

# BACKGROUND

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## The 2013 Homeland Security Budget: Misplaced Priorities

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### Abstract

*In February 2012, President Obama issued his FY 2013 budget proposal. His \$59 billion request for the Department of Homeland Security is slightly lower than the enacted level for FY 2012. The President is to be applauded for continuing strong financial investments in border security and cybersecurity. But his budget falls short in other key areas: Important security and immigration-law-enforcement measures have been cut. The Coast Guard remains in dire need of modernization and recapitalization. And the TSA remains a massive, largely unhelpful, bureaucracy. Too many items in the FY 2013 budget reflect misplaced priorities. As the Department of Homeland Security approaches its tenth anniversary, it's time for the Administration and Congress to enhance key capabilities within the homeland security enterprise.*

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On February 13, President Barack Obama released his fiscal year (FY) 2013 budget request. The President's request of \$59 billion for the Department of Homeland Security represents a 1.5 percent decrease in total budget authority from FY 2012 enacted levels.<sup>1</sup>

FY 2013 will take the Department of Homeland Security (DHS) into its tenth year of existence. As the 10-year anniversary of DHS approaches, the President's FY 2013 budget provides an apt opportunity to assess where the department now stands in terms of the development of key capabilities and the advancement of the nation's homeland security enterprise.

### Evolution of the Homeland Security Enterprise

On November 25, 2002, Congress passed the Homeland Security Act of 2002, calling for the establishment of a Department of Homeland Security with a primary mission to:

- “prevent terrorist attacks within the United States”;
- “reduce the vulnerability of the United States to terrorism”; and

### TALKING POINTS

- The President's FY 2013 budget request for the Department of Homeland Security (\$59 billion) represents a 1.5 percent decrease in total budget authority from FY 2012 enacted levels.
- As the 10-year anniversary of the existence of DHS approaches, the President's FY 2013 budget provides an apt opportunity to assess where the department now stands in terms of the development of key capabilities and the advancement of the nation's homeland security enterprise.
- As expected, the FY 2013 budget continues strong financial investments in several high-profile portfolios, such as border security and cybersecurity. Other decisions, such as the proposal to increase funding to the Department of Homeland Security's Science and Technology Directorate were more unexpected, yet should be applauded.
- Overall, the FY 2013 budget fails to fully fund much-needed Coast Guard modernization. The President's proposal also calls for cuts to key aviation security and immigration-law-enforcement programs.

- “minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States.”<sup>2</sup>

The concept of homeland security has since expanded from the specific focus of the Homeland Security Act’s mandate,<sup>3</sup> and has come to embody an “all-hazards” approach, focusing on measures to protect the nation from natural disasters and technological or other incidents caused by human error. In the 2010 U.S. National Security Strategy, homeland security was defined as an effort to “identify and interdict threats; deny hostile actors the ability to operate within our borders; maintain effective control of our physical borders; safeguard lawful trade and travel into and out of the United States; disrupt and dismantle transnational terrorist, and criminal organizations; and ensure our national resilience in the face of the threat and hazards.”<sup>4</sup> The homeland security enterprise has, thus, come to have a broad number of responsibilities, including border security, immigration, cybersecurity, aviation security, and counterterrorism.

FY 2013 will usher the Department of Homeland Security into its second decade of existence. The FY 2013 budget proposal for DHS provides an outline of the

federal government’s homeland security priorities for the coming year, and the status of the homeland security enterprise’s key capabilities, while highlighting key challenges.

### **FY 2013 Budget: DHS Priorities**

As expected, the FY 2013 budget continues strong financial investments in several high-profile portfolios, such as border security and cybersecurity. Other decisions, such as the proposal to increase funding to the Department of Homeland Security’s Science and Technology Directorate, were more unexpected. Regardless, a look at the President’s FY 2013 budget provides an illustration of central administrative priorities.

**Border and Cargo Security.** The President’s budget proposal calls for a 2 percent increase in funding for U.S. Customs and Border Protection (CBP). The total request, nearly \$12 billion, is intended to fund sustained manpower levels, the acquisition of border surveillance technology, as well as continued shipping-container-security measures.<sup>5</sup>

Over the past decade, the United States has made considerable investments in border security operations. Beginning during the George W. Bush Administration, manpower has increased more than two-fold, from approximately 10,000 Border Patrol

agents in 2004. More recently, the Obama Administration’s announcement of the “Beyond the Border Action Plan,” a joint vision between the United States and Canada to enhance security and accelerate the flow of people and goods between the two nations, promises to improve border security by fostering a perimeter-based security approach.<sup>6</sup>

More remains to be done. While the Department of Homeland Security touts the decrease in Border Patrol apprehensions as an example of improved border security, fewer apprehensions are more likely the result of fewer border crossings, due to lack of jobs in the United States. As the economy begins to recover, the flow of illegal immigrants is likely to return to previous levels, testing the strength of U.S. border security capabilities.

Likewise, as violence in Mexico from the continuing war on drugs continues to surge, pressure along the southwest border is likely to grow. At the heart of America’s border insecurity is a \$40 billion-a-year criminal enterprise that entails smuggling people, drugs, money, and cash, as well as kidnapping, prostitution, extortion, and murder-for-hire. While spillover violence has been minimal, Mexico’s transnational criminal organizations are likely to continue to push through U.S. borders in pursuit of a profit.

1. Department of Homeland Security, “FY 2013 Budget in Brief,” February 13, 2012, at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-budget-in-brief-fy2013.pdf> (March 9, 2012).

2. Homeland Security Act of 2002, Public Law 107-296, November 25, 2002, at [http://www.dhs.gov/xlibrary/assets/hr\\_5005\\_enr.pdf](http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf) (March 9, 2012).

3. Mark A. Sauter and James Jay Carafano, *A Complete Guide: Homeland Security* (New York: McGraw Hill, 2012).

4. The White House, “National Security Strategy,” May 2010, p. 15, at [http://www.whitehouse.gov/sites/default/files/rss\\_viewer/national\\_security\\_strategy.pdf](http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf) (March 9, 2012).

5. Department of Homeland Security, “FY 2013 Budget in Brief.”

6. Jessica Zuckerman, “Beyond the Border: Enhancing Security and Improving Trade Between the United States and Canada,” Heritage Foundation *WebMemo* No. 3433, December 16, 2011, at <http://www.heritage.org/research/reports/2011/12/beyond-the-border-enhancing-security-and-improving-trade-between-the-united-states-and-canada>.

In order to combat illegal immigration and transnational criminal organizations, the United States needs a comprehensive and robust border security strategy, which combines efforts to combat illegal immigration, smuggling, and violence with the need to facilitate the flow of legitimate commerce. Such a strategy should include an integrated plan for manpower, technology, and other resources along the border, as well as continued collaboration with key partners in the hemisphere to combat smuggling and dismantle criminal networks throughout the region.

Regarding border surveillance technology, the new budget proposal calls for \$91.8 million for acquisition of “proven,” off-the-shelf technology as part of the Arizona Border Surveillance Technology Plan.<sup>7</sup> In January 2011 the Department of Homeland Security announced the cancellation of SBI-net, the technological component of the Administration’s Secure Border Initiative (SBI), after having put the program on hold for a nearly 10-month review. In its place, DHS announced the Alternative (Southwest) Border Technology program. The program begins with the deployment of integrated fixed-tower systems in five high-risk areas in

Arizona at the total estimated cost of \$575 million.<sup>8</sup>

While the call to acquire off-the-shelf technology is intended to aid quick deployment, many people and organizations, including the Government Accountability Office (GAO), have questioned the department’s deployment plan.<sup>9</sup> The deployment of technological components along the border has already been delayed by nearly two years due to the review and cancellation of SBI-net, and the United States can ill-afford further delays.

Also contained in the U.S. Customs and Border Protection budget is funding for the continuance of DHS’s risk-based maritime-cargo-security programs, proposing to fund the Container Security Initiative and the Customs–Trade Partnership Against Terrorism at approximately \$71.5 million and \$40.1 million, respectively.<sup>10</sup> Promisingly, this commitment mirrors DHS Secretary Janet Napolitano’s recent statement that the mandate by Congress to scan 100 percent of U.S.-bound maritime cargo by July 2012 simply cannot be met, and that the department will instead continue to pursue a layered, risk-based approach.

#### **Homeland Security Grants.**

As a complement to the President’s budget proposal, the Department

of Homeland Security released the FY 2013 National Preparedness Grant Program Vision Document.<sup>11</sup> Funded at \$1.5 billion, the program consolidates the Federal Emergency Management Agency’s (FEMA) current state and local preparedness grants—with the exception of the Assistance to Firefighter Grants and the Emergency Management Performance Grants—into a single comprehensive grant program.<sup>12</sup> Under the new program:

FEMA will base funding allocations on prioritized core capabilities as well as comprehensive threat/risk assessments and gap analyses. Specifically, allocations will consider current threat data (including domestic extremist threat input from the FBI), the needs identified in each state’s Threat Hazard Identification and Risk Assessment [THIRA], the Strategic National Risk Assessment and National Preparedness Report, and a regional risk assessment of gaps in national core capabilities (the FEMA Regional THIRA). Emphasis will be placed on building core capabilities that can be utilized nationally and regionally.<sup>13</sup>

7. Department of Homeland Security, “FY 2013 Budget in Brief.”

8. Richard M. Stana, “Border Security: Preliminary Observations on the Status of Key Southwest Border Technology Programs,” testimony before the Subcommittee on Border and Maritime Security, Committee on Homeland Security, U.S. House of Representatives, March 15, 2011, at <http://www.gao.gov/new.items/d11448t.pdf> (March 9, 2012).

9. *Ibid.*

10. Department of Homeland Security, *Annual Performance Report, Fiscal Years 2011–2013*, at <http://www.dhs.gov/xlibrary/assets/mgmt/dhs-congressional-budget-justification-fy2013.pdf> (March 9, 2012).

11. Department of Homeland Security, “FY 2013 National Preparedness Grant Program Vision Document,” February 2012, at [http://www.wsema.com/wp-content/uploads/2012/02/FY\\_2013\\_National\\_Preparedness\\_Grant\\_Program\\_Overview\\_2-10-12\\_FINAL.pdf](http://www.wsema.com/wp-content/uploads/2012/02/FY_2013_National_Preparedness_Grant_Program_Overview_2-10-12_FINAL.pdf) (March 9, 2012).

12. Department of Homeland Security, *Annual Performance Report, Fiscal years 2011–2013*.

13. Department of Homeland Security, “FY 2013 National Preparedness Grant Program Vision Document.”

While this proposal is nothing new—the shifted focus is almost identical to homeland security policies formulated in 2005 and early 2006 and recommendations made by The Heritage Foundation over the past five years—DHS should be applauded for the fact that the new grant program:

- **Is a multi-year program**, which allows greater consistency and focus among state and local governments and reduces the paperwork that does little to improve security.
- **Prioritizes support for local responders.**
- **Reserves a portion of funding in a competitive pool** for the “development of new capabilities for which a need is identified.”<sup>14</sup>
- **Places a focus on the protection of critical infrastructure and key resources.**<sup>15</sup>

Of course, more remains to be done to ensure that DHS’s grant programs continue to move in the right direction.

In May 2011, the Obama Administration reduced the number of cities eligible for Urban Areas Security Initiative (UASI) grants

from 63 to 31. The UASI grant program is intended to distribute homeland security funds to the highest-risk urban areas in the United States. For too long, however, DHS awarded UASI grants to so many cities that it made its criteria highly suspect. Under the new National Preparedness Grant Program, DHS must continue to ensure that the number of UASI cities is permanently limited to only those jurisdictions at high risk of a terrorist attack or natural disaster.<sup>16</sup> Likewise, DHS should stop ensuring that each state and territory receives “a base level of funding allocated in accordance with a population driven formula,” and future funding should be allocated based purely on risk and need.<sup>17</sup>

**Cybersecurity.** DHS continues to increase its cybersecurity budget at a rapid clip, showing a growing focus on cybersecurity within the homeland security enterprise. The President’s budget requests \$769 million for the National Cyber Security Division within the National Protection and Programs Directorate, a nearly 74 percent increase from FY 2012.<sup>18</sup>

In the recently concluded Defense Department assessment of the Defense Industrial Base (DIB) pilot project, less than 5 percent of malicious intrusions benefited from access to government threat and

vulnerability information.<sup>19</sup> Yet the DHS cyber budget plans on the wholesale transition of the DIB pilot from the Department of Defense to DHS, and its subsequent expansion. Likewise, increases are proposed for DHS’s U.S. Computer Emergency Readiness Team (US-CERT), despite the fact that multiple GAO studies suggest that US-CERT’s threat warnings are often untimely and not as effective as DHS had hoped.

Few question the need for a robust investment in cyber defense. Even if the threats are not existential, the prospects of cyber espionage, especially by the Chinese, are quite real. Yet, financial investments should be made in programs with a proven track record of success—not in a wish list of programs that have yet to prove their utility.

**Research and Development.** In FY 2011 and FY 2012, the Department of Homeland Security’s Science and Technology Directorate was cut by nearly 20 percent each year.<sup>20</sup> This year, the President’s budget request seeks to restore the directorate to FY 2011 funding levels, with a proposed budget of \$831 million.

The Homeland Security Act charged the newly created DHS with coordinating the federal government’s nonmilitary efforts to produce and deploy technologies for homeland security. The

14. *Ibid.*

15. Matt A. Mayer, “Proposed Revisions to Homeland Security Grants Make Sense,” Heritage Foundation *Issue Brief* No. 3503, February 14, 2012, at <http://www.heritage.org/research/reports/2012/02/reforming-the-homeland-security-grants-program>.

16. Jena Baker McNeill and Matt A. Mayer, “Homeland Security Grant Guidelines Make Security and Fiscal Sense,” Heritage Foundation *WebMemo* No. 3263, May 19, 2011, at <http://www.heritage.org/research/reports/2011/05/homeland-security-grant-guidelines-make-security-and-fiscal-sense>.

17. Mayer, “Proposed Revisions to Homeland Security Grants Make Sense.”

18. Department of Homeland Security, *Annual Performance Report, Fiscal Years 2011–2013*.

19. Ellen Nakashima, “Cyber Defense Effort Is Mixed, Study Finds,” *The Washington Post*, January 12, 2012, at [http://www.washingtonpost.com/world/national-security/cyber-defense-effort-is-mixed-study-finds/2012/01/11/gIQAu0YtP\\_story.html](http://www.washingtonpost.com/world/national-security/cyber-defense-effort-is-mixed-study-finds/2012/01/11/gIQAu0YtP_story.html) (March 13, 2012).

20. Department of Homeland Security, “FY 2011 Budget in Brief,” at [http://www.dhs.gov/xlibrary/assets/budget\\_bib\\_fy2011.pdf](http://www.dhs.gov/xlibrary/assets/budget_bib_fy2011.pdf) (March 9, 2012), and Department of Homeland Security, “FY 2012 Budget in Brief,” at <http://www.dhs.gov/xlibrary/assets/budget-bib-fy2012.pdf> (March 9, 2012).



act established the Science and Technology Directorate within DHS to promote research and development (R&D) and to test and evaluate technologies related to homeland security in cooperation with private companies, academic institutions, and other government agencies. The Science and Technology Directorate was also tasked with making these new capabilities available to operational end users at DHS, the rest of the federal government, and to other public and private actors, including state and local emergency responders.

Over the years, the Science and Technology Directorate has received much criticism. Most notably, in 2006, the Senate Appropriations committee called the directorate “a rudderless ship without a clear way to get back on course.”<sup>21</sup> Criticisms of the directorate have included:

- **Lack of responsiveness to customer needs.** From the beginning, agencies that are part of DHS have complained that the directorate’s portfolios do not adequately reflect their requirements and are not sufficiently responsive to operational needs.
- **Inability to manage complex programs.** The directorate’s most prominent accelerated R&D undertaking—the attempt to rapidly deploy new technologies to prevent smuggling of nuclear and radiological weapons—failed so badly that in April 2005 the Bush Administration established the separate Domestic Nuclear Detection Office (DNDO) to manage these programs.

- **Limited success in working with other federal agencies and international partners.**

The Science and Technology Directorate faced significant challenges in sharing homeland security responsibilities and resources with other federal departments and agencies that are not incorporated in DHS. These entities retain key roles in researching and developing scientific, engineering, and medical technologies relevant to homeland security.

Many of these challenges remain today. The broad overly broad mission of the Science and Technology Directorate has ultimately resulted in the directorate doing too much, and nothing well.

While simply throwing money at the problem is not the answer, the increase in requested funding, particularly in light of budget cuts across the federal government, may signal a renewed focus on enhancing the capabilities and efforts of the Science and Technology Directorate. The Department of Homeland Security indicates that the increased funding will support 107 ongoing and 12 new projects, and restore previously cut research in aviation-explosives detection, biological threat detection, cybersecurity, and technologies to aid the nation’s first responders in such areas as communications and data sharing.

The Science and Technology Directorate should:

- **Focus its mission on its primary customer base.** Rather than continuing to seek to broker and develop technologies and support

research for state and local responders and the private sector, the directorate should focus on its primary customer base—the agencies within the Department of Homeland Security.

- **Enhance cooperation with other federal agencies and international allies.**
- **Place R&D facilities directly under the authority of DHS agencies,** leaving the directorate to provide guidance on acquisition and basic science and technology.
- **Buy services from the private sector where possible.** R&D procurement may not always be the best answer to meeting the department’s technological needs.
- **Focus on and provide long-term funding for basic research,** allowing agency R&D programs to focus on near-term needs.
- **Avoid becoming an operating agency,** such as when DHS mandated that the directorate should manage the BioWatch program. Being the default operator for fielded systems diverts attention and resources from the directorate’s primary responsibilities.
- **Improve threat assessment capabilities.**
- **Focus on developing an integrated set of capabilities for major DHS mission areas,** as was done with the Secure Border Initiative.

21. Dana A. Shea and Daniel Morgan, “The DHS Directorate of Science and Technology: Key Issues for Congress,” Congressional Research Service Report for Congress, June 22, 2009, at <http://www.fas.org/sgp/crs/homsec/RL34356.pdf> (March 9, 2012).

- **Use DHS Centers of Excellence more effectively**, treating them less like simple grant recipients and more as research collaborators.
- **Draw on the lessons learned from the Defense Department's Defense Advanced Research Projects Agency (DARPA).**<sup>22</sup>

### **A Decade of DHS: Key Challenges Remain**

Nearly 10 years after its creation, the Department of Homeland Security has come a long way. While there is little doubt that the United States is safer than it was in the near aftermath of 9/11, greater efforts remain to be made to increase key capabilities within the homeland security enterprise and to ensure that DHS can best help to protect the nation in the years to come.

**Coast Guard Modernization.** Side by side with the release of the President's budget request, the U.S. Coast Guard (USCG) released its 2012 posture statement.<sup>23</sup> The posture statement asserts that "the Coast Guard's FY2013 Budget reflects the optimal balance between current operations and investment in future capability to sustain existing missions and address the most pressing risk," and called for a

responsible approach to rebuilding the Coast Guard and preparing for the future.

In this regard, the Coast Guard's self-asserted highest investment priority is the recapitalization of the major cutter fleet. Consequently, within the FY 2013 budget proposal, the President calls for \$879.5 million for recapitalization and sustainment of Coast Guard surface assets, including production funding for the sixth national security cutter (NSC) and two fast-response cutters (FRC).<sup>24</sup>

At the same time, however, the budget proposal calls for the decommissioning of two of the fleet's high-endurance cutters (HEC). With an average age of 43 years, the HEC fleet is understandably due for retirement. The decommissioning of the fourth and fifth HEC, however, will come before the fourth and fifth NSCs are operational to replace them. Furthermore, the FY 2013 budget proposal also fails to fund the final two NSCs. In an effort to explain the NSC budgetary decision in recent testimony, Homeland Security Secretary Napolitano seemingly used cuts to U.S. Naval forces as a justification for cuts to the Coast Guard, stating that:

We will look at [NSC] seven and eight in light of what the Navy

is doing ... [R]ather than just look at the NSCs in isolation from everything, and I think this is actually a better way to go about it, we are really going to be working with the Department of Defense ... When they have their revised laydown, we will put ours next to it and see where we are.<sup>25</sup>

Whatever the rationale, this budgetary omission is certain to hinder further recapitalization in years to come.

In total, proposed funding for Coast Guard acquisition, construction, and improvement would decline by nearly 19 percent from FY 2012. Within this figure, aircraft acquisition and improvement would be cut by 74 percent. Vessel acquisition and improvement would seem to absorb much of these cuts, increasing by more than 40 percent. Yet despite the funding increase for vessel acquisition, only \$8 million is provided to initiate the acquisition of a new Polar Icebreaker, which is estimated to cost a total of nearly \$1 billion to build over the next 10 years.<sup>26</sup>

An independent 2010 study commissioned by the Coast Guard indicated that a minimum of three heavy and three medium icebreakers are needed for the Coast Guard to fulfill its statutory missions. The Coast Guard currently has only two

22. *Ibid.*

23. U.S. Department of Homeland Security, "United States Coast Guard 2012 Posture Statement," February 2012, at [http://www.uscg.mil/posturestatement/docs/USCG\\_2012\\_Posture\\_Statement.pdf](http://www.uscg.mil/posturestatement/docs/USCG_2012_Posture_Statement.pdf) (March 12, 2012).

24. *Ibid.*

25. Transcript, "Budget Hearing—Department of Homeland Security," Subcommittee on Homeland Security, Committee on Appropriations, U.S. House of Representatives, February 15, 2012.

26. Department of Homeland Security, "FY 2013 Budget in Brief," and Jerry Beilinson, "Why the U.S. Must Build More Icebreakers Now," *Popular Mechanics*, February 17, 2012, at <http://www.popularmechanics.com/technology/engineering/infrastructure/why-the-us-must-build-more-icebreakers-now-6693195?src=rs> (March 12, 2012).

icebreakers in its fleet. The *Healy*, a medium icebreaker, is operational, while the *Polar Star*, a heavy icebreaker, remains in dry dock for repair. The United States must not continue to lose the race to protect its own interests in the Arctic region.

In addition to decreases in acquisition, the FY 2013 budget proposal for the Coast Guard calls for the elimination of 1,000 Coast Guard personnel by attrition.

Since 9/11, the U.S. Coast Guard's mission set has grown without a concurrent investment in capabilities. Congress should ensure that the Coast Guard finally receives the resources it needs.

**Homeland Security Strategic Planning.** In addition to offering funding proposals, the President's FY 2013 budget made important changes in the Department of Homeland Security's capacity to lead the national homeland security enterprise, calling for the relocation of the Office for State and Local Law Enforcement, the Office of International Affairs, and the Private Sector Office from the Office of Policy to the Office of the Secretary and Executive Management, making them "direct reports" to the Secretary of Homeland Security.

Created in 2005 to improve policy development, coordination, and oversight throughout DHS, the Office of Policy has:

- Led interagency policy development on homeland security matters.
- Coordinated policy development among components to formulate one voice for DHS in interagency policy negotiations.

- Overseen DHS's international engagement efforts. For example, the office recently assisted in formulating National Security Decision Directive 38, which governs the DHS footprint overseas, the addition of attachés at key locations, and a new strategy for international engagement. It also helped to create a new memorandum of understanding to manage technical assistance efforts abroad in coordination with the U.S. Department of State.

- Influenced the DHS budget process through program guidance, the acquisition process, and a new strategy development process.

Previously contained in the Office of Policy, the Office for State and Local Law Enforcement develops national policy in relation to the role of state and local law enforcement in combating the threat of terrorism and responding to natural disasters. Similarly, the Office of International Affairs plays a crucial role in working with foreign nations to improve international cooperation and information sharing on key homeland security issues, such as border security, aviation security, and management of the Visa Waiver Program. The Private Sector Office is the main point of contact between DHS and U.S. businesses and other nongovernmental organizations. In the past, each of these offices has proved an essential component in contributing to the Office of Policy's efforts to develop critical, forward-thinking policy objectives within the national homeland security enterprise.

Dissecting the Office of Policy makes little sense. Elevating

the Office for State and Local Law Enforcement, the Office of International Affairs, and the Private Sector Office to direct reports would do little to enhance efforts to advance national homeland security policy, instead serving to create an increasing number of stovepipes within the homeland security enterprise. Worse yet, it would add layers of bureaucracy and create more costly administrative needs at a time when the federal government should be focused on enhanced efficiencies and decreased spending.

**Aviation Security.** The Transportation Security Administration (TSA) budget, at \$7.6 billion, saw a 4 percent decrease in the President's FY 2013 budget. While proposing an overall reduction in funding, the budget includes an increase of 1,466 personnel, along with \$42.7 million "to continue support for priority vetting initiatives."<sup>27</sup>

The increase in funding for priority vetting programs, such as TSA PreCheck, should be applauded. Currently operational at nine U.S. airports, TSA PreCheck is a voluntary prescreening initiative run in partnership with Customs and Border Protection. By conducting risk assessments on program members, the TSA determines if a passenger is eligible for expedited screening, thereby allowing the TSA to divert resources to other, potentially high-risk passengers. Yet even before the President's FY 2013 budget proposal was released, the TSA had plans to expand the pilot program to 28 new airports in 2012.

Building on the TSA's risk-based approach to security, the President's budget also provides an increase of \$2.1 million for TSA's intelligence

27. Department of Homeland Security, "FY 2013 Budget in Brief."

component, and \$14.6 million for the Secure Flight Program.<sup>28</sup> Begun in 2009, the Secure Flight Program checks a passenger's data against a federal database of the FBI Terrorist Screening Center, which integrates all available information on known or suspected terrorists into a central repository. Under Secure Flight, the TSA, not individual airlines, conducts the screening, so passenger data can be compared against a complete, classified watch list making certain that the right people are prohibited from boarding. In this manner it also protects privacy and civil liberties, such that the TSA—outside entities—checks passenger data against the watch lists. As of November 2010, 100 percent of U.S.-bound passengers were screened through Secure Flight.<sup>29</sup>

Using such passenger data and intelligence to determine if passengers pose a potential threat before they board a flight is exactly the right approach to aviation security. If a terrorist makes it to a screening line, the public is already in danger.

Yet, while the President's TSA budget increases funds for risk-based passenger screening, it also makes cuts to a key aviation security program, reducing the Federal Flight Deck Officer (FFDO) program by \$12.6 million.<sup>30</sup> This is a decrease in funding of nearly 50 percent. The FFDO, which allows eligible flight crew members to carry firearms to defend against air piracy, was not terribly expensive to begin with.

According to the Federal Flight Deck Officers Association, each FFDO flight costs the nation approximately \$15.<sup>31</sup>

In justifying cuts to the FFDO, however, the Department of Homeland Security has indicated the reductions are slated to be made because the program is not risk-based. While a commitment to risk-based security is important, the FFDO program is a low-cost force multiplier in terms of aviation security that should not be ignored. Instead of cutting cost-effective, proven programs, the Administration should step back to rethink aviation security.

The TSA is a massive bureaucracy that was created too hastily in the aftermath of 9/11. The TSA's structure and funding are out of proportion to the threat. Of the 45 known terrorist plots against the United States thwarted since 9/11, few have been directed at airlines. Of those, none has been uncovered in the TSA screening line. One lesson that emerges from the foiled plots is the need to stop the attempt early, before the terrorist can put the public in any danger.

Airport security depends on more than x-rays and scanners. In this regard, risk-based screening is important, and it must be combined with robust intelligence gathering and information sharing among local, state, federal, and international law officers. This information should be used to inform the physical security

process and, more important, to stop terrorists long before they ever reach the airport.

DHS should, thus, enhance the Secure Flight Program by ensuring that the FBI Terrorist Screening Center databases are up-to-date. Secure Flight already minimizes misidentification by checking passenger data against the passenger's name, sex, and date of birth, but this process can be improved.

Congress and the Administration should also reconsider privatization of airport security and change the TSA's mission from providing airport security to making aviation security policy and regulations. The TSA should also devolve screening responsibility to the airport level under the supervision of a federal security director. Without the burden of running a massive screening force, the TSA should turn its attention to developing a 21st-century international passenger and cargo security system that does not waste resources by treating every person and package as an equal risk that requires scrutiny and screening. A new model system would allocate security resources in proportion to the risk, relying on "focused security" that targets the most resources to the greatest risks.

Likewise, the Administration should not seek to fund its misguided aviation security policies on the backs of the traveling public. The President's budget proposal for the TSA seeks to restructure

28. *Ibid.*

29. Transportation Security Administration, "Secure Flight Program," at [http://www.tsa.gov/what\\_we\\_do/layers/secureflight/](http://www.tsa.gov/what_we_do/layers/secureflight/) (March 12, 2012).

30. Department of Homeland Security, "FY 2013 Budget in Brief."

31. Mike M. Ahlers, "Budget Ax Falls on Armed Pilot Program," CNN, February 13, 2012, at [http://articles.cnn.com/2012-02-13/us/us\\_budget-cuts-armed-pilots\\_1\\_air-marshals-federal-flight-deck-officer-budget-cuts?\\_s=PM:US](http://articles.cnn.com/2012-02-13/us/us_budget-cuts-armed-pilots_1_air-marshals-federal-flight-deck-officer-budget-cuts?_s=PM:US) (March 13, 2012).



the September 11 Security Fee.<sup>32</sup> Replacing the current “per enplanement” fee structure with a “per one-way trip” fee structure, the proposal would raise the passenger security fee from \$2.50 currently to \$5.00 with annual incremental 50 cent increases from 2014 to 2018.

**Enforcement of Immigration Laws.** Requesting \$5.6 billion for U.S. Immigration and Customs Enforcement (ICE), the President’s budget proposes to cut the agency’s funding by 4 percent below FY 2012. Most notable within this decline is the cut of \$17 million and 24 full-time employees for the “realignment and reduction of 287(g).”<sup>33</sup>

Justifying this cut, DHS explains:

This request would reduce the budget for the 287(g) program by 25 percent by leveraging Secure Communities interoperability deployment. The Secure Communities screening process is more consistent, efficient and cost effective in identifying and removing criminal and other priority aliens. To implement this reduction in 2013, ICE will begin by discontinuing the least productive 287(g) task force agreements in those jurisdictions where Secure Communities is already in place and will also suspend consideration of any requests for new 287(g) task forces.<sup>34</sup>

Yet while the Administration seeks to replace 287(g) by leveraging Secure Communities, the Secure

Communities program itself also sustained a 26 percent funding cut.<sup>35</sup>

Under the Secure Communities program, fingerprints from arrested individuals are entered into DHS databases to determine whether the arrestees are legally in the U.S. If they are found to be in the country illegally, ICE begins its removal proceedings, prioritizing removals on the basis of their risk to the community and the nation’s security. In this manner, Secure Communities seeks to:

- identify criminal aliens through the use of biometric fingerprint matching,
- prioritize their detention and deportation through a series of risk factors, and
- facilitate interoperability between on-the-ground state and local law enforcement and ICE.

Secure Communities is a great example of how immigration enforcement can help state and local law enforcement. However, it is only one component needed in a robust suite of immigration enforcement measures, a suite which ought to continue to include 287(g).

Under section 287(g), law enforcement entities enter into agreements with ICE in order to “act in the stead of ICE agents by processing illegal aliens for removal.” Before state and local law enforcement officers can participate, they must sign memoranda of agreement (MOAs) with ICE

and undergo a five-week training course, background check, and mandatory certifications.

Section 287(g) has been a solid improvement in terms of enforcing immigration laws. Before it was created, a state or local law enforcement officer who apprehended an individual who could not demonstrate legal presence in the U.S. would simply notify ICE and wait for ICE officials to pick up the individual. In practice, immigration laws were not enforced, and most people found to be here illegally went free.

In the seven years since ICE started using section 287(g), roughly 66 state and local agencies have entered into MOAs resulting in roughly 1,000 law enforcement officers “deputized” to enforce federal immigration law. More than 120,000 individuals have been identified as illegal immigrants under the program.

The Administration should reconsider its decision to all but eliminate the 287(g) program, as well as work to expand Secure Communities. Additionally, the federal government should deploy a menu of immigration-law-enforcement tools to discourage illegal border crossings. This should include worksite enforcement tools such as E-Verify, Social Security No-Match, and worksite raids.

## Capabilities for the Next Decade of DHS

Nearly a decade after the creation of the Department of Homeland Security, there is little doubt that the United States is safer than it

32. Transportation Security Administration, “Transportation Security Fees: September 11 Security Fee—Passenger Fee,” at [http://www.tsa.gov/research/fees/passenger\\_fee.shtm](http://www.tsa.gov/research/fees/passenger_fee.shtm) (March 9, 2012).

33. Department of Homeland Security, “FY 2013 Budget in Brief.”

34. *Ibid.*

35. *Ibid.*

was in the near aftermath of 9/11. Nevertheless, at least 45 publicly known terror plots against the United States have been foiled since September 11, showing that terrorists continue to seek to harm the United States. In order to continue building the necessary capabilities to prevent terror attacks, as well as to mitigate the fallout from natural disasters, in the years to come the Administration and Congress should:

- **Develop a more integrated border security plan.** The Department of Homeland Security and Congress should define a variety of solutions capable of responding to the multiple threats faced at the border, ranging from illicit drugs to illegal migration. This should include investments in technologies, such as unmanned aerial vehicles (UAVs) and cameras or sensors that would give the Border Patrol enhanced monitoring and detection capabilities. Furthermore, cooperation between the U.S. and Mexican law enforcement through Border Enforcement Security Taskforces and related Merida Initiative programs are essential. At the same time, Congress and the Administration should also ensure that the U.S. Coast Guard has adequate vessels and personnel to fulfill its missions and interdict illegal activity at sea.
- **Continue in-house development of greater cyber expertise.** The age in which cyber issues were the chief information officer's problem—in either government or the private sector—is over. Leaders in government and the private sector should develop the skills, knowledge, and attributes of cybersecurity leadership.

They need the education, training, and experience that qualify them to be real cyber leaders.

- **Reform congressional oversight of DHS.** Today, DHS is subject to oversight by more than 108 different congressional committees and subcommittees. This debilitating proliferation of congressional review has significant adverse effects on national security, frustrating the ability of Congress to provide guidance on how the homeland security enterprise should operate, while draining precious departmental resources. Rather than perpetuating this confusing and archaic system, Congress should streamline DHS oversight into six—and only six—full committees, three each in the House of Representatives and the Senate.
- **Provide the resources necessary for Coast Guard recapitalization.** Since 9/11, the Coast Guard's mission set has grown without a concurrent investment in capabilities. The average age of the current Coast Guard cutter fleet is above 40, and U.S. ice-breaking capabilities are sorely lacking. Investing in the Coast Guard, may very well be the most cost-effective means to protect U.S. interests, particularly in the Pacific and the Arctic. Congress and the Administration should finally give Coast Guard modernization the attention and funding it deserves.
- **Rethink aviation security.** TSA strategy currently focuses too heavily on the airport screening line. Of the 45 publicly known terrorist plots against the United States foiled since 9/11, not one

has been halted in the screening line. DHS must instead ensure that proper focus is placed on stopping terrorists early, through apt intelligence, information sharing, and risk-based screening areas. Further, Congress should resist cutting low-cost, proven aviation security measures, such as the Federal Flight Deck Officer program. At a cost of roughly \$15 per flight, FFDO provides a crucial added layer of security at very little cost.

- **Foster a robust suite of immigration-law-enforcement measures.** Secure Communities is a great example of how immigration-law enforcement can be used effectively to help state and local law enforcement. Instead of continuing to promote a strategy of “amnesty-first” and criminal deportations, the Administration should promote a robust suite of immigration-law-enforcement measures that respect the rule of law. Such a suite of solutions should include enhancing Secure Communities, 287(g), E-Verify, and Social Security No-Match, along with workplace raids.

As the Department of Homeland Security approaches its tenth anniversary, it is an opportune time for both the Administration and Congress to enhance key capabilities within the homeland security enterprise.

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