United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510–6250

January 24, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, DC 20016

Dear Madam Secretary:

A whistleblower recently provided my staff with a document titled "Department of Homeland Security Fiscal Year 2019 Budget and Policy Guidance." The document communicated—through the Office of Management and Budget (OMB)—the President's discretionary budget and policy priorities for the Department of Homeland Security (DHS) in Fiscal Year (FY) 2019.[1]

The OMB guidance deviated from the Department's own FY 2019 budgetary priorities in several key ways. For example, the OMB guidance rejected approximately $175 million in specific DHS funding requests for border security technology and equipment and, instead, instructed the Department to seek $1.6 billion for border wall construction in the Rio Grande Valley of Texas—a $700 million, or 78%, increase over DHS's own request for border barrier construction. The OMB document indicated this discrepancy was a result of "Presidential priorities" and made no reference to operational requirements.[2]

Additionally, the OMB guidance reduced funding for multiple counterterrorism programs by amounts exceeding the Department's self-identified budgetary needs. Funding for Visible Intermodal Prevention and Response (VIPR) teams, which assist with security operations at airports, mass transit terminals, and high-profile events, was eliminated, and OMB instructed DHS to seek $11 million in additional cuts to the Domestic Nuclear Detection Office (DNDO). With these cuts, along with those to counterterrorism grant programs such as the Port Security Grant Program and Public Transportation Security Assistance, OMB has instructed DHS to make an additional $44 million in cuts to DHS counterterrorism programs in FY 2019.[3]

OMB also overruled DHS budget requests on a number of personnel issues. Specifically, OMB instructed DHS to hire 1,000 more Immigration and Customs Enforcement (ICE) agents in FY 2019 than the Department requested. OMB did not accept DHS's proposed funding increase for the Office of Field Operations, which employs U.S. Customs and Border Protection (CBP)

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[1] Office of Management and Budget, *Department of Homeland Security Fiscal Year 2019 Budget and Policy Guidance* (Nov. 28, 2017).

[2] *Id.*

[3] *Id.*

officers at ports of entry. It also rejected the Department's request for an FY 2019 pay raise for Border Patrol agents, ICE agents, CBP officers, and other civilian DHS employees.[4]

The OMB guidance appears to stand in contrast to some of your stated priorities for the Department. On November 8, 2017, you testified before this Committee on the importance of technology and personnel—at and between ports of entry—in securing our nation's borders. You said, "There is no need for a wall from sea to shining sea," and, "There's a lot that we can do with technology to help secure our borders," also adding, "We need the best and brightest both in terms of personnel and technology at the ports."[5] In a pre-hearing questionnaire, you described the role and value of VIPR teams as follows:

> *"I believe it is important that the Department have some specially trained personnel who are deployable anywhere for enhanced deterrence or response to threats against critical mass transportation modes. The Visible Intermodal Prevention and Response (VIPR) teams of TSA serve that role."*[6]

According to the OMB document, DHS' appeals to the FY 2019 OMB guidance were due by December 1, 2017 and were required to be submitted in writing and approved by you. In order to better understand the Department's budgetary needs, I ask that you provide me with a copy of all written appeals that DHS—and/or any of its components and subcomponents—submitted to OMB in response to the "Department of Homeland Security Fiscal Year 2019 Budget and Policy Guidance" document.

Additionally, please provide answers to the following questions:

Border Security

1. Do you support OMB's recommendation for $1.6 billion in FY 2019 to construct a border wall in the Rio Grande Valley of Texas? Why or why not?

    a. Why did DHS initially seek $900 million—rather than $1.6 billion—for border wall construction?

2. Do you support OMB guidance reducing the Department's request for Remote Video Surveillance Systems (RVSS) by $44.6 million? Why or why not?

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[4] *Id.*

[5] Senate Committee on Homeland Security and Governmental Affairs, Testimony of Kirstjen M. Nielsen, *Nomination Hearing for Kirstjen M. Nielsen to be Secretary, U.S. Department of Homeland Security*, 115th Cong. (Nov. 8, 2017).

[6] Senate Committee on Homeland Security and Governmental Affairs, *Pre-hearing Questionnaire for the Nomination of Kirstjen Nielsen to be Secretary, Department of Homeland Security* (Nov. 2, 2017).

a. Why did DHS initially request $88.3 million for this technology?

b. Please provide a copy of the "out-year funding and acquisition plan for completing the remaining required RVSS procurements in the RGV Sector" that OMB requested by January 19, 2018.

3. Do you support OMB's recommendation not to include a $2.2 million increase DHS requested for Tethered Aerostat Radar System (TARS) acquisition planning and the purchase of a spare hull? Why or why not?

a. Why did the Department initially seek increased funding for TARS acquisition planning and the purchase of a spare hull in FY 2019?

4. Do you support the OMB guidance delaying the Department's $14.8 million request to purchase 15 Coastal Interceptor Vessels in FY 2019? Why or why not?

a. Why did DHS initially request funding for these Coastal Interceptor Vessels?

5. Do you support OMB's recommendation to reduce the Department's request for a P-3 aircraft technology refresh by $7.9 million, Multi-Role Enforcement Aircraft by $28.4 million, UH-60 medium lift helicopters by $15.4 million, aircraft sensor upgrades by $7.8 million, and Vehicle and Dismount Exploitation Radar by $11 million? Why or why not?

a. Why did DHS initially request funding for this technology and equipment?

6. Do you support the OMB guidance reducing the Department's request for Border Patrol Enforcement System maintenance by $18.8 million? Why or why not?

a. Why did DHS initially request $28.8 million for this technology?

7. Do you support the elimination of the Department's request for $25 million in additional funding for High Risk Internal Cybersecurity Remediation? Why or why not?

a. Why did DHS initially request this additional funding for High Risk Internal Cybersecurity Remediation?

Counterterrorism Programs

8. Do you support the OMB guidance to eliminate the VIPR team program? Why or why not?

a. Do you still believe it is important that DHS have specially trained personnel who are deployable anywhere for enhanced deterrence or response to threats against critical mass transportation nodes?

b. The guidance document indicates that OMB overruled DHS's request for continued VIPR program funding and instead instructed DHS to completely eliminate the program. Why did DHS initially request more than $11 million of funding for VIPR teams?

9. OMB instructed DHS to plan to facilitate staffing reductions for VIPR teams through attrition at the Federal Air Marshal Service (FAMS). In total, this is a reduction of 362 full-time employees from the FY 2017 Enacted Budget. OMB also instructed DHS to cut an additional $27 million in FY 2019 from the FAMS budget. What will be cut at FAMS in order to achieve $27 million in savings?

10. Do you support the OMB guidance to cut nearly $11 million in funding for the DNDO? Why or why not?

a. The guidance document indicates that OMB overruled DHS's request for additional DNDO funding in the FY 2019 budget request and instead instructed DHS to make further cuts. Why did DHS initially request $1.4 million of additional funding in FY 2019?

11. Do you support the OMB guidance to cut an additional $44 million from DHS counterterrorism programs in the FY 2019 budget? Why or why not?

a. In total, proposed cuts to DHS counterterrorism programs total $568 million since the FY 2017 Enacted Budget. How can DHS have adequate resources to assist states and localities in their counterterrorism efforts with $568 million less in funding than in FY 2017?

DHS Personnel

12. Do you support the OMB guidance to hire 2,000 additional ICE law enforcement officers? Why or why not?

a. Why did DHS originally request 1,000 additional ICE law enforcement officers?

b. Are you concerned that ICE will not have the resources to recruit, vet, and hire 1,000 more officers than DHS requested?

13. Do you support the OMB guidance to decrease the amount of funding for the Office of Field Operations within CBP that DHS had originally requested by $88 million? Why or why not?

a. What planned or existing programs will be cut or modified to accommodate this decrease in funding?

b. Will ports of entry have adequate resources to screen the entry of people, vehicles, and goods entering the United States?

c. Staffing at the Office of Field Operations is currently too low by over 3,600 law enforcement positions based on CBP's assessment of the needs of ports of entry. Will this change in budget allow CBP to hire any of these additional officers? If so, how many?

14. Do you support the OMB guidance to implement a pay freeze across all civilian federal employees, including law enforcement officers? Why or why not?

a. How will a pay freeze affect retention of federal employees at DHS?

b. How will a pay freeze affect plans to hire additional law enforcement personnel at CBP and ICE?

I ask that you respond to this letter at your earliest convenience but in no event later than February 14, 2018. If you are unable to meet this deadline, or should you have any questions, please contact Joel Walsh at (202) 224-2627 or Joel_Walsh@hsgac.senate.gov. Please send any official correspondence related to this request to Lucy Balcezak at Lucy_Balcezak@hsgac.senate.gov. Thank you in advance for your attention to this matter.

Sincerely,

Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman