

THURSDAY, MAY 26, 2011

LIEBERMAN LETTER ON HOMELAND SECURITY APPROPRIATIONS

WASHINGTON—Senate Homeland Security and Governmental Affairs Committee Chairman Joe Lieberman, ID-Conn., recently sent his annual appropriations letter to the Chairman and Ranking Member of the Subcommittee on Homeland Security of the Senate Appropriations Committee. The letter is as follows:

May 26, 2011

The Honorable Mary Landrieu

Chairman

Subcommittee on Homeland Security

Committee on Appropriations

135 Dirksen Senate Office Building

Washington, DC 20510

The Honorable Daniel Coats

Ranking Member

Subcommittee on Homeland Security

Committee on Appropriations

125 Hart Senate Office Building

Washington, DC 20510

Dear Chairman Landrieu and Ranking Member Coats:

Thank you for affording me the opportunity to provide my views regarding the President's FY 2012 budget request. I hope that the following programmatic recommendations will assist you as the Senate Appropriations Committee deliberates on the FY 2012 Appropriations Bill for the Department of Homeland Security (Department or DHS).

Budget Overview for the Department of Homeland Security

The President's budget requests \$43.2 billion in net discretionary funding for FY 2012. Overall, I believe this is a fair and restrained request, balancing the fundamental need to protect the American people with the hard realities of the country's skyrocketing deficits. It focuses additional resources on the right priorities. It pays for these increases in part by increasing efficiencies and cutting administrative costs across the Department, including spending associated with professional services contracts, non-essential travel, and supplies.

I am, however, deeply concerned by the bill recently approved by the House Appropriations Committee's Subcommittee on Homeland Security, which would further cut the budget for the Department of Homeland Security in FY 2012, to a level of \$40.5 billion. These proposed cuts will severely diminish our national preparedness and the ability of our state and local partners to play their necessary role in preventing and responding to terrorist attacks. The House bill would also decimate the Department's Science and Technology Directorate, severely curtailing its ability to carry out research and development in critical areas such as explosives detection, cyber security, and bioterrorism. These and other cuts in the House bill would be damaging to our national security, and I hope that you will choose to support a more responsible level of funding for the Department.

The remainder of this letter provides specific programmatic recommendations on key priorities within the Department of Homeland Security.

DHS Headquarters and Management

The President's FY 2012 budget request included modest decreases for headquarters and management activities, the result of efforts to identify savings within these accounts and several non-recurring investments. It also includes several important new requests for funding, particularly in the area of acquisition, where the President requested \$5.8 million in new funding to strengthen the Department's acquisition workforce and \$1.7 million to develop more rigorous cost estimates for major acquisitions.

It is essential that these accounts be funded at the levels requested by the President. Any further cuts would endanger the ability of the Department's headquarters to effectively manage and oversee the wide-ranging activities of its components and would undermine efforts to improve the Department's efficiency and coordination. Such cuts would also increase the risk of new acquisition failures, similar to recent failures that have wasted hundreds of millions of taxpayers' dollars. We cannot afford to allow these management and oversight activities to be diminished at the Department.

DHS Headquarters Project. The President's FY 2012 budget requests for DHS and GSA include a combined \$433 million for the DHS Consolidated Headquarters Project, which I fully support and strongly urge you to fund. The St. Elizabeths headquarters project began on schedule and on budget. Unfortunately, DHS and GSA received inadequate funding in FY 2011 for this project, and the bill approved by the House Committee on Appropriations' Homeland Security Subcommittee does not provide any funds at all for the DHS Consolidated

Headquarters Project. These cuts in FY 2011 and proposed cuts in FY 2012 are putting the project at risk and may necessitate project management decisions that are inefficient and which actually lead to increased costs.

DHS Office of Inspector General

The President proposes \$144.3 million for the DHS Office of Inspector General in FY 2012, an amount that I support. I am concerned about the House's proposed budget of \$124 million for the OIG, which would impair its ability to carry out its important investigative and audit responsibilities, including state and local grant audits required by the Implementing Recommendations of the 9/11 Commission Act of 2007.

Border Security and Terrorist Travel

Border Security. The President's budget request would appropriately fund operations along our southern and northern borders, and will allow the Department to continue to make progress in reducing the illegal flows of people, drugs, money, and other contraband that move across our borders. The funding provided to the Department in this request and in recent budgets has contributed to the progress DHS has made towards achieving a level of border security that will be improved even more if Congress acts on the President's call for comprehensive immigration reform, which I support. I support the Administration's budget request for the Border Patrol, which will enable the agency to maintain its FY 2011 total of 21,370 agents, and for the Office of Field Operations, which will deploy 21,186 CBP officers to the ports of entry. Ensuring that our frontline border security agencies have the staffing they need to maintain their current deployments is particularly important at this time, in light of the threat posed by the Mexican cartels and human smuggling organizations that have unleashed a wave of violence in Mexico, killing more than 35,000 people there since 2006.

Terrorist Travel Programs. The President's budget request proposes increases to enhance several terrorist travel programs, a critical mission area for the Department given the attempted attack on Northwest Flight 253 on Christmas Day 2009. I strongly support the Administration's proposals to provide \$20 million in additional funding for CBP's National Targeting Center and \$8 million to expand the CBP Immigration Advisory Program to three new locations. However, I was disappointed that the President's budget includes no funding for expansion of another critical program related to terrorist travel – the Visa Security Program at ICE, which deploys ICE investigators to high-risk consular posts overseas. I urge you to provide ICE with an additional \$15 million to continue expanding the Visa Security Program to eight additional high-risk consular posts in FY 2012.

Transportation Security Administration

Aviation Passenger Security Fee. I support the President's proposal for a modest increase in the Aviation Passenger Security Fee. The fee was implemented by the TSA in December 2001, and is paid by passengers of domestic and foreign air carriers for air transportation that originates at airports in the United States. It is used to help pay the costs associated with aviation security. However, the fee has remained unchanged since 2001; it has not even been adjusted for inflation. Since 2004, moreover, TSA has spent approximately \$40 billion on aviation security – substantially more than TSA has collected with the Passenger Security Fee and the Air Carrier Fee (approximately \$450 million annually) combined. The President's proposal would raise the Passenger Security Fee by \$1.50 per flight leg, bringing the total fee to \$4 per flight leg, or up to \$8 per one-way trip and \$16 per round trip. (It is now capped at \$5 per one-way trip and \$10 per round trip.)

I am aware that previous proposed fee increases have been met with opposition in Congress. Nonetheless, I believe passengers will understand the need for the modest increase to provide optimal security, and do not believe that such a modest increase in the fee would drive many customers away from air travel. I further believe homeland security always has been, and should continue to be, a shared responsibility for federal, state, local and tribal governments, the private sector, and even air travelers.

Aviation Security. In response to existing and emerging threats, such as the attack carried out by Umar Farouk Abdulmutallab on December 25, 2009, the President's proposed budget would augment TSA's aviation security programs by almost \$300 million in FY 2012. I strongly support most of these proposed programmatic increases – including \$105 million for 275 additional Advanced Imaging Technology (AIT) units and the personnel to operate them, \$14.2 million more for 350 additional Behavior Detection Officers (BDO), and \$12.4 million for expanded watchlist vetting.

The House Homeland Security Appropriations Subcommittee recently approved legislation which did not fund the proposed increases for AIT and BDOs, despite a recent DHS Science and Technology report that demonstrates that risk-based analysis by BDOs are more likely to lead to targeting passengers carrying dangerous and prohibited items, compared to random searches. Nor did the House bill provide funds for TSA's recently deployed Automated Threat Recognition software for AIT technology, which further protects passengers' privacy, and makes the process substantially more efficient. I would also note that TSA recently released a University of California report which verified that backscatter AIT posed no significant threat of radiation from the scans. I urge the Appropriations Committee to fully fund these requested increases, to ensure air travel remains one of the safest and most secure forms of transportation.

Infrastructure Protection and Cyber Security

Cyber Security. The President's FY 2012 budget seeks \$464 million for DHS cyber security activities, an increase of \$67 million over FY 2011 funding. The request includes an increase of \$78.3 million for efforts to secure federal networks, which includes increased funding for technical support, oversight duties pursuant to the Federal Information Security Management Act, and deployment of EINSTEIN sensors. The need for this funding is underscored by the discovery of both the Stuxnet worm during the summer of 2010 and, just last week, of significant vulnerabilities in a software package common to many major industrial control systems. Targeted attacks on the computer systems that control much of our critical infrastructure are a persistent and growing threat, and DHS must continue to play a central role in assisting the private sector to secure these key networks and assets.

Chemical Security. As you know, the original authorization for the Department's chemical site security program (known as the Chemical Facility Anti-Terrorism Standards or CFATS) lapsed several years ago and the program has been extended via short-term authorizations on various appropriations bills. CFATS is a critical effort to ensure that there are adequate security measures in place at the nation's riskiest chemical facilities, some of which could kill or harm tens of thousands of people if successfully attacked. The President's proposed budget included another extension for this vital program – to October 4, 2012. That extension is included in the House bill and I request that you include it in the Senate bill as well. While I hope the Congress will pass an appropriate CFATS reauthorization bill this session, the most important thing is that the existing program continues without any lapse.

Federal Protective Service. The Federal Protective Service is responsible for the security of more than 9,000 federal buildings and the more than one million federal employees and visitors that occupy those buildings every year. In light of the continuing threat – including the recent attempt to plant an explosive device at the McNamara Federal Building in Detroit – and the agency's struggles to fulfill its mission in recent years, the Homeland Security and Governmental Affairs Committee recently voted to report bipartisan legislation (S. 772, the SECURE Facilities Act of 2011) that would significantly improve the agency. The legislation includes authority to collect additional fees for services, and an authorization for more personnel, as requested in the President's budget – 146 additional FTE's, and \$146 million in additional funding. The President's budget request also includes 14 additional FTE's and a \$5 million increase for the NPPD office which supports the Interagency Security Committee – the body responsible for developing security standards and initiatives for protecting federal facilities. I fully support these requests, and urge the Committee to do so as well.

Federal Emergency Management Agency (FEMA)

FEMA Operations. The severe tornados and flooding here in the United States, and the devastating earthquake and tsunami that recently struck Japan, serve as painful reminders of the need for adequate emergency preparedness and response. In the face of Hurricane Katrina, we were not well prepared; an extensive HSGAC investigation found that the government was woefully unprepared to deal with a catastrophe and FEMA lacked essential capabilities and resources. Responding to such critiques, Congress passed the Post-Katrina Emergency Management Reform Act of 2006 (Post-Katrina Act), which sought to create a new FEMA within DHS – a stronger, more robust entity that would, for the first time, be equipped to prepare for, respond to, and recover from a true catastrophe.

In the first few years after Hurricane Katrina, FEMA received much needed resource increases that have been essential in the process of implementing key provisions of the Post-Katrina Act. But those increases were not enough to complete the new FEMA. For the last couple of years, FEMA's appropriations for management and administration have been essentially flat, leaving little to nothing to continue building the new FEMA. To make matters worse, this year the President's budget request for FEMA's main operational account is 10% less than current levels under the FY 2011 continuing resolution. A recent Department of Homeland Security Office of Inspector General report stated that funding for FEMA is not adequate to maintain initiatives, meet the costs of disasters, and recruit, retain, and train staff. Indeed, just two months ago former DHS Inspector General Richard Skinner testified before our Committee that cutting FEMA's management funds would be "short-sighted and in the long term will cost – will increase or raise the cost of disaster operations and disaster programs. It will increase FEMA's vulnerabilities to fraud, waste, and abuse, and will adversely affect the quality of services to individuals and communities affected by disasters."

I believe the proposed cut to FEMA's management and operations funding may have a severe impact on FEMA's ability to prepare for and respond to disasters, especially catastrophic disasters. I recommend at least a modest increase of \$50 million for FEMA's Management and Administration account over the President's request to help ensure that FEMA can effectively deal with disasters and continue to ensure that our nation builds the capabilities it so painfully lacked in the response to Hurricane Katrina.

Disaster Relief Fund. The Disaster Relief Fund (DRF) is the source of vitally important financial assistance to State and local governments and individuals when a disaster strikes. Based on the disasters that have already occurred in recent years and for which assistance is still being provided, FEMA estimates that the eligible post-disaster expenses due to be paid in FY 2012 will substantially exceed the \$1.8 billion in the President's request, which relies on a formula to calculate DRF requests that excludes catastrophic disasters. With predictably insufficient funding included in the budget, emergency supplemental funding will very likely be necessary to ensure eligible disaster expenses are timely paid.

Homeland Security and First Responder Grants

Homeland security grants are a key element of our national homeland security strategy, providing state and local governments with funding to prevent, prepare for, and respond to acts of terrorism and natural disasters and to serve as partners with the federal government in protecting our citizenry. Over the years, these grants have helped build national capability and strengthen preparedness across the country, as state and local governments have used them to purchase equipment and training, conduct planning and exercises, and begin to build a national network of fusion centers to facilitate information sharing, among other things. Given their critical importance, I believe that homeland security grant programs should be funded at or above the President's request.

Many of the most important homeland security grant programs have been authorized in law, including in the Implementing Recommendations of the 9/11 Commission Act of 2007. These authorizing provisions – the result of extensive consideration and debate in both the House and Senate– provide reasonable, consistent, and predictable guidelines for the administration of these programs. Thus, as an initial matter I believe that it is not appropriate to make significant alterations in these programs through the appropriations process rather than through further authorizing legislation, considered through the appropriate authorizing committees.

One example of such an attempt to override the authorization process about which I am particularly concerned is a provision in the bill approved by the House Committee on Appropriations' Homeland Security Subcommittee that would limit funding for the Urban Area Security Initiative (UASI) to the top 10 highest risk cities. The issue of how many UASI areas should be funded was expressly considered in the debates and conference on the Implementing Recommendations of the 9/11 Commission Act of 2007, and the result is codified in section 2003 of the Homeland Security Act, which gives the DHS Secretary the authority to determine which and how many jurisdictions should receive funding solely based on risk. I urge that you not attempt to alter that provision in the homeland security appropriations bill. I am also concerned about the House bill's lumping together of several different homeland security grant programs and ceding discretion on the allocation of funding among those programs to the Secretary, rather than following the discrete authorizations provided for in authorizing legislation.

State Homeland Security Grant Program (SHSGP) and Urban Area Security Initiative (UASI). SHSGP and UASI are the largest homeland security grant programs and are fundamental to strengthening national preparedness across the country. SHSGP provides all states with basic, multipurpose preparedness funds while UASI focuses its funding on the nation's highest risk cities. SHSGP, in particular, has been essential in building and strengthening our national capacity to prevent, prepare for, and respond to terrorism, and it provides the foundation for such efforts across the country. Terrorist groups have planned their attacks throughout the United States – as we saw in the plots by Najibullah Zazi (who planned his attack while living in Aurora, Colorado) and Faisal Shahzad (who lived in Bridgeport, Connecticut) to attack New York City. In 2009, we even saw attacks in smaller cities and towns: Carlos Bledsoe opened fire on an Army/Navy recruiting center in Little Rock, Arkansas, and Major Nidal Hasan conducted his attack at Fort Hood in Killeen, Texas. For that reason, we need a basic and coordinated level of preventive and response capacity in all parts of the United States. Similarly, a national network of fusion centers that received information from only the largest cities would be of limited utility.

Funding for SHSGP and UASI was cut dramatically in FY 2011, resulting in 32 cities losing eligibility for UASI funding and some states losing as much as 50% of their SHSGP funding. This will create immense challenges for states and localities and put the gains of past years at risk. For this reason, I am pleased to see that the President has proposed increasing funding for these programs to \$1.05 billion each in FY 2012. I believe we must continue to assist states and localities in protecting themselves from the threat of terrorist violence.

Nonprofit Security Grants. I was disappointed that the President's proposed budget failed to include funding for the Nonprofit Security Grant Program. The program serves a valuable public interest, providing grants to support target hardening and other security measures for nonprofit organizations determined to be at high risk of a terrorist attack. We know that these organizations are targets of attacks, as demonstrated earlier this month by a foiled plot in New York City to attack synagogues and an arson attack on a mosque in Houston, Texas. I urge you to fund this program at the modest level of \$25 million. I also urge you not to limit Nonprofit Security Grants to just those organizations that are located within UASI jurisdictions. The threat faced by a particular organization may bear little relationship to the threat faced by the jurisdiction in which it is located. In other words, a high-risk nonprofit may be located in what is otherwise a low-risk metropolitan area or even rural area. The problem of

excluding high-risk organizations from consideration for nonprofit security grants is further exacerbated this year given that the Secretary has cut the number of jurisdictions eligible for UASI grants in half for FY 2011. I ask that you to allow all nonprofits to be considered based on their own risk, rather than simply the perceived risk to the urban area where they are located.

Transportation Security Grants. The President's proposed FY 2012 budget maintains funding for the Port Security and Transit Security Grant programs at \$300 million each. These programs are a key layer within our homeland security strategy, and help local operators secure ports and train stations from terrorist attack. I support the President's request for these programs, and urge the Committee to maintain this funding, particularly in light of recent threat information. Materials seized in the raid on Osama bin Laden's compound demonstrate that al Qaeda and its affiliates continue to consider attacks on rail and transit systems and oil tankers. I would also recommend the Committee fold the bus security grant program into the rail and transit security grant program, rather than eliminate it altogether, and allow over-the-road bus operators to apply for a portion of these competitive dollars.

Firefighter Grants. The Assistance to Firefighters Grant (AFG) and the Staffing for Adequate Fire and Emergency Response (SAFER) programs are effective, competitive, peer-reviewed programs that provide funding to fire departments around the country. AFG has helped departments get much-needed training, equipment, and vehicles while SAFER has enabled departments to hire the staff they need to protect their communities. At a time of local budget cuts and high unemployment, it is important that we continue to support these programs and first responders. For these reasons, I urge you to fund SAFER and AFG at \$405 million each. This would maintain funding for both programs at the FY 2011 levels.

Science and Technology Directorate

The Science and Technology Directorate (S&T). I support the President's request for \$1.176 billion for the Directorate of Science and Technology, an increase of \$170 million over the FY 2010 enacted spending levels. The bulk of these increases stem from the expenditure of \$150 million for the construction of the National Bio and Agrodefense Facility (NBAF) and the

shift of \$109 million from the Domestic Nuclear Detection Office's Transformational and Applied Research programs to S&T. Previous estimates assumed that the complete construction costs of the NBAF would be offset by the sale of Plum Island, which houses the current animal disease research center. However, a changed economic and real estate market has stalled the sale of Plum Island, necessitating the appropriation of funds for this facility. Excluding these two items, the President's request for S&T reflects a 9% decrease in overall funding from the FY 2010 enacted levels.

Although such modest cuts may be necessary, I strongly oppose any proposal that would fund S&T's budget at a level that is significantly below the President's request. The cuts to S&T in the final FY 2011 CR and the further cuts to S&T proposed in the House Appropriations Committee's bill pose a significant threat to S&T's ability to develop the next generation of homeland security technologies and provide critical technical support to other parts of DHS, including testing and evaluation in support of the Department's acquisition review process. These investments – which include such current efforts to develop the next generation of self-contained breathing apparatus and real-time biological and chemical weapons detection –

are improving the ability of DHS employees and first responders around the country to perform their duties, and we must continue to invest in homeland security science and technology even in difficult budget times.

I appreciate this opportunity to comment on the FY 2012 budget request for the Department of Homeland Security.

Sincerely,

Joseph I. Lieberman

Chairman

cc: The Honorable Susan Collins