part of my professional life on border-related issues. I used to chair the HIDA (ph), to which you refer, and a number of the same members are there. So -- and I know the men and women that we have working for us and that you have helped supply for us are so committed as well.

We could talk about and arrive at some common metrics, and that also merits probably a different and longer conversation. But I think of the metrics we do have, they're all going in the right direction.

Here's the problem: The problem is they're not going in the right direction fast enough in the Tucson sector. And that's the sector to which you refer.

And so our plan is to increase and to be pouring even more resources into that sector, from supplying monies for state and locals down there -- this is the Stonegarden issue to which Senator Collins referred to -- to radios to other technology that they can actually work.

When we get to discussing SBInet, as we might do in another round of questions, I would be happy to explain how some of those monies have been redeployed on the ground for frontline detection.

I will say that it's a system. You have to have troops or boots on the ground at or near the border. You have to have checkpoints. And you have to have interior enforcement. And, you know, it's a three-legged stool. And so it's boot, it's technology, it's that infrastructure that gives us security.

And at a certain point, and I don't know if it's subject to an actual absolute number, because these numbers jump around all the time, but at a certain point we have to be able to agree that Tucson sector has become akin to, say, El Paso, for example, and at that point proceed with the other discussion to which you refer.

MCCAIN:

Well, thank you. I'd like for you to think about certain benchmarks and certain criteria that we could use to gauge success or failure, that both of us could agree with, all of us, and we could say we've achieved X amount of apprehension, a certain amount of fencing, whatever it is, so that -- which obviously the results are -- would be obvious from that.

Mr. Chairman, I've overstayed my time. I just wanted to say one word about SBInet. It's a colossal failure. Waste of over \$1 billion. And that can't be fixed. I still think that the contractor ought to be held responsible, but maybe that's a subject for a conversation another day.

But I would urge you to look at what the department -- Armed Services Committee has passed legislation which helps us track better the progress, or lack of progress, of weapon systems that we purchase, such as the Nunn-McCurdy trigger that Congress has to be notified once there's a certain cost overrun, there are certain benchmarks and criteria which the Congress has to be informed and participate in decision making.

So I would like for to you look at what we do as in regards to weapons procurement in DOD because I think maybe it would be very useful and helpful to us in tracking these situations.

I thank you, Mr. Chairman.

I thank you, Madam Secretary, for your hard work.

LIEBERMAN:

Thank you, Senator McCain.

Madam Secretary, as we discussed the other day, we did announce at our organization meeting the other morning that border security is going to be one of our priorities this year. We're going to start a series of hearings, hopefully in March -- that is, we'll start in March.

And the point that Senator McCain raises is an important one which is whether we can find a metric, a set of standards we can agree on that -- where we can say we're doing -- well, we're doing as much as we all agree together we can do to secure our border.

And that will not only achieve security, it may also here in a broader context enable us to deal with the possibility of comprehensive immigration reform, which I know you're also interested in.

NAPOLITANO:

Very good.

LIEBERMAN:

Thank you.

LIEBERMAN:

Senator Johnson, then Senator Tester and Senator Portman.

JOHNSON:

Thank you, Mr. Chairman.

Madam Secretary, it was nice -- nice meeting you earlier, and welcome to our hearing.

NAPOLITANO:

Thank you, Senator.

JOHNSON:

Are you aware or have you been watching what's been happening in my home state in Wisconsin in terms of public sector employees?

NAPOLITANO:

Yes, I've seen a few clips.

JOHNSON:

Does that give you any pause in terms of the announcement to allow the TSA employees to collectively bargain?

NAPOLITANO:

No, I think this is a totally different situation. First of all, we were ordered by the FLRA to conduct such an election. And I think the way the administrator, who is the former deputy director of the FBI, has gone about it is the right way, which is to say, we'll have an election. But issues that affect security are off the table from a collective bargaining standpoint.

As you know, a number of collective bargaining units are in law enforcement, already including some that are within the private airports that have been discussed.

I think, I want to say, San Francisco and Kansas City have privatized the security, which have collective bargaining units in those companies. So I didn't find that argument particularly persuasive. And I think the way we're going about it is legally mandated and the right way.

JOHNSON:

OK. I would hope it would never get to this point, but TSA Administrator Pistole was asked, I believe last week, if -- if work stoppages or slowdown occurred, would he be willing to fire TSA screeners en masse? He answered yes.

NAPOLITANO:

Yes.

JOHNSON:

I mean, if it got to that point, would you support that decision?

NAPOLITANO:

Yes, this is a security organization. And the bargaining will take place in that context. It will also take place in the context of the need to be able to move people around quickly when we need to, to supplement particular areas of the country.

JOHNSON:

OK. Well, I appreciate that answer. Let's go back to border security. I'm a new kid on the block here, so these may be some basic questions, but I'm interested in metrics. What metrics are we currently using?

NAPOLITANO:

Well, we use a number. We use a number of apprehensions of illegals. We use seizure of drugs. We use seizures of guns. We use seizures of what we call bulk cash, which is normally associated with drug smuggling. So those are four of the major metrics that are used.

JOHNSON:

Do you at all estimate number of crossings? Do you use any type of...

(CROSSTALK)

NAPOLITANO:

Well, it's hard. You know, Senator McCain said, you know, we pick up -- you know, for every one we pick up, there are two or three who get through. There is a difference of opinion in the law enforcement world. They actually think we're picking up a greater percentage than that now. The one in three metric is an outdated metric.

But when we look at where the high point was in illegal immigration, particularly over the Southwest border, we see now that apprehensions are at their lowest point in decades. And so, as apprehensions go down, we extrapolate that illegal crossings have gone down as well.

JOHNSON:

What would that number be then, based on the current extrapolation?

I mean, what is your estimate of current crossings?

NAPOLITANO:

Well, I can give you those actual numbers, but -- let me see if I have it right -- right here, the apprehension number. It's around 195,000, 196,000 in the Tucson sector of the Border Patrol, which is the most heavily trafficked. The others are much, much smaller.

JOHNSON:

OK. What -- in your estimate...

NAPOLITANO:

So you have to assume that the Tucson sector -- across the Mexican border, the Tucson sector represents about 45 percent of the apprehensions. So take 195,000 and then do the math.

JOHNSON:

OK. Now, I'll say at the onset I realize it's not an easy problem, but we've been talking about securing our borders for years. And I'd just like to ask your opinion, what is the number one -- or what are the top problems? No, let's go after number one. What's the number one problem from preventing us from doing that?

NAPOLITANO:

Well, you have to -- you have to look at borders not just as the physical line on the map, but what needs to be done before people get to that border and then after they get into the interior of our country.

So we absolutely need to be working with Mexico to prevent, detect, deter, whatever, illegal immigration, drug smuggling, human smuggling, money laundering. A number of efforts are under way in that regard.

At the border itself, you need manpower; you need technology; you need infrastructure. Some of the things in the president's budget will really assist in this regard because they will allow us to complete some interoperability projects in terms of communications along the border. And also, we put more into technology and boots on the ground nearer the border than at sector stations, for example.

So we've increased the number of forward-operating camps. We've got agreement from the (inaudible) Nation that we can put more camps on their lands -- those sorts of things.

And then you have to deal realistically and very firmly with creating a culture of immigration compliance among employers in the United States. That's why we support E-Verify. That's why we are doing more and more audits. That's why we are referring more companies to

debarment and for prosecution. Because that is the -- the incentive for illegal -- much illegal immigration. It's -- it's narcotics, but the big numbers are people coming in search of work.

JOHNSON:

So those, kind of, three different issues -- one of those would be resources, correct? I mean...

NAPOLITANO:

Sure. Yes.

JOHNSON:

How much -- how much do you think it would cost to secure the border?

NAPOLITANO:

Well, I think the president's budget gives us the resources we need to fit into the plan we have for the Southwest border. That's our part. We don't -- we don't -- the budget for the DOJ part, in terms of what you do by way of prosecution, detention, and so forth, that's in the DOJ budget. But I think the president's budget is adequate to meet our plan. I wouldn't go below that, that's for sure.

JOHNSON:

OK. Well, thank you.

LIEBERMAN:

Thanks, Senator Johnson. Senator Tester?

TESTER:

Madam Secretary, it's good to see you again. I think the last time I saw you, we were enjoying a steak in Great Falls, Montana.

NAPOLITANO:

No, I was dropping you off in your pasture by helicopter.

TESTER:

That's true. I forgot about that. Yes, that's right.

(LAUGHTER)

And I appreciate that, too.

NAPOLITANO:

I was giving you a ride.

TESTER:

That's right, you were.

And -- and I appreciate Commissioner Bersin coming in. I know that his -- his nomination is still hung up. And I would hope that that gets through yesterday, as a matter of fact. Because I think he's done a great job and I think reappointment with a different person wouldn't help you in your position at all. So hopefully, we can get that moving.

We recently had some issues -- and this might seem parochial, but I don't think it is, actually -- with the CBP policy that would prohibit airports from processing planes that had international flights with over 20 or more passengers. They've been doing it for years and years and years.

I arrived in Great Falls last week, and they informed me that the airport there in Great Falls were not going to be able to process those flights anymore, international flights.

It has saved a lot of time, a lot of headaches for folks to avoid some of the larger, busier airports. It generated revenue. And, quite honestly, as I think about it, a plane flying and landing in a place further south doesn't make a lot of sense from my perspective. So it's not just parochial. I think it is a homeland security issue.

I don't know if the decision was made locally or if it was made above the chain, but it was made somewhere in the chain, where they found a rule that said, hey, we can't do this anymore, and so they decided not to do it.

I'm a little upset with that. That's the bad part. The good part is your staff helped clear the flight for us. But we need to work on a long-term solution.

What further compounds the fact that I was a little upset with it -- and this was the second time this has happened -- my staff member in Great Falls was -- the person in Customs declined to come see them, declined to take a meeting with them. And quite frankly, when they've declined a meeting with one of my staff members, they've declined a meeting with me. So we'll take it to a higher person, you being the one.

The bottom line is this.

NAPOLITANO:

That will not happen again.

TESTER:

That would be good. I mean, that would be really good.

NAPOLITANO:

That will not happen again.

TESTER:

Quite frankly, I have zero tolerance for that, personally.

NAPOLITANO:

I understand.

TESTER:

So can I -- can I get a commitment from you? I mean, this needs to be solved. I think, from a homeland security standpoint, there are a lot of small border -- a lot of small airports along the northern tier that have done this in the past, and if this is -- this is just in the sector that's in the Great Falls, that's not good. And if it's all the way across the northern border, I don't think it's good, either.

I think these stations that have been doing this work need to continue to do it. And all I'm asking for is your ability to work with us to make sure that that happens and continues. You got the drift on the whole thing?

NAPOLITANO:

I -- I will look into it and we will respond to you directly.

TESTER:

OK, thank you.

As you know, I recently -- or you may not, actually -- I -- but I did send a letter to Secretary Gates and you on the increased rate of drug smuggling across the northern border by low-flying aircraft. Low-flying aircraft is a real problem.

We've heard from folks on the ground that you can hear them, but can't see them. And we had been working for radar, low-level radar, for some time now. It's something that I think that you need work with at the DOD.

I think it's the same report that Senator McCain talked about. It talked about the northern border not being as secure as we want it by a long shot.

So we need technology as a comprehensive part of that. The National Guard in Montana has -- has done a pilot project up there. I think they've done good work.

I really -- here's the way I see it -- I really think if low-level radar was implemented it may save some manpower and make that border more secure.

I don't know how you move forward on it, but I think we need to get started on it. Any thoughts on this at all, on the low-level radar?

NAPOLITANO:

There is actually money in the president's budget for a low-level radar project, and we have that in mind both for -- for both borders.

TESTER:

OK. Good. And I was going to ask you, you talked about the president's budget as applied to the southern border. What about the president's budget as it applies to northern border and getting the -- getting the northern border secured?

NAPOLITANO:

Yes, the president's budget actually has some -- a lot of enhancements for the northern border. But it's a different border so...

TESTER:

Absolutely.

NAPOLITANO:

... you need different types of equipment. We need equipment that can survive extreme cold.

TESTER:

Yeah.

NAPOLITANO:

We need more maritime equipment up there. And so that's where you'll see the enhancements is in that sort of thing.

But it does recognize and provide agents at the northern border, it meets, you know, all of Congress' requirements there. But it's not just the agents. It's really the technology and the maritime assets that we need to augment that agent support.

TESTER:

I couldn't agree more. In fact, I think that if we were to get some more technology up there, on the long haul I think it's going to make the border more secure.

And I think that it really wouldn't have to cost us more money. In fact, it could save us more money in manpower. I really believe that.

You're being the pro in that area, and I respect your perspective, but I'm just saying, from my perspective, I think if we could get some of that technology implemented, it could really save us some money and make the border more secure in the process.

The next question is one that you and I have visited about a number of times. No one is more firmly aware of our nation's responsibility to protect (inaudible) animal agriculture and public health from biological threats and foreign animal diseases.

But I have -- still have major concerns about -- about \$150 million that's included in the president's budget for a national bio and agro defense facility to be built in the middle of Tornado Alley, where I think about 10 percent of this nation's cattle are with a very -- within 200 miles of it.

And I think food security is critically important. The economic harm that could happen if this -- if there were to be an exposure is incredible. And we -- we got a risk assessment. And one of the things it found is that there was a 70 percent chance that a release of foot and mouth disease would result during this 50-year lifetime. That would be catastrophic. Whether it happened next year or 25 years from now, it would be catastrophic.

It's a lot of dough. I would ask you to reconsider the proposal. And -- and I was just wondering if you looked at the report, if there was any redesign that was done, if you are going to move forward.

NAPOLITANO:

Yes. I read the report. You're talking about the National Academy of Sciences report?

TESTER:

Yes, I am. That's right.

NAPOLITANO:

Reviewed it. Actually, we responded to it. It was -- I think you have to view it, Senator, as a preliminary report based on a preliminary design.

And that allowed us to or enables us to make adjustments or changes in the design to deal with some of the issues that were raised.

It has not caused us, however, to revisit the basic decision that, Tornado Alley aside, we have -- we have -- and I don't make light of that, except to say that was already taken into account when this project was peer reviewed up the wazoo when it was originally awarded. Then we have re-reviewed it and re-looked at it, compared to the alternatives. And now we have the NAS report which we will be very responsive to as this project moves forward.

But we think overall this is the best place to host such a facility, and these -3 and -4 labs, and so we do intend to proceed. And the president's budget has finances in there for that.

TESTER:

And my time has run out. And I've said this before. I've got to say it again. I very much respect the job you're doing. I think you've got a very difficult job. And I think you've done a remarkable job.

There's obviously room for improvement. You know that, and I think you're working hard on doing that.

But as far as the animal defense, as a farmer, I can't figure it out. I wouldn't want it in Bozeman, Montana. I think where it's at, on Plum Island, and the New Yorkers might be unhappy with me, but it's off the shore of the mainland.

And I know it's hard to get researchers out there, but there's a bigger issue than even that here. If we get -- I mean, these are highly contagious diseases and if they have an outbreak, it could -- it could -- ooh, man. The economic and the food security issues that revolve around that are huge.

And I can't get that out -- out of my front burner, to be honest with you. I can't -- I can't get the assurances, and then compounded by being someplace where they have some pretty doggone wicked weather patterns.

But, anyway, the decision's been made, but I really wish it would be revisited.

With that, I want to thank you, Mr. Chairman.

And thank you, Madam Secretary. Appreciate your work.

NAPOLITANO:

Thank you, Senator.

LIEBERMAN:

Thanks, Senator Tester.

I want to share with both of you that I have a vision after one of your exchanges that your helicopter has picked up that recalcitrant Customs employee, official, and he's now being dropped on the roof of the building in which Senator Tester has his office.

(LAUGHTER)

The meeting is about to begin.

NAPOLITANO:

From a very high height.

(LAUGHTER)

No. We -- we will deal with that particular issue. That -- you know what, Senator? That one I can deal with.

LIEBERMAN:

OK. I'm going to stop myself from suggesting maybe dropped onto Plum Island.

(LAUGHTER)

Senator Portman?

PORTMAN:

That poor person.

Madam Secretary, thank you for being before the committee and for your willingness to go through some of the tough issues that you face every day. We talked a lot about border security, northern border and southern border, and I appreciate the fact that you've asked for an increase in funding for Border Patrol again.

And I think there's a consensus that the border protection is important here -- not just for immigration but of course for drug smuggling, guns and particularly with the violence that we've seen on the southern border.

But, having said that, I continue to believe that money is better spent on trying to avoid the magnet, which is getting at the, what I think, the fundamental cause, which is primarily jobs, and, therefore, employer sanctions and, therefore, some kind of verifiable ID.

And I think the more effort and time we put against that, the more successful we will be ultimately in dealing with our immigration problem. And I think in a sense you've seen the proof of that with our economic downturn and the reduction in the number of people even attempting to cross. Much of it is, of course, economically driven.

So my question to you is about E-Verify. It expires next year and I'm told that only 11 percent of the 7.7 million employers in the country participate in E-Verify.

And I would ask you today two things: One, do you support a permanent reauthorization of E-Verify? And, second, how can we improve the participation rate?

NAPOLITANO:

Yes...

PORTMAN:

It's the right program -- do you think it's the right program?

NAPOLITANO:

Yes, indeed, Senator. We are adding companies to E-Verify at approximately 1,300 per week. When I was governor of Arizona, I think I was the first country -- or governor in the country to require our contractors to use E-Verify.

And I think one of the things we want to be looking at is not only its permanent reauthorization, but as I said earlier, a culture of compliance in the employer community, that this is something that they need to do, just like, they don't like it, but, you know, they've got to pay their taxes.

I mean, it's just part and parcel of being in this country. You've got to make sure that your employees are legally residing in the United States.

PORTMAN:

Different than taxes, though, because having that verifiable ID is a challenge, particularly for smaller employers...

NAPOLITANO:

Yes.

PORTMAN:

... who are shown a Social Security card and shown a driver's license and it's fraudulent, and they accept it on its face.

(CROSSTALK)

NAPOLITANO:

Well, and so -- a couple of things. First of all, E-Verify itself is -- the system is being improved to be less susceptible to identity theft. For example, if somebody's using a Social Security number that's also appeared somewhere else, to be able to pick something like that up.

Secondly, I think, in its early iterations there were some false entries into the system, or inaccurate entries. The accuracy of the system now is very, very high.

We've also wanted to make it easy for, you know, small businesses to have and to operate. And I've seen it and used it myself. As people who work with me know, I'm not exactly the world's best computer person, and it's pretty easy to operate. So that's part of it.

And then lastly, if and when -- and we hope it's sooner rather than later -- but if and when the Congress takes up immigration reform, one of the things we would like to work with Congress on are the actual charges that can be brought against employers and the elements of the burden of proof.

Because the way the statutes are written now, even when we have somebody that everybody knows darn well has been hiring illegal labor, actually proving that under the elements of the current statute is very difficult. Therefore, it's difficult to get U.S. attorneys to take those cases and so forth.

So we look forward to working with the Congress on improving those statutes.

PORTMAN:

Likewise, and it takes resources and it takes focus and coming up with a system that's, as you say, easy to use and relatively low cost to the employer. Given our economy, we don't want to burden employers more, but we do need to, I think, get at the issue where it's most effective, and that's going to be through the employer and through the interior enforcement.

I was involved in the Department of Homeland Security organization, consolidating 20 or so agencies and departments when you were still governor, and I can't say that I'm proud of everything that's happened in the interim period. There have been some management challenges, obviously, including with the way FEMA was brought in and including with just some of the different cultures, to use that word again, that had to mesh together.

Now, I'm in the position with Senator McCaskill to be on the ad hoc subcommittee that deals with acquisitions. It's called the Contracting Oversight Subcommittee. And I've noticed in the budget proposal we have before us that you have made a request to provide more funds, \$24 million more funds to strengthen your acquisition workforce, 150 new positions throughout the department.

First, I guess I would ask you, why are you asking for those additional resources? And what can we do to ensure that those additions, should they be approved, actually promote efficiency,

transparency, avoid some of the management breakdowns we've seen and therefore save taxpayer dollars?

If you can talk a little about that.

NAPOLITANO:

Yes, Senator. Actually, this is part of -- of creating the department is having that internal management structure and the assets with which to do that.

It's a big department. We do a lot of acquisitions. And we're often criticized for some of those acquisitions. There have been different standards used by different elements of the department, different requirements employed, different oversight done. But what we want to do is create a real -- a professionalized acquisition workforce that knows DHS missions; that understands how things fit together.

So part of bringing the additional workforce in is also training into the department, and consistency of training so that anybody who's working in the acquisitions area is, you know, there's some consistency. It's a real part of the professional development of the department.

And I think you can tell by the money we've already saved through the efficiency review process, where part of that has been acquisition reform, and also some comments made in some recent -- even I think the GAO has made some comments about improvements they have already seen in the way that we do acquisitions and acquisition oversight.

PORTMAN:

We look forward to working with you. We -- our job is to look at, of course, all agencies and departments. But because this is the Homeland Security Committee, DHS may get special attention, which I'm sure you're looking forward to. But I look forward to having you or your representative before the subcommittee at the appropriate time to talk more about that.

NAPOLITANO:

Very good.

PORTMAN:

Thank you, Madam Secretary.

LIEBERMAN:

Thanks, Senator Portman. It's great to have you and all the experience you've had on our committee. Thank you very much.

Senator Akaka?

AKAKA:

Thank you very much, Mr. Chairman.

I would like to welcome Secretary Napolitano to our -- to this hearing today.

Before I begin, I want to express my deepest sympathy and condolences to the families of the ICE special agent that was tragically killed and his colleague who was wounded in the line of duty this past Tuesday. Our thoughts and prayers are with them.

I'm pleased that despite budget constraints, DHS is making investments in the workers who are critical to protecting the nation. DHS is taking positive steps to develop its acquisition workforce, recognize collective bargaining rights for transportation security officers and create a wellness program.

Madam Secretary, TSA proposes to remove the statutory cap on airline security fees so it can raise them without Congress acting. As an initial increase, TSA would lift airline security fees by 60 percent to raise more than \$1 billion annually. I understand that TSA needs substantial funding to address very real air security threats, but that is quite a large increase.

Has the department analyzed what effect an air fare tax increase of \$1 billion a year would have on the airline and tourism industries?

NAPOLITANO:

Well, I think, Senator, the request is for \$1.50 per enplanement. That fee has not been increased since 2002. And I think we all recognize that the security of aviation, international and domestic, is absolutely key. And given the kind of threats that we've seen just in the past two years, we know it remains a concern and it requires constant evolution of technology, manpower and the like. So the fees associated -- the \$1.50 per enplanement is associated directly with the threat we -- we confront.

With respect to impact on the industry, we already have, as I mentioned earlier, the ESTA fee, which has already migrated, and we didn't see any impact that I could see on that. And the way I looked at it, Senator, was, you know, when airlines charge fees for checking a bag or for buying a Coke, we can certainly have a fee to protect the safety and security of the passengers. And that's what this is about.

Or Pepsi, I didn't mean to pick.

AKAKA:

Madam Secretary, the department's budget requests \$7.3 million for security costs for the Asia-Pacific Economic Cooperation Summit, APEC. This national security special event will take place in November in my home state of Hawaii, and includes earlier events in Montana and California as well.

The summit requires extensive coordination between federal, state and local officials to protect President Obama and other world leaders attending. Please discuss why these funds are necessary to enable the Secret Service to fulfill its responsibilities.

NAPOLITANO:

Well, thank you, Senator Akaka. We requested those monies because of the importance of the summit, because of the protection issues that it entails. The money is based on estimates from other similar type events where you have groups of international leaders combining in one place. We want to make sure safety and security is taken care of and is done very smoothly.

It's done in cooperation with the state and local entities and that everybody can rest assured that that part of the summit is -- has been taken care of, as I said. So the actual money request is - is based in part on our experience with other similar events.

AKAKA:

Madam Secretary, in its budget submission, the department proposes pay and retirement changes for certain CBP employees. However, draft language to make these changes has not been provided to this committee. I focus on pay and retirement issues as chairman of the Federal Workforce Subcommittee. In the months ahead, will you pledge to work closely with your authorizing committees on your proposal?

NAPOLITANO:

Absolutely, Senator, and -- and part of this is our process and it goes to something Senator Portman referenced, is a management perspective. How you unite all of these disparate pay systems that we had, as well.

And one of the big changes that the Congress approved last year was the conversion or the eligibility, the journeyman pay in CBP. And so part of what you're seeing is that conversion over and now streamlining how we are organizing pay, whereas before ICE and CBP were treated very differently. Trying to harmonize all those systems.

So we will look forward to working with you on that. But that's the underlying purpose.

AKAKA:

Madam Secretary, our focus today is, of course, the F.Y. 2012 budget, but I want to ask you about the F.Y. 2011 continuing resolution the House is considering.

While I support responsible and targeted reductions to address our budget deficit, I'm troubled by the draconian cuts that would harm job growth and may hamper the government's ability to keep this country safe.

How would the proposed cuts in the continuing resolution put forth by House Republicans affect the department's mission?

NAPOLITANO:

Well, it's not good. And, of course, it's a moving target. So changes are being made even as we speak. But it cuts technology investments that we need for both -- both borders, southern and northern.

It cuts new technology for airports that we need to make sure that individuals who are trying to move explosives onto planes are not able to do that.

It cuts cyber-security, which is a very important area that we have large responsibilities for.

It cuts the intelligence personnel for the fusion centers and for state and locals that I referenced earlier as part of the architecture that we need to have.

And it cuts grants to state and locals. Now, one amendment restores some of those grants, this morning, I understand, but not the bulk of them.

So that's just a few of the things that the House C.R. would do.

AKAKA:

Thank you very much for your responses.

Thank you, Mr. Chairman.

LIEBERMAN:

Thanks, Senator Akaka.

If your time allows, we'll do one more round of a couple of questions each, but we'll do it with a max of seven minutes.

Let me ask you about two items relating to DHS that were on the GAO's high-risk list yesterday. One was what I would describe as cyber-security, government's efforts to protect federal systems and critical infrastructure.

As you know, cyber-security legislation is a top priority for this committee. Senator Reid (ph) has made it a top priority, Senator Collins and I are working on reintroducing a bill that we introduced last year.

It's very important to note, as you have, that the president's budget before us now proposes increasing the department, your department's cyber-security funding by 17 percent, very sizable increase in these times, but in my opinion definitely a necessary increase.

And to the extent that you can in open session, I wanted to ask you to spend a minute or two just describing what that increase in funding will enable the department to do that you're not doing now to protect our cyber systems.

NAPOLITANO:

Well, it will enable us to deploy Einstein 3, which is the new protection -- the name for the new protection and prevention of intrusion technology across the federal family, including the medium and smaller-sized agencies. Without the money, we won't be able to do that. That's probably the most important thing.

LIEBERMAN:

OK.

NAPOLITANO:

I think the second thing is that it will enable us to continue to expand the cyber-security workforce. We're pretty bare bones on that now. It is difficult to bring cyber experts into the federal government, much less into a new department, but we've been given direct hiring authority by the Office of Personnel Management and we're making some headway there, but we want to make sure we have the resources for that FTE.

The third thing is, is that it will enable to us strengthen the obligations we've undertaken pursuant to the memorandum of understanding we forged with the Department of Defense this summer on how we each can use the technological resources of the NSA.

LIEBERMAN:

OK. Well, we'll follow that. Obviously, this committee, Senator Collins and I are very focused on strengthening your ability to fulfill -- actually, strengthening your role, the department's role as the lead agency for protecting federal government non-defense websites and the critical private infrastructure. I know that -- OK. Got a note that you've got to leave at 4:30. So let me ask...

NAPOLITANO:

I think I have a meeting at the White House with...

LIEBERMAN:

And that's -- do you think that's more important?

(CROSSTALK)

NAPOLITANO:

No. Not -- never. But -- and I will be glad to come back.

LIEBERMAN:

It's OK.

So the -- you've got a number of programs focusing on assisting critical infrastructure owners and identifying and remediating cyber- security risks, but they proportionally receive a lot less funding, those programs, than the ones focused on protecting the federal government websites in cyberspace.

Do you have enough to do what you need to do in that area, since so much of our critical infrastructure is in private hands?

NAPOLITANO:

It is and -- but it also is getting resources from the private sector. I mean, the operators, for example, of the grids know -- you know, the operators of our financial institutions, you know, the big critical infrastructure institutions we all know are so important to us and potentially subject to cyber-attack. They're putting resources into this as well.

We're working closely with them, but this is a -- this is going to be multiyear and probably going to be an ongoing type of expenditure that we have, and I think where we were prioritizing is where we think we need to start and where we have the greatest need, and that is making sure that the federal government itself is protected.

LIEBERMAN:

OK. And the note has now been amended to say you have to be at the White House at 4:30. I'm going to wrap up and give my colleagues...

(CROSSTALK)

NAPOLITANO:

We have to leave at 4:30.

LIEBERMAN:

Leave at 4:30. OK. I'm much relieved. Rather than asking another question, I'm going to...

NAPOLITANO:

I'll try to keep my answers shorter.

LIEBERMAN:

... with an appeal. The second item on the GAO I was going to talk about is the -- the high-risk report -- is implementing and transforming the Department of Homeland Security. Been on the high-risk list since the beginning, since 2003. Remains there in this new report, although GAO says the department has made progress in the last years toward an improvement on management and integration of the department.

I want to set a joint goal with you that as we approach the tenth anniversary of at least 9/11, that we work together to see if we can get you off the list next year.

NAPOLITANO:

I'm with you.

LIEBERMAN:

Thank you.

Senator Collins?

COLLINS:

Thank you, Mr. Chairman. I'm mindful of the fact that Senator McCaskill is here and undoubtedly has very tough questions. So I'm going to submit most of mine for the record, but I do want to ask you one question about the Coast Guard.

As you know from our conversations, I am very concerned about whether the Coast Guard has the assets for its very important maritime security role, which has been so critical since 9/11. And the plan is to replace 12 high-endurance cutters with only eight National Security Cutters.

And the problem is, that, as I understand the budget request, it provides no funding for the six National Security Cutter and pushes the completion date for all eight from 2016 to 2018.

I'm told that every one-year delay in the acquisition program increases the cost per cutter by \$45 million to \$60 million. So if this plan goes through, it's going to cost \$180 million more than it would if you stayed on schedule.

And we see this in Navy shipbuilding all the time, that when you push off the acquisition, you end up paying more.

So my question to you is, it strikes me that this was a short-term decision that buys you some budget relief this year, but ends up costing more in the long run.

NAPOLITANO:

I would disagree, Senator, and I'll tell you what we did is the budget does -- does pay for some of the after-acquisition costs associated with number five. And so that's all paid for by '12.

What we didn't do was set aside for '12 the long -- what are called the long-lead time expenses for six. And the reason we didn't do that is because while we fully intend to build them and we fully intend to build them on the current schedule, and the schedule's been pushed back not by money as much as by just has taken longer to build these things than was originally predicted.

But the reason we didn't set side the long-lead materials, there was no way it was going to be spent in fiscal year '12. So rather than spending it on long-lead material and just parking it, we

decided we would rather buy more response boats and smaller boats, as I described in my opening statement.

So we put the money there. OMB has issued a letter saying that we intend to fund number six. So if there's any hesitancy by the contractor, they've got us and OMB all saying we intend to fund number six, but we're not going to simply park that precious F.Y. '12 dollar. So you have extra assurance that we're going to do that.

COLLINS:

Well, I'm glad to hear that. I still think a two-year delay in the overall acquisition is going to end up costing us more, but that's a discussion we can continue.

NAPOLITANO:

Yes, and if I might, Senator...

COLLINS:

Yes?

NAPOLITANO:

... it's -- it's not a delay caused by this. It is that the acquisition, the construction of these cutters have become, you know, their missions have expanded and so their actual construction is taking longer than was originally predicted.

COLLINS:

OK. Thank you.

I'm going to submit the rest of my questions. I regret we didn't get into air cargo security, given the Yemen package plot. There's so many issues, but I do want to allow time for...

(CROSSTALK)

LIEBERMAN:

Thanks, Senator Collins.

Senator McCaskill?

MCCASKILL:

Thank you both, to the chairman and ranking member.

Let me start with how excited I get when I see an AIT machine.

NAPOLITANO:

Or when it see you?

MCCASKILL:

Yes, because that means I get to go through fairly quickly because I have an artificial knee and so I have to be patted down everywhere there's not an AIT machine. So I'm always disappointed when I see it, you know, approaching an airport, and I've been in four different airports, major airports in the last six weeks. And then I see the little tape in front of it and I realize it's not operable.

And so I've now started asking every time as these machines are sitting idle, and without fail, Madam Secretary, the people -- I ask for the supervisor. I'm always very polite and tell them what a great job they're doing, and how friendly they are and how efficient they are -- but why isn't the machine operating? And they always say, "We don't have the personnel."

And in fact, the supervisor in Miami actually said to me, "Can you help us? We never have personnel to operate it because it takes too many people and we just don't have enough people here. They want to -- one supervisor told me it took seven people to operate it. Another one said it took five.

I'm confused why we would be spending money on deploying these machines, and I look and there seems to be an inconsistency in the numbers because at one point it says 6.25 people to operate one of them, and then in your budget request, it looks like it's 2.5.

So I'm confused as to how many people it takes to operate the AITs. And we shouldn't deploy them if we can't run them. Right?

NAPOLITANO:

Well, first of all, it doesn't take two. It takes more than six because you have to -- it's not just the machine. It's the people who are reviewing the screens. Sometimes they're not operable because the machines are installed while they're still building out the area for where the actual

images are going to be screened, and that differs airport by airport. I mean, a lot of this is -- differs airport by airport.

I will get from you the list because typically when they're installed, it comes with it -- the, you know, the training for the personnel and how to operate and screen via the AIT. And quite frankly, you're the first person that has ever raised this with me. So I think overall, the transition's been going very well. So we'll going to have to follow up with you on the specifics.

MCCASKILL:

That would be great. I -- I assumed it was an isolated event because it happened to me a couple of times in St. Louis in the Southwest terminal because we don't have them in -- in the concourse, my typical concourse that's American in the other terminal. And so a couple of times, and so finally I went out of my way and they said, "No, it's not that they're not trained, they just don't have enough manpower on the floor at any given moment." And none of these had a problem with operability in terms of build-out. They all just said, "We don't have enough people on shifts to operate."

NAPOLITANO:

Well, that may be a different issue. So let us look into it.

MCCASKILL:

Yes, that's what I -- I think that's the theme I'm hearing from people is that they're not able to manage the shift power to make them work. So we'll stay with that and talk and figure that out.

I really know you've made a real effort about the contractors. I know you have, and I know that you identified 3,500 contractor positions last year that you are converting to federal positions. Can you tell us if there's been cost savings from the conversions from contractor personnel to federal personnel?

NAPOLITANO:

Yes, and we can give you some numbers, but there have been cost savings and we are this year accelerating that conversion because, you know, as contracts come up...

MCCASKILL:

Right.

NAPOLITANO:

... we can review and not renew. So I will get you some actual numbers. But you know, this was -- when this department was established, just because of the various mission sets it had, and just the business of standing up a department, it had to rely a lot on outsiders to help. But as we mature, then we can start reducing that. And we're being very aggressive about that effort.

MCCASKILL:

Well, the cost savings is really important because this is not -- it's not, frankly, I don't have anything against contractors. I just want to make sure that they're saving us money if we're using them.

NAPOLITANO:

Right.

MCCASKILL:

So if -- if we are saving money by converting, I'm -- I would be thrilled to hear about that. I bet we are.

NAPOLITANO:

Yes, we are, and -- and in some areas -- you know, it's not just saving money as are they doing work that we can do, our own folks.

MCCASKILL:

Right, right, right.

I know you also did an efficiency review that you initiated in March of 2009. My staff has attended many, if not all, of the budget briefings that you presented this week about various components. It's clear that from those presentations that your 2012 budget request that cuts were made. Can you identify the areas where the efficiency review has provided the savings to the department? Because I'd like to carry this message to other departments and tell them that there really is savings that can be realized by this kind of effort.

NAPOLITANO:

Contracting, acquisition procurement, on-boarding, i.e. vetting, and ID-ing. Also simple office expenses that when you extrapolate to a large department save a lot of money. There are several others. We have a whole briefing just on this that we can provide for you.

The contractor conversion saves money and will save more money over time.

MCCASKILL:

Right.

NAPOLITANO:

So we've identified in this budget \$800 million or so and...

MCCASKILL:

That -- that's a lot. That's a lot -- \$800 million is a lot.

And finally, I know you've got to go, but I wanted to -- last year, Senator Schumer and I were successful in getting some legislation passed that provided for additional Border Patrol personnel. It's my understanding that the House in its action yesterday on the C.R., or the day before, has cut a lot of that money that we identified as additional resources to be brought to the border.

I've got to tell you, I'm -- you know, I get whiplash sometimes around here. You know, I listen to sanctimonious speeches about border security, border security, more resources for border security, that that's the only thing that we must focus on, securing our border as it relates to all the immigration issues in our country.

And then five minutes later, the same people that are giving the sanctimonious speeches are yanking out the money in the budget that we need to secure the border. I assume that what they did yesterday basically wiped out what we were able to add to this effort last year?

NAPOLITANO:

Yes, it was an experience in whiplash.

MCCASKILL:

Yes, I -- I just think we have to call folks on this. I -- I'm sick of hearing lectures about border security and people not being willing to put the resources behind it. This is nobody's

responsibility but the federal government. We could probably afford to pull back a little bit of the big checks we're writing to the oil companies to secure our borders.

And I would like someone to get that set of priorities straight and say, "Hey, maybe we give \$1 billion less to the oil companies this year." Maybe they won't be the most profitable corporations on the planet, but almost the most profitable corporations on the planet, and we actually put real resources into securing the border.

But I, for one, am sick of hearing them talk about it if they're not going to put their money where their mouth is. And I wanted to get that out of my system and I knew that you would let me. Thank you, as always, for the great work you're doing. I think you are a shining star in the administration and doing very, very, very good work. And I want you to stay on those contractors.

NAPOLITANO:

Thank you, Senator.

MCCASKILL:

Thank you. Thank you, Madam Secretary.

LIEBERMAN:

You know, I can't stop "shining star."

(LAUGHTER)

LIEBERMAN:

No, I think you're good.

NAPOLITANO:

Oh, thank you.

LIEBERMAN:

Anyway, thanks, Secretary. What we've tried to do after these hearings is to sit and reason ourselves, we'll talk to you and your folks, and then make recommendations to the Budget Committee and the Appropriations Committee as we go through the process.

But thanks for your time, and good luck on the trip to the White House.

NAPOLITANO:

Well -- well, thank you. And I think my -- the Approp. Subcommittee hearing is March 2nd. So we have some time to work together.

LIEBERMAN:

Excellent.

OK, we'll keep the record of the hearing open for 15 days for additional questions and statements.

The hearing is adjourned.

CQ Transcriptions, Feb. 17, 2011

List of Panel Members and Witnesses

PANEL MEMBERS:

SEN. JOSEPH I. LIEBERMAN, I-CONN. CHAIRMAN

SEN. CARL LEVIN, D-MICH.

SEN. DANIEL K. AKAKA, D-HAWAII

SEN. THOMAS R. CARPER, D-DEL.

SEN. MARK PRYOR, D-ARK.

SEN. MARY L. LANDRIEU, D-LA.

SEN. CLAIRE MCCASKILL, D-MO.

SEN. JON TESTER, D-MONT.

SEN. MARK BEGICH, D-ALASKA

SEN. SUSAN COLLINS, R-MAINE RANKING MEMBER

SEN. TOM COBURN, R-OKLA.

SEN. SCOTT P. BROWN, R-MASS.

SEN. JOHN MCCAIN, R-ARIZ.

SEN. JOHN ENSIGN, R-NEV.

SEN. ROB PORTMAN, R-OHIO

SEN. RAND PAUL, R-KY.

SEN. RON JOHNSON, R-WIS.

WITNESSES:

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OF HOMELAND SECURITY