

NOMINATION OF HON. ALEJANDRO N. MAYORKAS

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

NOMINATION OF HON. ALEJANDRO N. MAYORKAS TO BE DEPUTY
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

JULY 25, 2013

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NOMINATION OF HON. ALEJANDRO N. MAYORKAS

THURSDAY, JULY 25, 2013

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

The Committee met, pursuant to notice, at 11:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Committee, presiding.

Present: Senators Carper, Landrieu, McCaskill, Tester, and Heitkamp.

Chairman CARPER. Good morning, everyone. Welcome to this hearing. Welcome, Secretary Mayorkas. Bienvenido. Welcome to Senator Feinstein and certainly welcome to our colleagues on the Committee, especially Senator Landrieu, who has agreed to say a few words about you before we get started.

Senator Feinstein and Senator Landrieu are leaders on the Appropriations Committee. They have a markup literally going on right now. I am just very grateful for your willingness to come here and to introduce Director Mayorkas, and I am just going to yield directly to you, Senator Feinstein, for whatever you would like to say. We are just grateful that you could come. Thank you.

STATEMENT OF HON. DIANNE FEINSTEIN,¹ A UNITED STATES SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Well, thank you very much, Mr. Chairman, and I appreciate the courtesy, so thank you.

It is a pleasure for me to introduce President Obama's nominee for Deputy Secretary of the Department of Homeland Security (DHS), Alejandro Mayorkas.

I have known Ali for many years and am proud to have recommended him to President Clinton for the position of United States Attorney for the Central District of California as well as to President Obama for his current position as Director of U.S. Citizenship and Immigration Services (USCIS).

The role of Deputy Secretary within the Department of Homeland Security is really an important one. The Deputy Secretary is charged with overseeing the agency's efforts to counter terrorism and enhance the security and management of our borders while facilitating trade and travel and enforcing our immigration laws.

¹ The prepared statement of Ms. Feinstein appears in the Appendix on page 38.

Additionally, this Deputy Secretary assists in the safeguarding and security of cyberspace and provides support for national and economic security in times of disaster in coordination with Federal, State, local, international, and private sector partners.

Mr. Mayorkas I believe is well qualified for this position. He brings to this office a diverse background and set of experiences in both the private and public sectors.

Born in Havana, Cuba, Mr. Mayorkas earned his Bachelor of Arts (B.A.) with distinction from the University of California, Berkeley, in 1981. He earned his law degree from Loyola Law School in 1985.

Those who have enjoyed the opportunity to work with him regard him as being highly intelligent, thoughtful, kind, compassionate, and dedicated to doing the “right thing.”

From 1989 to 1998, he served as an Assistant U.S. Attorney for the Central District of California where he prosecuted a wide array of Federal crimes, specializing in the prosecution of white-collar crime. Federal law enforcement agencies recognized his success with multiple awards. For example, he received commendations from the Federal Bureau of Investigation (FBI) Director Louis Freeh for his successful prosecution of Operation PolarCap, the largest money-laundering case in the Nation at the time.

He continued to distinguish himself by becoming the first U.S. Attorney in the Central District of California to be appointed from within the office. He created the Civil Rights Section in the office to prosecute hate crimes.

He developed an innovative program to address violent crime by targeting criminals’ possession of firearms, prosecuting street gangs, and at the same time developing after-school programs to help at-risk youth discover and realize their potential. He uniquely demonstrated the ability to simultaneously be firm with criminals, protective with the innocent, and supportive and empowering to our future leaders.

As supported by the many law enforcement and community awards he received during his tenure as a U.S. Attorney, Mr. Mayorkas’ accomplishments extended beyond his district.

He successfully expanded his office’s community outreach programs and cooperation with international players in the fight against crime. He directly resolved cases while also overseeing hundreds of attorneys addressing immigration matters, which included complex and sensitive prosecution of individuals and rings producing false immigration documents, illegal reentry cases, and alien-smuggling conspiracies.

The Administrator for the Drug Enforcement Administration (DEA), Michele Leonhart, noted, and I quote, “he was instrumental in broadening collaboration between law enforcement agencies to address violent crime and expanded cooperation with other nations to address the growing threat of transnational crime.”

Combined with his prosecuting white-collar crime, public corruption, computer-related crime, and international money laundering, she wrote that such a “broad base of experience . . . provides him with a unique perspective on threats to national security.”

He further developed his sharp legal skills as a partner at O’Melveny & Myers from 2001 to 2009 where he represented com-

panies in high-profile and sensitive government enforcement cases. He was recognized by his worldwide firm with an annual award for “leadership, excellence, and citizenship,” and was named by the National Law Journal (NLJ) as one of the “50 Most Influential Minority Lawyers in America” in 2008.

Since his confirmation as Director of USCIS 4 years ago in 2009, he has continued to exert his influence through leadership, excellence, and citizenship in accomplishing the agency’s mission. He has improved the immigration services and policies of USCIS by realigning its priorities for a modern-day America that seeks to preserve its legacy as a Nation of immigrants while ensuring national security and public safety—no easy task.

Throughout his current role as Director of USCIS he has successfully preserved and increased the integrity of our immigration laws by decreasing fraud and bringing accountability to our immigration system. He has worked to secure our Nation’s criminal and immigration laws in the face of increasing gang and border violence.

As technology advances, so too have our needs to prevent fraud and to safeguard immigration documents from tampering. Mr. Mayorkas has confronted that challenge by enhancing the scope and frequency of national security vetting of applicants for immigration benefits and by redesigning immigration documentation with enhanced security features.

He has led USCIS in the other half of its mission, to preserve the role of America as a just Nation that treats immigrants at our shores humanely and with an eye toward the potential they bring to our Nation.

To combat notario fraud and other unscrupulous practices that undermine the integrity of the immigration system, Mr. Mayorkas launched the Unauthorized Practice of Immigration Law initiative. It is a nationwide collaborative effort with Federal, State, and municipal agencies and enforcement authorities that work to raise awareness among immigrant communities and to investigate and prosecute wrongdoers.

After the 2010 earthquake in Haiti, he developed and implemented a humanitarian parole program on an emergency basis to save orphans and unite children with their adoptive families here.

Significantly, under President Obama’s directive to grant deferred action to immigrants who were brought to this country as children and who seek to legally remain in the United States, Mr. Mayorkas swiftly implemented the Deferred Action for Childhood Arrivals (DACA), initiative in 60 days. In less than 1 year, over half a million people have applied to remain in the United States, the only home they have known.

He has realigned the agency’s organizational structure, including 246 offices and facilities worldwide, to more accurately serve key priorities and achieve efficiency. He has stringent budget reviews that have resulted in cost-saving measures of \$160 million in budget cuts for fiscal year (FY) 2010.

Mr. Chairman, I took an additional amount of time because I know there are currents swirling around Mr. Mayorkas’s confirmation. But I also know that this is an incredibly special human being who is well deserving of this position, and I know that this Com-

mittee will do the right thing and confirm him for nomination to the floor of the Senate.

Thank you very much.

Chairman CARPER. Thank you very much.

Senator Landrieu, thank you so much for taking time to join this Committee as well as your other Committee, and we welcome your remarks. Please proceed.

OPENING STATEMENT OF SENATOR LANDRIEU¹

Senator LANDRIEU. Thank you, Mr. Chairman. I will be brief.

Chairman CARPER. You do not have to be brief.

Senator LANDRIEU. I wanted to be here to join Senator Feinstein in that fine and comprehensive and strong and excellent introduction of Alejandro Mayorkas. I have come to know this gentleman very well over the last several years and want the Members of this Committee to know that I have hardly worked with a finer individual in any Department of the Federal Government. He is a can-do administrator with a heart for people, an eye on the bottom line, and a person that is absolutely full of the highest integrity.

Unlike Senator Feinstein, I did not know Ali Mayorkas 16 years ago. I met him most recently 2 years ago and was so taken by his immediate willingness to help in a very serious problem, Mr. Chairman, that had to do with children that had been literally lost, adoptees stuck in orphanages for years, parents in America desperate for someone to listen to them. And this man, who runs the largest immigration agency in the world with all of the pressure that is on him from all of us, took time out of his schedule and identified some staff that could help. To me, that says it all. And we need people in our government that are willing to serve people directly, that understand the hearts of people, and I know Ali Mayorkas is that kind of person.

I am going to submit some additional statements about the swirling that Senator Feinstein talked about into the record so as to not gum up the meeting this morning. But I just want to say how strongly I feel that the President could not have found a better person, with more integrity than the gentleman sitting before us today. And I am going to support him wholeheartedly. I am going to talk with every Member of this Committee on both sides of the aisle and urge them to quickly confirm this nominee because this department needs all the focus and help. And as the Chair of the Homeland Security Appropriations Committee, I hope my voice and my opinions will be strongly heard.

I thank you, Mr. Chairman, and best of luck to you, Mr. Mayorkas. And I thank your family for being here. His wife is not here, and his kids, because they have taken a vacation, and he has not made a vacation in the last 4 years, he has been so busy. But his brothers are here to support him, and his family is very important to him, and as a refugee, political refugee from Cuba in the 1960s, I think he most certainly can appreciate the importance of our democracy, our laws, and the significance of citizenship to the people of our Nation and the world.

Thank you.

¹ The prepared statement of Senator Landrieu appears in the Appendix on page 35.

OPENING STATEMENT OF CHAIRMAN CARPER

Chairman CARPER. Senator Landrieu, thank you very much.

Let me just say, Secretary Mayorkas, you could not have two better advocates than Senator Landrieu and Senator Feinstein. I think you know that. And we are just grateful that each of you could be here to share your thoughts and your determination to ensure that we do the right thing.

Today we meet to consider the nomination of Alejandro Mayorkas, President Obama's choice to serve as Deputy Secretary of the Department of Homeland Security. Mr. Mayorkas currently serves, as we heard, as the Director of U.S. Citizenship and Immigration Services. We thank him for that service and for his willingness to be considered for the Deputy Secretary position.

This Committee is responsible for working with the Administration to help protect our Nation's security at home and abroad. At the same time, we strive to make sure that Federal agencies work better and more efficiently with the resources that we entrust to them.

Part of our responsibility is ensuring that we have effective leaders in place to provide essential guidance. And to that end, our Committee must consider Administration nominees in both a thorough and a timely manner as part of the full Senate's confirmation process.

At the Department of Homeland Security alone, I believe there are 15 senior leadership positions that are or will be vacant in the very near future. At least six of these positions require Senate confirmation. I call this phenomenon "Executive Branch Swiss Cheese."

Congressman Jason Chaffetz, a Republican colleague from Utah who sits on the House Homeland Security Committee, recently put the leadership predicament at the Department of Homeland Security this way, here is what he said: "It is one of the biggest agencies that we have, and it has one of the lowest levels of morale on record, based on the surveys. And when you have vacancies at the top, you have this vacuum that is unfulfilled, and there is a total lack of leadership."

He has a point. In 6 weeks, we face the prospect of a Department of Homeland Security led by an Acting Secretary and an Acting Deputy Secretary. The issues this Department deals with every day, including the days ahead, are daunting: the threat of terrorist attacks, cyber attacks on a 24/7 basis, border security, immigration reform, and the list goes on.

This Department has needed and will continue to need strong leadership. Janet Napolitano and former Deputy Secretary Jane Holl Lute have provided that for the past 4 years. Jane has already left, and Secretary Napolitano will be gone by early September. All of us must feel a sense of urgency to ensure that we have the leadership that this Department needs in place, and soon.

Having a confirmed Deputy Secretary of Homeland Security will help fill this leadership vacuum. It is critical then, that we carry out our constitutional responsibility to provide "advice and consent."

Although our nominee is currently the Director of the agency that manages the largest immigration system in the world, as Sen-

ator Landrieu has said, I am sure it comes as no surprise to him when I say the next Deputy Secretary will have some big shoes to fill.

Former Deputy Secretary Jane Holl Lute was widely respected by this Committee on a bipartisan basis for her leadership, for her expertise, and for her candor. I think it is safe to say that the Department needs somebody with her same level of commitment to tackling problems head-on.

In no small part due to her leadership and that of the Secretary, the Department today made great strides in many areas, for example, in narrowing the many operational and management issues identified as “high risk” by the Government Accountability Office (GAO).

In my talks with Director Mayorkas, I believe he understands well these management challenges and is committed to continuing these efforts and to move the Department further forward.

His leadership has earned the respect of several former Department of Homeland Security officials, including Jane Holl Lute, who said to me she would sit next to you if it would help today; Richard Skinner, Inspector General (IG); Elaine Duke, Under Secretary for Management; and Robert Bonner, Customs and Border Protection (CBP) Commissioner—all of whom have written strong letters of recommendation for Director Mayorkas, as have many other people.

I will ask unanimous consent that these letters¹ and many others we have received—including one from the U.S. Chamber of Commerce—be included in the hearing record. Without objection.

I would also like to take a minute to review Mr. Mayorkas’ qualifications. The Senate has twice before found him qualified for Senate-confirmed positions, as Senator Feinstein has said. The Senate confirmed him by voice vote in 1999 to serve as U.S. Attorney for the Central District of California, the largest Federal judicial district in the Nation. It did so again in 2009 to serve as the Director of U.S. Citizenship and Immigration Services.

As Director of that agency, he has made national security a priority by taking on fraud head-on. He even created a new directorate for fraud detection and prevention.

He was also responsible for turning around the agency’s ambitious “Transformation” project to create an electronic case management system. This system had previously been mired in cost overruns and scheduling delays. Now it is on a much sounder footing and is beginning to deliver new capabilities for users every few months.

He was also in charge of standing up a massive new program: the Deferred Action for Childhood Arrivals. Not everyone may agree on the merits of this program proposed by the President, but it is one I support, and I know many of my colleagues do. But I think we can all agree on this: That getting it up and running in a very short time—60 days to be exact—is an amazing accomplishment.

Of course, with the immigration debate in Congress still ongoing, Director Mayorkas’ expertise would be extremely helpful in leading

¹ Letters of support for Mr. Mayorkas appears in the Appendix on page 185.

this Department that would be charged with implementing comprehensive immigration reform. This is where the rubber will hit the road. But there are also some questions that have recently been raised about Director Mayorkas' qualifications.

Over the last 72 hours, we have learned, albeit through some rather unusual circumstances, that Director Mayorkas is reportedly the subject of an ongoing DHS Inspector General investigation. News reports suggest that the investigation relates to a purported role he may have played in facilitating investor visas.

At this point in time, we do not have all the facts. It is also my understanding that Director Mayorkas has not even been interviewed by the Office of Inspector General (OIG), despite the fact that this investigation began almost a year ago, in September 2012. Furthermore, the Office of Inspector General apparently does not have any "preliminary findings" regarding Mr. Mayorkas, in contrast to earlier reports. In fact, the initial allegations have not been confirmed at this point in time, and the Office of Inspector General has found no wrongdoing by Mr. Mayorkas.

I might also say the same Inspector General's Office has not had a Senate-confirmed leader for over 2 years. They have had a series of Acting Directors, one of whom is under investigation himself, I think by a Member of this Committee.

And, last, before this highly sensitive information was disseminated in a rather remarkable manner on Monday night, the Office of Inspector General had not informed Mr. Mayorkas of its investigation.

So rather than allowing rumor, speculation, and innuendo to rule the day, this hearing will allow us to continue the process of vetting this nominee.

I recognize that our Republican colleagues, in a letter sent to me yesterday, would like me to hold all action—including even a hearing—on Mr. Mayorkas' nomination until the Inspector General has concluded his investigation. I respectfully disagree.

First, a hearing provides an appropriate setting for Members of our Committee to ask questions of the nominee and to get answers in public and under oath. This type of open forum where Members ask questions and the nominee is given the opportunity to respond should be encouraged, not stifled.

Second, in talking with the Office of Inspector General, we know it is months away from completing its investigation. And given that this office is confronting its own set of challenges and controversies, as I suggested, it appears highly likely that this investigation will not be concluded in a timely manner.

I believe it would actually be irresponsible to leave the Department of Homeland Security without a permanent Deputy Secretary and then with an Acting Secretary until this investigation is completed, especially given that, on September 7, our friend Janet Napolitano will be off to serve in her new responsibilities heading up the University of California education system.

How can we honestly expect the Department of Homeland Security to effectively and efficiently carry out its mission, the kinds of missions that I talked about earlier, without strong and stable leadership?

Given the qualifications of this nominee—you heard about him from Senator Feinstein at length and from Senator Landrieu as well—I believe it is important for us to proceed with the nomination hearing today. In doing so, we will be practicing one of my core values taught to me by my parents: To treat other people the way you want to be treated. I have met with Mr. Mayorkas on several occasions now, and at some length earlier this week again, and one of the questions that I asked him—I said, “I try to treat other people the way I want to be treated, and I put myself in your shoes, and if someone were questioning my integrity”—we live our whole lives—Claire McCaskill, Heidi Heitkamp, Mary Landrieu, Dianne Feinstein, our colleagues, we live our whole lives trying to live lives of integrity. And to have them questioned by innuendo and being twisted in the wind for 6 weeks, I said, “Do we need that?” We are trying to get people to come and serve in these positions. We cannot even get somebody through vetting to be the Inspector General for this Department because they do not want to go through the confirmation process. And he dropped out of the vetting process and said, “I do not want to bring my family from California to here. Why go through all that?”

We need to move. At least we need to move and hold a hearing. And we are going to have that hearing today.

At the end of the day, I am interested in nothing but the truth. I hope my colleagues on this Committee feel the same way. All nominees—and that includes Mr. Mayorkas—have an opportunity to address Members’ questions about the nominees’ experiences and qualifications for a position—both in public and in private. We have seized this opportunity to speak with Mr. Mayorkas privately several times in regards to his qualifications. I believe he deserves at least to tell his story in public and under oath and to be questioned by all of us. I have taken the opportunity to review Mr. Mayorkas’ FBI file this week—not once but twice. I asked to look at it again to see if maybe I had missed something. But nothing in my conversations with Mr. Mayorkas or in my review of his FBI file has convinced me that he should not at least have the opportunity to be heard in a hearing.

And when we talked—I would say to my colleagues, when we spoke with him earlier this week, I asked him, “Do you want to go forward with this? Do you want to go forward with this and subject yourself to this kind of hearing and this kind of grilling in public under oath?” And he said, “I am eager to appear.”

And so we are going to make that possible for you. We are delighted that you are here. We welcome your brothers James and Anthony. We are glad you guys are here. I understand you have some daughters and a wife somewhere else, and we are sorry that they are not here with us, but we are happy that you are.

And so with that having been said, I am going to introduce our witness. We are going to swear him in, and then we are going to hear from him and ask some questions.

Alejandro Mayorkas has filed responses to a biographical and financial questionnaire, answering pre-hearing questions submitted by this Committee, and had his financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record with the exception of

the financial data, which is on file and available for public inspection in the Committee's offices.

Now, as you may know, our Committee rules require that all witnesses at nomination hearings are asked to give their testimony under oath, and I am going to ask you to join me in standing, Mr. Mayorkas, and to raise your right hand. Do you swear that the testimony you are about to give the Committee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MAYORKAS. I do.

Chairman CARPER. Please be seated.

I am going to ask you to go ahead and proceed with your statement. Feel free to introduce your family or any other guests that are here with you today. And then I am going to ask you three perfunctory questions that we ask of all witnesses, and then we will open the questioning up for our Committee. Please proceed. Welcome.

TESTIMONY OF HON. ALEJANDRO N. MAYORKAS,¹ TO BE DEPUTY SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. MAYORKAS. Thank you very much. Mr. Chairman, distinguished Members of the Committee, I am deeply honored by the President's nomination and the opportunity to appear before you today.

I am deeply honored by Senator Feinstein's introductory remarks, by those of Senator Landrieu, and those of yourself, Mr. Chairman.

In my professional life, I have had the privilege of serving our country for nearly 16 years. My love of our country and my drive to serve it are grounded in my family history and upbringing. My parents brought my sister and me to this country as political refugees in 1960, having escaped the communist takeover of Cuba. Our parents instilled in their children a deep and everlasting appreciation for the freedoms and liberties that define our country and an abiding respect for its laws. Our Nation, they taught us, is like no other, and its qualities are never to be taken for granted but instead cherished and protected.

Mr. Chairman, distinguished Members of the Committee, my beautiful wife and our two beautiful young daughters are on a vacation with our daughters' grandmother. We thought it important that they carry through with those long ago planned travels because, quite frankly, there may not be very many more of them.

Far less beautiful but no less loved, my two brothers are here— [Laughter.]

In their stead, and I am deeply grateful.

Chairman CARPER. It looks like they have your back. Probably always have, my guess is.

Mr. MAYORKAS. I am deeply grateful that—

Chairman CARPER. Happy to see you guys here. Welcome.

Mr. MAYORKAS [continuing]. They traveled across the country to be here: My brother James and my brother Anthony.

¹ The prepared statement of Mr. Mayorkas appears in the Appendix on page 41.

I have served our country for nearly 12 years as a Federal prosecutor in the United States Attorney's Office for the Central District of California. Each and every day, day and night and most often 7 days a week, I enforced the laws of this land, and I did so aggressively and with distinction. I did so first as an Assistant United States Attorney (AUSA), and then as a Senate-confirmed United States Attorney. It was an incredible honor for me to stand in a court of law with law enforcement at my side as together we prosecuted the laws of this land and I announced to the judge and to the jury, "Alejandro Mayorkas on behalf of the United States of America."

For nearly the past 4 years, I have had the privilege of serving as the Director of U.S. Citizenship and Immigration Services, an agency within the Department of Homeland Security whose workforce and reach span the globe as we administer the largest immigration system in the world. With an incredibly talented and dedicated workforce, some of whom are here today, for which I am also grateful, we have prioritized and strengthened our agency's national security safeguards and more vigorously combated fraud to protect the integrity of the system of which we are guardians.

Mr. Chairman, distinguished Members of the Committee, my parents not only instilled in us a deep and everlasting appreciation for the freedoms and liberties that define our country and an abiding respect for its law, my parents also taught us what it means to live a principled life, a life grounded in values, ethics, honor, and integrity. Their teachings, advice, lectures, admonitions, and support were strong but not more powerful than the lesson of example. They conducted themselves as I aspire to lead my life. As this Committee considers whatever I have accomplished, please understand that it is a glimpse into the character of my parents.

I look forward to your questions. I am eager to answer them, and I am honored to be before you. Thank you again for the privilege.

Chairman CARPER. Thanks for being here today. Thanks for your service, and thank you for your willingness to testify and respond to our questions and serve if confirmed.

I am going to delay my questioning and turn to former Attorney General, now Senator Heidi Heitkamp from North Dakota. Senator Heitkamp.

Senator HEITKAMP. Thank you, Mr. Chairman. I have to tell you, Director—

Chairman CARPER. Could you hold for just a second? I apologize. I am supposed to ask these three perfunctory questions that we ask of all witnesses, and then I will yield back to you.

The first question is, again, the standard question we ask of all nominees. You have been asked these questions before in this hearing room. Is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. MAYORKAS. No.

Chairman CARPER. OK. Do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. MAYORKAS. No.

Chairman CARPER. And, finally, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

Mr. MAYORKAS. Yes.

Chairman CARPER. Thank you very much.

I apologize, Senator Heitkamp. You are recognized.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Thank you so much, Mr. Chairman, and thank you for conducting this hearing.

As a preliminary matter, I want to express to the Chairman how much I agree with his comments this morning and with his concern about a process that seems to get short-circuited by rumors and by innuendo and the lack of credible evidence.

And I want to tell you, Director, how much I enjoyed meeting you in my office as we kind of relayed some of the concerns I have, homeland security concerns I have for my State, and understanding that your commitment to law enforcement, your commitment and your support by people you have worked with, which means the world to me, that cops like you and law enforcement likes you, because you are willing to do the tough work of taking tough cases to trial and representing the United States of America in cases that maybe other people might duck on. And so I really appreciated hearing that history about you. I really appreciate having the chance to meet with you. And hopefully if everything comes to fruition the way we think it will, I look forward to the opportunity of bringing you to North Dakota and introducing you to the unique challenges we have on the Northern Border and the unique challenges that we have in law enforcement in a booming economy.

I had to decide this morning whether we are going to have the discussion that I thought we were going to have before all of this came to light or whether we were going to have the discussion that I think we should have that will help hopefully maybe clear the air and give you an opportunity to respond, because at this point it is hard from a witness' standpoint or from your standpoint to really have an opportunity to respond to what can only be an enormously frustrating situation for you and your family. And so I am going to jump right in, I have decided.

In this situation with Gulf Coast Fund Management where you had multiple requests to intervene in the regular process, what structures, rules, or practices did you put in place to ensure that no ethics or rules were violated during your tenure?

Mr. MAYORKAS. Thank you very much, Senator, and it was a pleasure to meet you as well, and it would be an honor to be confirmed for this position and to have the opportunity to travel with you to your State and explore the challenges that the Northern Border faces in ensuring its security.

Senator, if I can, the issues, difficult issues, complex issues, novel issues, of law and policy that challenge the agency and that present opportunities for resolution percolate up through the supervisorial chain to me when they need resolution and when they have broad application.

The manner in which those cases reach me—those issues reach me is through cases. We are an operation. We are a large agency.

We protect our Nation's security. We combat fraud, and we assess the eligibility of applicants who come before us through applications and petitions through the cases that they present to us.

I become involved in those complex, difficult, legal policy issues when they are raised to my attention by my colleagues which very often occurs, by Members of Congress, which very often occurs, by news accounts, by members of the public, or by applicants or petitioners themselves.

We defer to adjudicators on the front line to adjudicate cases. I do not adjudicate cases. I address legal/policy issues that are brought to my attention through the channels that I have outlined.

Senator HEITKAMP. What types of verbal orders or requests did you make to your staff on this issue that would not be captured by e-mail or in any other written record?

Mr. MAYORKAS. Are you speaking, Senator, with respect to the Gulf Coast matter?

Senator HEITKAMP. Gulf Coast, correct.

Mr. MAYORKAS. I made no orders in these cases. What I did was sit around the table with my colleagues, as is consistently my practice when indeed difficult legal or policy issues rise to my level. I sat around with my colleagues, and we discussed and resolved those issues.

Senator HEITKAMP. So there would have been some verbal communications beyond e-mails and written correspondence?

Mr. MAYORKAS. Most certainly. We have set up structures, which responds to this question and your prior one, to resolve difficult or legal issues. Sometimes we are able to resolve the issues with the colleagues who are handling the matter directly. Sometimes different people have to be involved in the discussion and bring their relevant expertise to bear. We have set up senior policy committees. We have set up leadership meetings, and we have set up open and collaborative forums to resolve those issues. I do not resolve those issues alone.

Senator HEITKAMP. Director, would there have been a scheduling note of who would have attended those discussions in your office?

Mr. MAYORKAS. There very well might be. Certainly there were a number of people around the table when we discussed the issues.

Senator HEITKAMP. I believe it is safe to say that the EB-5 visa program has some challenges attached to it through its very nature.

What added responsibility does an agency leader have when dealing with the program that can be considered controversial just as a result of the way the program is structured? And what responsibility does he or she have to ensure that their orders are clear and the staff understands the potential pitfalls?

Mr. MAYORKAS. If I may, Senator—and I appreciate the question very much—let me speak to my responsibility, and then let me speak about the EB-5 program about which you have inquired.

It is my responsibility to ensure that we administer our responsibilities, our adjudicative responsibilities, our responsibilities to safeguard our Nation's security, our responsibilities to protect the integrity of the system, that we do so in strict accordance with the law and based on the law and the facts and nothing else, that our decisions are correct, that they are consistent, they adhere to the

highest ideals of public service, and that they are correct. And that is how I have carried out my responsibilities.

The EB-5 program is indeed controversial, and it is extraordinarily complex. It is like no other program that we administer. Quite frankly, it is a program that is primarily a business and economic program and not so much an immigration program.

What is involved in the case is an assessment whether foreign capital is invested properly in a new commercial enterprise, whether the requisite amount of capital is at risk throughout the term of the investment, whether the business enterprise that is proposed is specifically detailed and viable, and whether the econometric models that are submitted to us to estimate future job creation are sound and reasonable. Those are some of the issues that are involved in the adjudication of the EB-5 program. And, quite frankly, when I arrived as the Director of this agency to U.S. Citizenship and Immigration Services, I observed that the program was staffed with nine adjudicators, no economists, no business analysts, and no specialists in national security and fraud detection. And throughout my tenure, we have built that program. We have brought economists to bear, we have brought business expertise, and we have brought individuals dedicated to ensuring the integrity of the program as the program has grown throughout the years.

Senator HEITKAMP. I am out of time.

Chairman CARPER. Thanks, Senator Heitkamp. There will be a second round of questions if you are able to stay. Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. I know from your record you are a former prosecutor, and although I have to confess that I am what I like to affectionately call a "911 prosecutor," I did not have the luxury that some of my Federal colleagues had of kind of being able to sit around and decide what cases to take, so I always had this little yin-yang with all the Federal prosecutors, because, of course, as you well know, in the system we thought we were the real prosecutors and you guys were not.

Having said that, I know that you were moved up to U.S. Attorney from an Assistant USA, which is extraordinarily unusual and speaks highly of your leadership capability and your capabilities as a prosecutor.

So as a prosecutor, I am just going to be really candid with you. These things that are floating out there, they may be rumors, they may be innuendo, this may be just political. But you have to do a rebuttal here, and I do not think you can talk around it, and I want to give you the opportunity to say what you want to say about what is being said about you because you are not going to get another opportunity like this, and this thing is going to swirl and there are going to be recriminations, and it is going to be a political brouhaha. And, I respect IGs tremendously, although I will admit this IG office is troubled, for a lot of reasons. But why don't you take a few minutes here and say what you would want us to know about the accusation that is being made about you, that you tried to inappropriately use your position to influence the out-

come of a matter because of who was interested in the outcome of the matter.

Mr. MAYORKAS. Senator, thank you very much for the opportunity, and let me share with you, if I may, that I very often felt like a 911 prosecutor. [Laughter.]

Senator McCASKILL. I am sure you did.

Mr. MAYORKAS. Senator, it was Monday evening when I was forwarded a copy of the e-mail that was published to this Committee about an apparent Inspector General investigation of which I reportedly am a subject. I had no idea of the existence of that investigation, and, quite frankly, I still do not understand it.

I will say this, and I say it firmly, and I say it unequivocally, and I say it after 16 years of service to this country, 12 of which were as a law enforcement official: I have never, ever in my career exercised undue influence to influence the outcome of a case. I have never based my decisions on who brings a case but, rather, upon the facts and the law. I have taken in my life oaths of office, and each and every day—morning, day, and night—I have lived by those oaths.

And, Senator, I referred to it on a personal matter, on a personal level in my opening statement. My entire life I have tried to live in a way and I have aspired to live in a way that brings honor to my parents, and there has never been an instance in which I have failed to do so in terms of the integrity with which I have brought my efforts to bear on everything I have done, whether in the private sector or the public sector.

I look forward to learning about the allegations, because I still do not quite understand them, but I will tell you that the allegations as they have been framed are unequivocally false.

The Gulf Coast matter is a matter about which we received complaints in 2011. Issues in that case rose to my attention because, as I referred to earlier, the EB-5 program is complex; it presents novel legal and policy issues. And a few issues were brought to my attention, and I addressed them with my colleagues around the table.

Chairman CARPER. Mr. Mayorkas, normally I do not jump in here, and I am not going to take away your time at all, but I just think it might be helpful for us to have a basic understanding of the EB-5 program.

Senator McCASKILL. Sure.

Chairman CARPER. And then we will—the clock is not going to run—

Senator McCASKILL. You can use my time for that. That is an important part of—

Chairman CARPER. I would like to hear just a good, basic—my understanding is you did not create this program. You did not ask it to be included in your area. It was not created in this Administration. In fact, it was not created in this century. I think it was created in maybe 1992 when we were struggling to try to come out of a recession.

Senator McCASKILL. You mean this decade, not this century.

Chairman CARPER. It was not created in this century. It was not created in this decade. But it was created in 1992. And I think it was created during the Administration of George Herbert Walker

Bush. And what they were trying to do, if I am not mistaken, at that time is try to figure how do we get our economy moving. And one of the ways to get our economy moving is to have access to capital. In this case, how do we attract foreign capital to investments in this country which put people to work.

But I just want you to take a few minutes and give us—I will call it “EB-5 101,” and then I am going to go back to Senator McCaskill. I think that would just be helpful.

Mr. MAYORKAS. Thank you very much, Mr. Chairman. I am very eager to complete my response to Senator McCaskill’s question.

The EB-5 program has as its basis job creation. It is premised on the belief that individuals who are in foreign countries were willing to invest their capital in commercial enterprises in the United States, and when those investments yield jobs for U.S. workers, that the foreign investors have an opportunity to gain lawful permanent resident status in the United States. That is, at the very top level, the issue.

Chairman CARPER. And not citizenship. What is it, a green card?

Mr. MAYORKAS. They first receive a conditional green card. Then after 2 years, if the jobs have been created, the requisite number of jobs, ten jobs specifically have been created or are likely to be created within a reasonable period of time, an undefined term—which gives you an idea of the issues with which we wrestle in our administration of this program. But if those jobs are created or are likely to be created within a reasonable period of time, the conditions of lawful permanent resident status are removed. The foreign individual is a lawful permanent resident and, therefore, eligible for citizenship after a number of years, provided that they qualify for the eligibility requirements of naturalization.

Chairman CARPER. All right. Continue, please.

Mr. MAYORKAS. So, apparently, Senator McCaskill, the allegation is somehow that, by sitting around the table and resolving a couple of difficult issues that were unsettled in our agency in the administration of the EB-5 program, I exercised undue influence. I did nothing that I have not done hundreds and hundreds of times when difficult issues reach my attention and the agency needs resolution of them.

It is interesting to note, I think it is noteworthy, that—because really what I think I summarized the allegations to be, that somehow a favorite treatment was afforded Gulf Coast. Well, the complaints rose throughout the agency in 2011. Noteworthy is the fact that the complaints persisted in 2012, and they continue to this day.

Also noteworthy—

Senator MCCASKILL. You mean, complaints from this—

Chairman CARPER. I am sorry. What kind of—

Senator MCCASKILL. What complaints are you referencing specifically?

Mr. MAYORKAS. Complaints about delays, complaints about the failure of the agency to adjudicate the case.

Senator MCCASKILL. On this particular case?

Mr. MAYORKAS. On this particular case. The complaints persist.

Senator MCCASKILL. So it has not been resolved?

Mr. MAYORKAS. I do not know the status of the cases.

Senator McCASKILL. OK.

Mr. MAYORKAS. I addressed discrete legal——

Senator McCASKILL. So the folks that they are alleging that you tried to help are still not happy, is what you are saying.

Mr. MAYORKAS. The last time I heard, in 2013 they were not.

Senator McCASKILL. OK.

Mr. MAYORKAS. I do not know the status of the cases.

Senator McCASKILL. OK.

Mr. MAYORKAS. And, notably, when a report was published with respect to raising a question with respect to the integrity of this business enterprise, as I do in all circumstances, drawing upon my many years as a Federal prosecutor, drawing upon my prioritization of national security and fraud detection in the agency, and my execution of those priorities, as soon as I learned of a concern with respect to this matter from that perspective, I referred the case to the Fraud Detection and National Security Directorate.

Senator McCASKILL. I think my time is up, and I appreciate your many years, and I was teasing you about not being a real 911 prosecutor. I want to make sure you know that.

Mr. MAYORKAS. I understood. Thank you.

Senator McCASKILL. Like you were teasing about your brothers not being as beautiful as your wife. [Laughter.]

Mr. MAYORKAS. Senator, may that be the only time we disagree. [Laughter.]

Senator McCASKILL. I have a feeling there will be many other times we will disagree, but it will be on matters of finance, contracting, and audit. So thank you very much, Mr. Chairman.

Chairman CARPER. Thank you, Senator McCaskill.

Let me followup on her question just to say, what were the difficult issues you alluded to in the Gulf Coast matter that you personally addressed?

Mr. MAYORKAS. If I can give you the one that I recall specifically, and why I recall it specifically, Senator, is when I get involved in complex legal and policy issues or novel questions before us, what we seek to do is resolve them for the benefit of the agency as a whole and so that they have broader applicability. And the one complex issue that I remember so clearly is because we actually memorialized the resolution of that difficult issue in a new EB-5 policy memorandum that we published publicly and throughout the agency as guidance to our adjudicators in May of this year. And the resolution of that case, of course, showed up in prior drafts of the final memorandum that we just published.

The issue is this: There is an administrative appeals decision published by our agency called “In the Matter of Izummi,” and one of the——

Chairman CARPER. In the matter of what?

Mr. MAYORKAS. Izummi. I believe it is I-Z-U-M-M-I or it could be I-Z-Z-U-M-N-I.

Chairman CARPER. That must be an acronym.

Mr. MAYORKAS. It is not.

Chairman CARPER. OK.

Mr. MAYORKAS. And one of the requirements in the EB-5 program, just to reflect its complexity again, is that the foreign inves-

tor's capital must be at risk throughout the term of the investment. "In the Matter of Izummi" stands for the proposition that the existence of a redemption agreement in the transaction documents militate against the foreign investor's capital being at risk. In other words, if you can redeem your investment during the duration of the relevant time period, your capital is not at risk and, therefore, you do not satisfy the legal requirement.

And the issue that the Gulf Coast case presented to my attention was the following: Is it the mere existence of a redemption agreement that disqualifies the individual from satisfying the legal requirement that the capital be at risk? Or is it a question of looking at the terms of the redemption agreement and whether the terms militate against the requirement that the capital be at risk?

And in this case, to the best of my recollection, the individual investor, according to the deal documents, could convert his or her common shares to preferred shares, or vice versa, preferred shares to common shares—I do not recall. But the deal documents provided, the redemption agreement provided that there was not at the time a market for either the common shares or the preferred shares, nor may there ever be a market for those shares.

And so the conclusion was reached around the table that, quite frankly, and as a matter of law, in the interpretation of the deal document, the redemption agreement, the capital remained at risk because there may not ever be a market for that capital and, therefore, the redemption may never be realized.

That is an example of a difficult issue that can rise to my attention, and when we resolve it, what we do is we can provide guidance to our adjudicators so that they can adjudicate cases in strict adherence to the law more ably.

The absolute core principle of our agency is that we adjudicate cases based on the facts and the law, and that is all.

Chairman CARPER. When I first learned about the EB-5 program—I had heard about, but I will be honest with you, I did not know much about it until this month. And I have learned a bit and am still learning. But it seemed to me when I learned about it, I said this is a strange program to be located in this agency, the agency that you lead. It seems you would need people who have skills in economic development, entrepreneurship, innovation, who can realize that this is actually an idea somebody is willing to invest some money in from overseas.

We have to have somebody who can look at this and say, "Does this actually make any sense? Is this something that actually brings value?"

Would you just respond to that thought? And how do you make sure that you have the kind of people in your agency, not traditional immigration employees, but how do you make sure you have the kind of talent in your agency to help make the right judgments, the judgment calls?

Mr. MAYORKAS. Thank you very much, Mr. Chairman, for the question. I would like to answer it in a couple parts, if I may.

We receive more complaints about our Administration of the EB-5 program than we do in any other area of our work.

Chairman CARPER. Is that right?

Mr. MAYORKAS. Yes. We receive complaints from the public, we receive complaints from applicants and petitioners, and we receive complaints from Members of Congress and from both parties.

Chairman CARPER. So this is bipartisan.

Mr. MAYORKAS. Oh, it is absolutely bipartisan, and there is probably not a week that goes by that I do not receive complaints from Members of Congress with respect to our Administration of the program. And, quite frankly, there have been a number of EB-5 program issues that have been raised to my attention from Members of Congress that I have addressed with my colleagues, and I recall that the Members' concerns were actually valid and we were able to resolve those around the table.

Chairman CARPER. Were there ever instances where maybe the Members' concerns were not as valid?

Mr. MAYORKAS. Most certainly, and we respond to the concerns not by who is the author of the concern but, rather, by what the facts and the law demand. That is our principle.

EB-5 cases have been brought to my attention from within the agency. The Administrative Appeals Office brought an EB-5 case to my attention because we were terminating an EB-5 regional center for the first time, and we wanted to make sure that our decision was correct because the stakes are high and that the decision was well reasoned and well written. And so my office became involved there.

As I mentioned, the EB-5 program really requires expert economic analysis and a clear and sophisticated understanding of business proposals and the myriad of legal and policy issues that those arenas raise.

When I first came to the agency, I actually reached out to partners in the Federal Government when I learned about the EB-5 program, and I posited to them that they needed to become involved as partners with us because they had the expertise to bring to bear. The Department of Commerce would be one example, and our discussions with other government agencies in sharing responsibility for the Administration of the EB-5 program are ongoing.

In the interim, I have not stood still. I do not stand still when progress is needed. Progress is an obligation of ours to achieve. And what I did was I introduced economists to the EB-5 program. I brought them on board. We expanded the pool of adjudicators. I do not think that we did right for many years in support of our adjudicators because we put them in charge of cases and did not equip them with the tools to address those cases as I think they would most want, because they strive for excellence.

I brought economic expertise, I brought business expertise, and I brought fraud detection and national security expertise to bear. Those efforts have been evolving, and most recently we decided to create a new EB-5 program. Embedded in it will be fraud detection and national security personnel and a greater level of economic and business expertise.

Chairman CARPER. One last question, and then I will yield back to Senator Heitkamp. Just to followup on this, in reviewing your FBI file, there was a reference to several employees who asserted that you had retaliated against them. I think they are maybe out in the California office. And in the report that I read, it said it was

fully investigated and it was not viewed to be a matter of retaliation.

Do you have any recollection of that?

Mr. MAYORKAS. I most certainly do.

Chairman CARPER. Now, can you just put a little bit of light on that, please?

Mr. MAYORKAS. The Office of Special Counsel determined that there were no facts to support the allegations.

Chairman CARPER. All right. Good.

Mr. MAYORKAS. Senator, let me, if—

Chairman CARPER. Go ahead.

Mr. MAYORKAS. Personnel decisions are very difficult to make. They are singularly the most taxing aspects of jobs when one has supervisory responsibilities. One has to act in the best interests of the agency. Personnel moves are not necessarily disparagement, criticism of job performed or anything critical. But as a supervisor, as a manager, as a leader, one has to fit the needs of the agency with the talents of the people most ably. My commitment is to the agency as a whole as its Director, and my commitment is to the laws that we are sworn to uphold.

Chairman CARPER. Thank you. Senator Heitkamp.

Senator HEITKAMP. Mr. Chairman, I would like just for a moment to talk about becoming Deputy Secretary of Homeland Security, if that is possible. And I just really have one question, and that is, we are deeply concerned about the morale of the Department of Homeland Security, and I know that we have had these discussions before. But if you are, in fact, confirmed as the Deputy, what will you do to improve morale within the agency? And what steps would you take to bring, I think, more cohesion to the group?

Mr. MAYORKAS. Thank you very much, Senator. I have been honored and continue to be honored to work with the men and women of U.S. Citizenship and Immigration Services and the Department of Homeland Security, of which our agency is a part. We have an incredibly talented and dedicated workforce, a workforce that is deeply committed to the mission of the Department and that loves its mission.

It would be my responsibility, should I have the honor of being confirmed, to ensure that our workforce has the tools that they require to perform their work at the very highest levels of excellence to which they aspire, that they feel fully engaged in the execution of the mission, that they feel fully supported, that they are trained, that they are provided with transparent and open and fair processes. I will engage with the workforce, and I would, if confirmed, engage with this Committee and focusing to ensure that the morale of each and every individual within the Department is as high as it should be when one considers the talent of the people and the nobility of the mission.

Senator HEITKAMP. When you talk about the tools, because we all know that what can affect morale is the lack of ability to do your job, knowing your job but not having the tools, what additional tools do you see as essential to the work of the Department of Homeland Security?

Mr. MAYORKAS. Senator, thank you. Let me, if I can, draw upon my experience at U.S. Citizenship and Immigration Services be-

cause I have spent a great deal of energy and focus on the well-being of our workforce.

The workforce in USCIS has asked for more training. Our immigration law and policy is ever evolving. New decisions are issued, new challenges arise, and they have asked for enhanced training, and we have delivered.

They have asked for opportunities for growth, for professional development, and we at USCIS have delivered professional development programs, details for employees to be exposed to different parts of the agency to grow.

Managers have asked for training on how to manage, how to manage people, how to lead people. Very often we pick managers who are experts in the subject matter at issue but not necessarily expertly trained in how to bring out the best in people, how to assist people when they have challenges and how to promote people when they have successes.

Those are some examples of tools that a workforce requests and a workforce deserves.

Senator HEITKAMP. Just one final point. As you have disparaged the appearance of your brothers, we just want to point out that some might suggest that they are better looking than you are. [Laughter.]

Mr. MAYORKAS. Senator, they have not gone through three confirmation hearings. [Laughter.]

Chairman CARPER. I would just acknowledge that you may have lost some of your hair. You have not lost your sense of humor. So that is good.

We have been joined by Senator Tester from Montana. Senator Tester, the floor is yours. Welcome. Thanks for coming.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. Thanks. I am sorry I was late.

Chairman CARPER. We are glad you are here.

Senator TESTER. Do not take Senator Heitkamp's remarks to heart because she always talks about me being ugly, too. So—no, just kidding.

First of all, thanks for being here, and as we talked in my office, I appreciate your willingness to serve this country. We are in a situation where Janet Napolitano has stepped down, and so consequently there will be a leadership void within the Administration.

If confirmed, how will you work with the Administration and Congress to make sure the Department is moving forward even though there are going to be so many positions of leadership missing at the Department?

Mr. MAYORKAS. Thank you very much, Senator Tester, for the question. If I have the privilege of being confirmed as the Deputy Secretary, I would work with this Committee to ensure that the President's nominees to fill the vacancies in the Department of Homeland Security are completed successfully, as swiftly as possible. And in the interim, Senator, I can say unequivocally that we have tremendous talent within the Department of Homeland Security to ensure that the mission of the Department is accomplished

successfully, effectively, and efficiently until those vacancies are filled.

Senator TESTER. OK. I want to talk about visa overstays. As you know, 40 percent of the folks who are here improperly are because of visa overstays. It is a huge problem in processing, identifying, modifying, monitoring, or apprehending individuals who overstay their visas.

From your perspective, is this an issue of inadequate manpower, inadequate focus, resources? Are there statutory obstacles in the road? It seems to me 40 percent is a little over the top. And so why is that?

Mr. MAYORKAS. Thank you very much, Senator. Your question is a very important one. The Department of Homeland Security has made great strides in addressing the problem of visa overstays. Immigration and Customs Enforcement (ICE), one of the agencies primarily responsible for the enforcement area, has significantly improved in its battle to combat visa overstays. We have developed enhanced biographical data to ensure that we are aware of the individuals who have overstayed their visas. And what I will do immediately, Senator, is ensure that Immigration and Customs Enforcement reaches out to your office and informs you with great detail of the tremendous strides that they have made in addressing the visa overstay problem because they have done so in recent months.

Senator TESTER. Well, I appreciate that, and I think that the immigration bill that recently passed the Senate went a long way in eliminating a lot of those visa overstays. And as a side comment, hopefully the House will take that up and not play politics with it, because it really is important for the country.

Montana is home to seven American Indian reservations and a State-recognized Little Shell tribe. In the past, I have worked to ensure that DHS maintains a strong relationship with all of our tribal partners.

From a personal perspective, do you have any experience working with tribal leaders, either in past roles as a U.S. Attorney, or in your current position?

Mr. MAYORKAS. Thank you, Senator. I do. When I was a U.S. Attorney, I worked with tribal leaders to address some of the challenges that they had in the Central District of California with respect to enforcement issues on reservations as well as certain civil matters with respect to specifically California issues, legal issues, involving Indian gaming.

I have worked extensively with tribal leaders during my tenures in the United States Attorney's Office, and I take great pride in the collaboration and close working relationship that I was able to achieve with them. And, if confirmed, I would carry that collaborative teamwork approach to my duties as Deputy Secretary.

Senator TESTER. Well, I appreciate that, and I may have some more questions for the record. I appreciate the Chairman at this late time allowing me to ask a few questions.

I will go back and just say I wish you the best. We need good people in the Department of Homeland Security. We need people who can carry out this task, because it is a important one. Hope-

fully, what has gone on here today will stop and we will get you confirmed and get you back to work.

Mr. MAYORKAS. Thank you very much, Senator. It would be an honor.

Chairman CARPER. Thank you. Thank you, Jon.

My staff has given me a little bit of information on the EB-5 program. I asked you earlier with tongue only partly in cheek to give us EB-5 101, and I think I said that my understanding was that the program was created in 1992 when we were in a recession. Actually, it was created in 1990 when we were just going into a recession, and there was some interest in trying to make sure it was short-lived.

I think the program in 1993 was modified, and I think Congress added at that time something called the immigrant investor pilot program in order to encourage immigration investments through designated regional centers. Designated regional centers. I do not recall hearing much about designated regional centers in 1993. I had just become Governor of my State. But we have all heard of enterprise zones, and when I hear the designated regional center, I liken it to an enterprise zone.

But just talk to us about designated regional centers. How do they work? And the kind of people that are actually responsible for trying to get them established and then collect funds to fund the entrepreneurial activities there? Just give us a little bit of discussion on that, please.

Mr. MAYORKAS. Thank you very much, Senator. The regional center program is indeed a pilot program. The EB-5, that pilot program was reauthorized, I believe it was last year. I am not quite certain, but it was reauthorized.

Chairman CARPER. As a matter of fact, my notes here say introduced in 2012, the word "pilot" was removed from the 20-year-old program, provided a 3-year reauthorization of the regional center model, legislation introduced by Senators Leahy and Grassley, co-sponsored by a number of our colleagues, including Collins, Conrad, Hatch, Kohl, Lee, Rubio, and Schumer, adopted by unanimous consent. That was about a year ago.

Mr. MAYORKAS. Senator, the regional center is an area of economic activity in which commercial enterprises can be developed into which foreign capital can be invested in the EB-5 program and the jobs can be created in that area of economic activity.

The popularity of the regional center program has increased exponentially over the years, and over the last 4 years, for—

Chairman CARPER. Do you think it had something to do with the fact that we are in the worst recession since the Great Depression and we are looking for ways to create jobs and this was an effort to try to draw capital into job creation in this country? Do you think that is what is going on?

Mr. MAYORKAS. Senator, outside reports have concluded that indeed the EB-5 program and specifically the regional center program within it has grown exponentially over the last few years because capital has been difficult to raise in a challenging economy. There is a great deal of interest amongst individuals in other countries to immigrate to the United States, and those who can afford it find the EB-5 program to be a valuable means of doing so.

Chairman CARPER. So is the rationale here they are investors, entrepreneurs in other countries that have maybe good ideas, business ideas, they have some money, and we are looking for somebody who will invest capital here for job creation here rather than compete with those folks from another country? Is that—that is my understanding. Is that close to correct?

Mr. MAYORKAS. That is. Mr. Chairman, specifically that individuals with the requisite amount of capital—it is either a minimum of \$500,000 or a minimum of \$1 million, depending on where the regional center is located, whether it is in a targeted employment area, an area of acutely high unemployment or otherwise. They will invest their capital, that requisite amount of capital in a regional center, and if U.S. jobs are created, they will have conditional lawful permanent resident status, as I outlined earlier, and if they qualify under the other eligibility requirements.

Why the regional center has grown exponentially, as well as the economic factors that others have concluded as a causal link, is because when the investment is in a regional center as opposed to a new commercial enterprise outside of a regional center, the job creation can be computed to include not only direct job creation but indirect job creation—in other words, not necessarily just employees of the new commercial enterprise, but people—jobs that are created as a result of the new commercial enterprise. Suppliers to the new commercial enterprise would be a perfect example. If a supplier increases its workforce by virtue of the new commercial activity and jobs are created that are attributable to the regional center, then that job creation is attributable to the capital invested and counts to the job creation requirement. And this is where the complex economic methodologies, the econometric models to assess potential for job creation, come into play. And if one presented those to me, even though I practiced as a lawyer for many years, I would not know how to adjudicate them. They are extraordinarily complex. They fall within the purview of economic expertise, and that is why we have brought that expertise to bear.

There is one very important additional point that I would like to make, and that is the following: That with growth in a program comes the potential for challenges to the program's integrity. And we have, of course, seen cases where individuals have sought to make misrepresentations to us in order to avail themselves of the program for which they are not qualified or, worse yet, individuals who seek to avail themselves of entry into this country through the EB-5 program when they very well may pose a threat to this country.

Chairman CARPER. What do you do about that kind of fraud?

Mr. MAYORKAS. Well, we have done a great deal, because this is our highest priority: to help secure our Nation and to protect the integrity of the system of which we are guardians. We have reached out to the law enforcement and intelligence communities, and we have developed stronger and closer working relationships. We have increased the staffing of our fraud detection and national security personnel. We are embedding them in the EB-5 program. We have reached out to the Securities and Exchange Commission (SEC) to make sure that the securities laws are upheld.

I reached out, based upon my relationships from my law enforcement days, to the highest levels of the SEC to make sure that they brought their enforcement efforts and their enforcement expertise to this very important area. We were substantial cooperators and partners in the first successful SEC enforcement action against an EB-5 program in Chicago, Illinois.

Chairman CARPER. Give us some idea, how do these designated regional centers become created? What has to happen? Are there a lot of them? Are we talking about a few, a dozen, scores, hundreds?

Mr. MAYORKAS. I do not know the number of regional centers that exist currently.

Chairman CARPER. Would it be more than a hundred? Less than a hundred?

Mr. MAYORKAS. I do not want to speculate, Mr. Chairman.

Chairman CARPER. OK.

Mr. MAYORKAS. But I can certainly provide that information to the Committee.

Chairman CARPER. Thank you, if you would.

How do they get created? What is the process?

Mr. MAYORKAS. So from my understanding, because I sit as the Director and I do not get involved in seeing the actual applications and petitions, the business plans themselves, but people come up—develop business ideas for the development of commercial enterprises—

Chairman CARPER. “People” being American people, American business people?

Mr. MAYORKAS. People here in the United States.

Chairman CARPER. OK.

Mr. MAYORKAS. And they develop business plans for the development of those enterprises, those commercial enterprises. And once those business plans and commercial enterprises are outlined and they have approval from us to proceed, they begin to attract investors. And, quite frankly, I do not know if they begin to attract investors before we approve them or not, but they develop their business plans. They begin to execute on their business plans. They present their business plans to us. And if we approve them as regional center designations, they proceed with the execution of their plans from there.

Chairman CARPER. Knowing my colleagues and me, if I had somebody that wanted to create jobs in Delaware and they wanted to create one of these designated regional centers in order to increase employment opportunities in my State, I would probably be interested in seeing that succeed. You mentioned a number of my colleagues, Democrat and Republican—I do not think I have ever reached out to your office on this, but a number of our colleagues actually do call your office, and in some cases you, and say, “There is this effort to create employment activity in my State,” and they probably do not call just to say, “You all are doing a great job. Keep it up.” Maybe they do. But my guess is they probably call to raise concerns.

Would you talk about the nature of the concerns that our colleagues might raise or a Governor might raise and the kind of concerns that might be raised by someone who is attempting to estab-

lish one of these designated regional centers, like, "It is taking too long," or, "I do not like your decision, you have not agreed to establish this center"? Can you just share with us the nature of those conversations?

Mr. MAYORKAS. Thank you, Mr. Chairman. We received e-mails, calls, letters from Members of Congress of both parties with respect to the EB-5 program more often than weekly and more often than one a week, I assure you. And the interest, of course, is in the infusion of capital into a particular jurisdiction and the creation of jobs for U.S. workers in that jurisdiction, a need and a priority that is acutely held in times of economic challenge.

The complaints vary widely. One that we most often hear is that we are taking too long. We have goals of approximately 6 months, but we do not meet that goal. Rarely do we, and sometimes the time period extends far longer, sometimes for very important and valid reasons, making sure we are right, according to the law and the facts, making sure that the integrity of the application is assured, making sure that there is not a threat to our security. We are being inconsistent in our adjudications. We are being untimely. We are not adhering to the law. We are not following our established policies. The complaints are very diverse.

There was one very notable complaint that I recall because it accused us of being unfair, that we had made adjudicative decisions in a case and then subsequently we changed our mind. And the concern of the Member of Congress was that seemed to be inequitable, that investors and business developers had relied on our earlier decisions, and for us to change course midstream seemed inequitable. And I looked into that, consistent with the principles to which I referred at the outset of this hearing, when something speaks of a difficult legal or policy challenge that the agency confronts.

And I looked into that matter around the table with my colleagues, and I agreed with the concern. And my colleagues asked me to get involved, to assist in the resolution of that matter, and I did. And what I did was I made—a decision that was going in the wrong direction, I made it right. I made it right in the spirit and the letter of the law and the policies that we are sworn to uphold.

The temperature of the complaints that we receive are equally diverse as the nature of the complaints, and neither the temperature with which the complaint is made nor the author of the complaint are material to our decisionmaking. The decisionmaking is based on the law and the facts. And when I get involved in an issue like the EB-5 issue to which I just referred, like the EB-5 issue I described in the Gulf Coast matter, my guiding principle is no different than the guiding principle of the adjudicator and the guiding principle that I have articulated and emphasized throughout my tenure. We do what the law and the facts require, and nothing less and nothing otherwise.

Chairman CARPER. All right. My understanding is that among the many people establishing or attempting to establish one of these designated regional centers was Terry McAuliffe, who was interested in bringing green card technology to the State of Virginia in one of these regional centers, ultimately ended up doing it, I

think, in the Gulf Coast States, and I think one of the reasons why Senator Landrieu was here is because apparently, as part of the economic development issues in her State, they are interested in creating a regional center—this is my understanding—and would like to encourage that kind of thing.

But could you just share with us any communication you had with Mr. McAuliffe with respect to the effort to create one center in Virginia or maybe one on the Gulf Coast, any meetings you had with him, any telephone conversations that you recall?

Mr. MAYORKAS. Thank you very much, Mr. Chairman. I was asked to attend a meeting with Mr. McAuliffe so that I could hear in person his complaints.

Chairman CARPER. And what year was that?

Mr. MAYORKAS. I do not quite recall. It was quite some—2 years ago?

Chairman CARPER. All right.

Mr. MAYORKAS. Quite some time ago. And I heard those complaints, and that was the extent of the interaction.

I should say that I engage with the public very often. I meet with associations, groups, individuals, representatives, and the like who voice concerns, who praise us when we do jobs well. One of my areas of focus on behalf of the agency as a whole is to increase and elevate the level of public engagement so that we are a transparent agency, transparent not only to the public that we serve but to the media whose responsibility it is in part to hold us accountable, and, of course, to this Committee, to the Committee of oversight to which we are held accountable.

I heard Mr. McAuliffe's complaints, and I moved on with my work.

Chairman CARPER. Did you ever hear from him again after that meeting?

Mr. MAYORKAS. I recall Mr. McAuliffe—

Chairman CARPER. Let me just back up. Did you come back to your agency and say, after the meeting with him and the other folks that were part of the meeting, let us do things differently, let us change what we are doing, let us change our course, I had this meeting? And how did you react once you got back to work?

Mr. MAYORKAS. The answer to your question, Mr. Chairman, is absolutely not. I do remember returning to the office and complaining about the fact that I had to hear complaints.

Chairman CARPER. All right.

Mr. MAYORKAS. That is all.

Chairman CARPER. And you are probably used to hearing complaints about this program. It sounds like there are a lot of them.

Mr. MAYORKAS. Yes.

Chairman CARPER. From elected officials and from those who are not.

Mr. MAYORKAS. Yes. And my mantra to the workforce is the following: "Do not shrink from criticism. Just work very hard not to deserve it."

Chairman CARPER. OK. I think the basic question here is, for those who are suggesting that these unnamed sources and innuendo and anonymous assertions, is the question of whether you, if you will think of the scales of justice, if you have placed your hand

on the scales of justice, to somehow—whether it was in the case of the business case in the Gulf Coast or other places, whether you have placed your hand on the scales of justice to change a decision that is being made by the folks in your agency. Would you just respond to that on the record, please?

Mr. MAYORKAS. Mr. Chairman, for 12 years as a Federal prosecutor, I served as an officer of the court. I do not—I have not changed my approach to the execution of my responsibilities. I continue to hold myself up as an officer of the court. I enforce the law. I enforce the law based on the facts. I do not put my finger on the scale of justice. The scale of justice is based on the facts and the law, and nothing else.

And I should say that Gulf Coast complained in 2011, they complained in 2012, and they continue to complain in 2013. And we will follow the law and administer the law based on the principles which I articulated and nothing less and nothing otherwise. And I will say for someone to be accused of tipping the scales and in 2013 referring the matter to the Fraud Detection and National Security Directorate for appropriate action based upon a question of the project's integrity seems a bit contradictory.

Chairman CARPER. Yes, it does.

Mr. MAYORKAS. It is very difficult to have allegations swirling and not have had an opportunity to address them. And I am eager to be interviewed by the Inspector General's Office, and I wish I had been interviewed earlier.

Chairman CARPER. I wish we had an Inspector General confirmed by the Senate in place to do that in this Department. Two years have passed since we have had that.

One last question. The vote has started, so I will ask maybe one last quick question before we close and then give you a short opportunity to make a closing statement of your own.

In my old role as Governor, every month I would meet with my legal counsel, and we would go over requests for pardons, requests for commutations, and my legal counsel would make recommendations. We would go through the case. I used to serve on the Board of Pardons when I was State treasurer. And from time to time, my staff would reach out to other people and ask them questions, this person is coming before the Governor, recommended for a pardon or commutation by the Board of Pardons, and we would ask for input.

One of my colleagues I think raised with you a question about a pardon that was being considered by President Clinton near the time that he left office. As we all know, when Presidents are about to leave office, there is kind of a rush to see if we cannot get a President to issue a pardon or a commutation. And our understanding from one of my colleagues is that someone reached out to you from the Clinton White House and asked a question about a particular case. Can you just share that with us and share with us the nature of that discussion, that conversation?

Mr. MAYORKAS. Yes, Mr. Chairman—

Chairman CARPER. I just want to get it clear. I think you responded to this before. I will ask you to respond to it one last time.

Mr. MAYORKAS. Most certainly, Mr. Chairman. Thank you for the opportunity. Yes, that question was posed to me when I appeared

before the Judiciary Committee of the U.S. Senate in the confirmation hearing for the position of Director of U.S. Citizenship and Immigration Services, which I now hold. The White House reached out to me when I was the United States Attorney for the Central District of California and asked me whether I supported the commutation of a narcotics trafficker that had been prosecuted in the District of Minnesota by my colleague, my fellow United States Attorney, and I informed them that I did not support the commutation, that I did not know the facts of the case, and that deference should be afforded to the Federal prosecutor in the District of Minnesota who prosecuted that case.

Chairman CARPER. Thank you.

The last thing I want to do is just give you an opportunity to make a very short statement, a short closing statement, and then I want to make one of my own, and I am going to run and vote. Please. Thank you for your testimony today.

Mr. MAYORKAS. Thank you very much, Mr. Chairman, for the privilege of appearing before you and before the distinguished Members of the Committee.

Let me, if I can, say that one of the greatest sources of honor that I have had in my professional career is to serve alongside the men and women of the United States Citizenship and Immigration Services. It is an extraordinarily dedicated and talented workforce.

It has been equally an honor to serve as an Assistant United States Attorney and United States Attorney. I love public service. I love aspiring to fulfill the highest ideals of public service. I love being an officer of the court. I love being a guardian of the law. I love the privilege and the honor of always doing the right thing.

I also love my family. I love my two brothers that are here. And I love the family that they are representing here.

I adored my parents. My parents were individuals of unflinching integrity and ethics and honor. And I have executed my public service responsibilities in a way in which they would be proud. And if I have the privilege of being confirmed as the Deputy Secretary of Homeland Security, I will continue to do so.

Thank you.

Chairman CARPER. Thank you for those words.

When we met earlier this week, we talked a little bit about your parents. I am sure you will recall that. And you said these words, and I will paraphrase, but I think this is pretty much what you said. You said: I live my life to honor my parents. And I think if your parents were here today—I am sure they are tuning in, looking down—my guess is they are very proud of their three sons.

I think it was Thomas Jefferson who used to say, “If the people know the truth, they will not make a mistake.” The purpose for this hearing is to try to ensure that we get to the truth, that we do not hear about rumor and innuendo and unconfidential sources, anonymous sources for investigations that take not just weeks but months, now almost a year. We have to get to the truth. You have helped us to get there. And while I am disappointed that some of our colleagues could not join us today, my hope is that they will have an opportunity to consider what has happened today and what we have heard today and what we have learned.

I also hope that the Inspector General or the Acting Inspector General or whoever is in charge in the Inspector General's shop these days over at the Department of Homeland Security, I hope they will put their foot on the accelerator and get this done. Justice—what is the old saying? “Justice delayed”——

Mr. MAYORKAS “Is justice denied.”

Chairman CARPER [continuing]. “Is justice denied.” And we have a Department that is without a confirmed Deputy Secretary, will soon be without a Secretary, that has gaping holes in its leadership, and we need to address it. Of all the departments of our Federal Government, this one, perhaps more than any, needs leadership, needs strong leadership, and they have had that in Janet Napolitano and Jane Holl Lute, and you and others with whom you serve. And God knows they are going to need it in the months and the years to come as we deal with cyber attacks, which are occurring at this very moment, with terrorist attacks, which are being planned this day, with the challenges that will come from immigration reform legislation if we are able to implement it, and with God knows how many other challenges that are before us.

The last thing I would say is just a word on integrity. One of my favorite sayings is, “Integrity”—I do not know who said this, but it is a good one. “If you have got it, nothing else matters. Integrity, if you do not have it, nothing else matters.” And it sounds like to me that your parents infused in you and your brothers a fair amount of integrity. And we appreciate that. We appreciate your presence here.

This hearing record will remain open until noon tomorrow, July 26th at 12 p.m., for the submission of statements and questions for the record.

With that, this hearing is adjourned. Thank you all.

Mr. MAYORKAS. Thank you, Mr. Chairman.

[Whereupon, at 12:40 p.m., the Committee was adjourned.]

A P P E N D I X

**Opening Statement of Chairman Thomas R. Carper
Nomination of Alejandro Mayorkas to be Deputy Secretary of the Department of
Homeland Security
July 25, 2013**

As prepared for delivery:

Today we meet to consider the nomination of Alejandro Mayorkas, President Obama's choice to serve as Deputy Secretary of the Department of Homeland Security. Mr. Mayorkas currently serves as the Director of U.S. Citizenship and Immigration Services. We thank him for that service and for his willingness to be considered for the Deputy Secretary position.

This Committee is responsible for working with the Administration to help protect our nation's security at home and abroad. At the same time, we strive to make sure federal agencies work better and more efficiently with the resources we entrust to them.

Part of that responsibility is ensuring that we have effective leaders in place to provide essential guidance. To that end, our Committee must consider Administration nominees in both a thorough and a timely manner as part of the full Senate's confirmation process.

At DHS alone, I believe there are fifteen senior leadership positions that are, or will be, vacant in the very near future. At least six of these positions require Senate confirmation. I call this phenomenon "Executive Branch Swiss Cheese."

Congressman Jason Chaffetz, a Republican colleague from Utah who sits on the House Homeland Security Committee, recently put the leadership predicament at DHS this way: -- *'It's one of the biggest agencies that we have, and it's got one of the lowest levels of morale on record based on the surveys. And when you have vacancies at the top, you have this vacuum that's unfulfilled, and there is a total lack of leadership.'*

In six weeks, we face the prospect of a Department of Homeland Security led by an acting Secretary and an acting Deputy Secretary. The issues this Department deals with every day are daunting: the threat of terrorist attacks; cyber attacks on a 24/7 basis; border security; immigration reform, and the list goes on.

This Department has needed and will continue to need strong leadership. Janet Napolitano and former Deputy Secretary Jane Holl Lute have provided it for the past four years. Jane has already left and Secretary Napolitano will be gone by early September. All of us must feel a sense of urgency to ensure that we have the leadership the Department needs in place.

Having a confirmed Deputy Secretary of Homeland Security will help fill this leadership vacuum. It is critical, then, that we carry out our constitutional responsibility to provide "advice and consent."

Although our nominee is currently the Director of the agency that manages the largest immigration system in the world, I'm sure it comes as no surprise to him when I say the next Deputy Secretary will have some big shoes to fill.

The former Deputy Secretary, Jane Holl Lute, was widely respected by this Committee for her leadership, expertise, and candor. I think it's safe to say that the Department needs somebody with her same level of commitment to tackling problems head-on.

In no small part, due to her leadership, the Department made great strides in many areas – for example, in narrowing the many operational and management issues identified as "high risk" by the Government Accountability Office.

In my talks with Director Mayorkas I believe he understands well these management challenges and is committed to continuing these efforts and to move the Department further forward.

His leadership has earned the respect of several former DHS officials, including Jane Holl Lute, Richard Skinner (Inspector General), Elaine Duke (Undersecretary for Management), and Robert Bonner (CBP Commissioner)—all of whom have written strong letters of recommendation for Director Mayorkas.

I'd like to ask for unanimous consent to enter these letters and all the others we have received—including one from the U.S. Chamber of Commerce— into the hearing record.

I would also like to take a minute to review Director Mayorkas' qualifications. The Senate has twice before found him qualified for Senate-confirmed positions. The Senate confirmed him by voice vote in 1999 to serve as U.S. Attorney for the Central District of California, the largest federal judicial district in the nation. It did so again in 2009 to serve as the Director of U.S. Citizenship and Immigration Services.

As Director of U.S. Citizenship and Immigration Services he has made national security a priority by taking on fraud head on. He even created a new Directorate for fraud detection and prevention.

He was also responsible for turning around the agency's ambitious "Transformation" project to create an electronic case management system. This system had previously been mired in cost overruns and schedule delays. Now, it is on much sounder footing and is beginning to deliver new capabilities for users every few months.

He was also in charge of standing up a massive new program – the *Deferred Action for Childhood Arrivals*. Not everyone may agree on the merits of this program, one which I support. But I think we can all agree that getting it up and running in a very short time – 60 days to be exact – is a remarkable accomplishment.

Of course, with the immigration debate in Congress still ongoing, Director Mayorkas' expertise would be extremely helpful in leading the Department that would be charged with implementing comprehensive immigration reform.

But there are also some questions that have recently been raised about Director Mayorkas' qualifications.

Over the last 72 hours, we have learned – albeit through some rather unusual circumstances -- that Director Mayorkas is reportedly the subject of an on-going DHS Inspector General investigation. News reports suggest that the investigation relates to his purported role in facilitating investor visas.

At this point in time, we do not have all the facts. It's also my understanding that Director Mayorkas, has not even been interviewed by the Office of Inspector General, despite the fact that this investigation began nearly a year ago in September 2012. Furthermore, the Office of Inspector General apparently does not have any "preliminary findings" regarding Mr. Mayorkas – in contrast to earlier reports. In fact, the initial allegations have not been confirmed at this point in time and the Office of Inspector General has found no wrongdoing by Mr. Mayorkas.

Lastly, before this highly sensitive information was disseminated in a rather questionable manner on Monday night, the Office of Inspector General had not informed Mr. Mayorkas of its investigation.

So, rather than allowing rumor, speculation, and innuendo to rule the day, this hearing will allow us to continue the process of vetting this nominee.

I recognize that our Republican colleagues, in a letter sent to me yesterday, would like me to hold all action – including even a hearing – on Mr. Mayorkas' nomination until the Inspector General has concluded his investigation. I respectfully disagree.

First, a hearing provides an appropriate setting for Members of our Committee to ask questions of the nominee and get answers in public and under oath. This type of open forum where Members ask questions and the nominee is given the opportunity to respond should be encouraged, not stifled.

Second, in talking with the Office of Inspector General, we know it is months away from completing its investigation. And given that this office is confronting its own set of challenges and controversies – including lacking a Senate confirmed leader for over two years--it appears highly likely that this investigation will not be concluded in a timely manner.

I believe it would actually be irresponsible to leave the Department without a permanent Deputy Secretary until the investigation is completed – especially given that, in early September, we will not have in place a Senate-confirmed Secretary to run the Department.

How can we honestly expect this Department to effectively and efficiently carry out its mission - - things like stopping cyber attacks, responding to natural disasters, or preventing another Boston-like terrorist bombing, or preparing to implement comprehensive immigration reform -- without strong and stable leadership?

Given the qualifications of this nominee and the critical need for leadership in the Department, I believe it is important to proceed with nomination hearing today. In doing so, we will be

practicing one of my core principles -- to adhere to the 'Golden Rule' by treating others as we want to be treated.

At the end of the day, I'm interested in the truth and nothing but the truth. I hope my colleagues on this Committee feel the same way. All nominees, Mr. Mayorkas included, should have an opportunity to address Members' questions about the nominees' experiences and qualifications for a positions -- both in public and in private. I have seized the opportunity to speak with Mr. Mayorkas privately several times in regards to his qualifications and I believe he deserves to tell his story in public. I have also taken the opportunity to review Mr. Mayorkas' FBI file, not once, but twice. Nothing in my conversations with Mr. Mayorkas or in my review of his FBI file has convinced me that we should not be holding this hearing today.

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**Statement of Senator Mary L. Landrieu
Introducing Alejandro N. Mayorkas
Nominee for Deputy Secretary, Department of Homeland Security
July 25, 2013**

Mr. Chairman, it is my distinct privilege to join Senator Feinstein in introducing Mr. Alejandro Mayorkas as the nominee for the position of Deputy Secretary of the Department of Homeland Security. I was pleased to learn that President Obama nominated Mr. Mayorkas, and I am happy this Committee will hear his testimony today.

I have had the opportunity to work with him closely during the last two years on an issue of great importance. Many members may be familiar with the tragic backlog of hundreds of intercountry adoption cases pending since 2007 involving Guatemalan children and American parents in need of a champion and a voice.

The Director has been one of my strongest allies in the Administration in encouraging the Guatemalan government to process these outstanding cases. Mr. Mayorkas has spent a considerable amount of time working with me and the State Department to resolve this issue on behalf of the children and families involved.

In his role as Director, he has led the largest immigration bureau in the world, supervising over 18,000 employees and 200 offices worldwide and earning accolades for increasing transparency and accountability at the bureau.

As Deputy Secretary of DHS, Mr. Mayorkas will oversee day-to-day operations and serve as the Department's chief operating officer.

Mr. Mayorkas' previous experience provides a solid foundation for his future work and an extensive knowledge of our immigration system and the overall mission of the Department of Homeland Security. As the Chairman of the Homeland Security Appropriations Subcommittee, I care deeply about the management of this Department and believe him to be uniquely qualified for the job.

I have every confidence in his devotion to safeguarding our nation and his ability to effectively perform his duties in this new role. It is my honor to present Mr. Mayorkas to the members of this committee and to support his nomination.

STATEMENT FOR THE RECORD

Senator Tom Coburn

Ranking Member, Senate Homeland Security and Governmental Affairs Committee

Nomination Hearing for Alejandro Mayorkas

July 25, 2013

As the members of our Committee are by now aware, the Department of Homeland Security Office of Inspector General has confirmed it is investigating allegations of conflicts of interest, misuse of position, mismanagement and appearance of impropriety in actions by the witness at today's hearing, Mr. Mayorkas, as well as other U.S. Citizenship and Immigration Services (USCIS) officials.

The lack of confirmed leadership at the Department is a serious problem which concerns us all deeply. At the White House's request, my staff has worked in good faith to expedite our review of Mr. Mayorkas' nomination.

Unfortunately, neither the White House, nor DHS, nor Mr. Mayorkas himself disclosed to us the existence of an active investigation into Mr. Mayorkas, featuring allegations which, if true, may directly apply to his fitness to serve as Deputy Secretary and potentially Acting Secretary of DHS.

Asking Mr. Mayorkas to testify before our Committee in light of this investigation is unfair and improper. It is unfair first to Mr. Mayorkas, positioning him to face questions in a public forum based on incomplete understandings of the facts and allegations of the investigation into his conduct. It is unfair to Mr. Mayorkas also because his sworn testimony today could complicate any eventual legal strategy, should he face administrative or criminal charges. Perhaps most concerning, this hearing could force Mr. Mayorkas to make a choice between answering questions and exercising his fundamental Constitutional rights. I cannot in good conscience participate in forcing him to make that choice.

It is unfair to the Inspector General's investigators, who are as we speak attempting to fairly and fully determine the facts surrounding the allegations before them.

It is also unfair to the members of the Committee. We cannot fairly execute our duties without inquiring about any issues of concern regarding the nominee, which may include those under investigation. Are we to avoid asking questions regarding allegations which carry serious implications for Mr. Mayorkas' professional conduct? Are we to ask questions which could hurt Mr. Mayorkas or the investigators on his case?

Holding this hearing in light of an active investigation into serious, relevant allegations of professional misconduct by the nominee, and over the objections of the ranking member and others, appears to be virtually without precedent in the history of this or any other Senate committee.

As I and other members have already expressed, we believe the Committee must wait until these allegations against Mr. Mayorkas are resolved before deciding whether to move forward with his nomination.

I cannot participate in a hearing I believe to be unfair and improper to all parties involved. This is not a path I would choose under ordinary circumstances, but these circumstances are far from ordinary.

Once the allegations before the Inspector General are resolved and the Committee confirms no outstanding investigations exist regarding Mr. Mayorkas, I look forward to fully and fairly considering his nomination to be Deputy Secretary.

Senator Dianne Feinstein
Statement of introduction for the nomination of Alejandro N. Mayorkas to be Deputy
Secretary for the Department of Homeland Security
July 25, 2013

It is a pleasure for me to introduce President Obama's nominee for Deputy Secretary of the Department of Homeland Security, Alejandro Mayorkas.

I have known Ali for many years and am proud to have recommended him to President Clinton for the position of United States Attorney for the Central District of California as well as to President Obama for his current position as Director of U.S. Citizenship and Immigration Services.

The role of Deputy Secretary within the department is really an important one. The deputy secretary is charged with overseeing the agency's efforts to counter terrorism and enhance the security and management of our borders, while facilitating trade and travel, and enforcing our immigration laws.

Additionally, this secretary assists in the safeguarding and security of cyberspace and provides support for national and economic security in times of disaster in coordination with federal, state, local, international and private sector partners.

Mr. Mayorkas I believe is well-qualified for this position. He brings to this office a diverse background and set of experiences in both the private and public sectors.

Born in Havana, Cuba, Mr. Mayorkas earned his B.A. with distinction from the University of California, Berkeley in 1981. He earned his law degree from Loyola School in 1985.

Those who have enjoyed the opportunity to work with him regard him as being highly intelligent, thoughtful, kind, compassionate and dedicated to doing the "right thing."

From 1989 to 1998, he served as an Assistant U.S. Attorney for the Central District of California where he prosecuted a wide array of federal crimes, specializing in the prosecution of white-collar crime. Federal law enforcement agencies recognized his success with multiple awards. For example, he received commendations from FBI Director Louis Freeh for his successful prosecution of Operation PolarCap, the largest money laundering case in the nation at the time.

He continued to distinguish himself by becoming the first U.S. Attorney in the Central District of California to be appointed from within the office. He created the Civil Rights Section in the office to prosecute hate crimes.

He developed an innovative program to address violent crime by targeting criminals' possession of firearms, prosecuting street gangs, and at the same time developing after-school programs to help at-risk youth discover and realize their potential. He uniquely demonstrated the ability to simultaneously be firm with criminals, protective with the innocent and supportive and empowering to our future leaders.

As supported by the many law enforcement and community awards he received during his tenure as U.S. Attorney, Mr. Mayorkas' accomplishments extended beyond his district.

He successfully expanded his office's community outreach programs and cooperation with international players in the fight against crime. He directly resolved cases while also overseeing hundreds of attorneys addressing immigration matters, which included complex and sensitive prosecution of individuals and rings producing false immigration documents, illegal reentry cases and alien smuggling conspiracies.

The Administrator for the Drug Enforcement Administration, Michele Leonhart, noted "he was instrumental in broadening collaboration between law enforcement agencies to address violent crime and expanded cooperation with other nations to address the growing threat of transnational crime."

Combined with his prosecuting white collar crime, public corruption, computer-related crime and international money laundering, she wrote that such a "broad base of experience... provides him with a unique perspective on threats to national security."

He further developed his sharp legal skills and management experience as a partner at O'Melveny & Myers from 2001 to 2009 where he represented companies in high-profile and sensitive government enforcement cases. He was recognized by his worldwide firm with an annual award for "leadership, excellence and citizenship," and was named by the National Law Journal as one of the "50 Most Influential Minority Lawyers in America" in 2008.

Since his confirmation as director of USCIS four years ago in 2009, he has continued to exert his positive influence through leadership, excellence and citizenship in accomplishing the agency's mission. He has improved the immigration services and policies of USCIS by realigning its priorities for a modern-day America that seeks to preserve its legacy as a nation of immigrants while ensuring national security and public safety—no easy task.

Throughout his current role, he has successfully preserved and increased the integrity of our immigration laws by decreasing fraud and bringing accountability to our immigration system. He has worked to secure our nation's criminal and immigration laws in the face of increasing gang and border violence.

As technology advances, so too have our needs to prevent fraud and to safeguard immigration documents from tampering. Mr. Mayorkas has confronted that challenge by enhancing the scope and frequency of national security vetting of applicants for immigration benefits and by redesigning immigration documentation with enhanced security features.

He has led USCIS in the other half of its mission, to preserve the role of America as a just nation that treats immigrants at our shores humanely and with an eye toward the potential they bring to our nation.

To combat notario fraud and other unscrupulous practices that undermine the integrity of the immigration system, Mr. Mayorkas launched the Unauthorized Practice of Immigration Law initiative. It is a nationwide collaborative effort with federal, state and municipal agencies and enforcement authorities that works to raise awareness among immigrant communities and to investigate and prosecute wrongdoers.

After the 2010 earthquake in Haiti, he developed and implemented a humanitarian parole program on an emergency basis to save orphans and unite children with their adoptive families here.

Significantly, under President Obama's directive to grant deferred action to immigrants who were brought to this country as children and who seek to legally remain in the United States, Mr. Mayorkas swiftly implemented the Deferred Action for Childhood Arrivals initiative in 60 days. In less than one year, over half a million people have applied to remain in the United States, the only home they've known.

He has realigned the agency's organizational structure, including 246 offices and facilities worldwide, to more accurately serve key priorities and achieve efficiency. He has stringent budget reviews that have resulted in cost-saving measures of \$160 million in budget cuts for FY10.

Mr. Chairman, I took an additional amount of time because I know there are currents swirling around Mr. Mayorkas's confirmation. But I also know that this is an incredibly special human being who is well deserving of this position and I know that this committee will do the right thing and confirm him for nomination to the floor of the Senate.

TESTIMONY OF
ALEJANDRO N. MAYORKAS
DIRECTOR, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
BEFORE THE UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
JULY 25, 2013

Mr. Chairman, Ranking Member Coburn, Members of the Committee,

I am deeply honored by the President's nomination and the opportunity to appear before you.

In my professional life I have had the privilege of serving our country for nearly sixteen years. My love of our country and my drive to serve it are grounded in my family history and upbringing. My parents brought my sister and me to this country as political refugees in 1960, having escaped the communist takeover of Cuba. Our parents instilled in their children a deep and everlasting appreciation for the freedoms and liberties that define our country and an abiding respect for its laws. Our nation, they taught us, is like no other, and its qualities are never to be taken for granted but instead cherished and protected.

My parents also taught us what it means to live a principled life, a life grounded in values, ethics, honor, and integrity. Their teachings, advice, lectures, admonitions, and support were strong but not more powerful than the lesson of example: they conducted themselves as I aspire to lead my life. As this Committee considers whatever I have accomplished, please understand that it is a glimpse into the character of my parents.

For nearly twelve years I served our country as a federal prosecutor in the United States Attorney's Office for the Central District of California. Each and every day, day and night and most often seven days a week, I enforced the laws of this land and I did so aggressively and with distinction. As an Assistant United States Attorney I prosecuted and tried cases against narcotics traffickers, violent criminals, money launderers, white collar criminals, illegal telemarketers, immigrant smugglers, and many others. I pursued justice forcefully, demanded accountability, and vindicated the rights of victims and our communities. When I became the Chief of the office's General Crimes Section, I trained new Assistant United States Attorneys how to prosecute and try cases on behalf of the federal government, and I instilled in them the principles of federal prosecution and the ideals of law enforcement and public service.

Upon the recommendation of Senator Dianne Feinstein and the United States Senate's confirmation, I became the first United States Attorney in the Central District of California to be promoted to the position from within the office. I served as the chief federal law enforcement officer in the largest federal judicial district in the nation, leading an office of 240 Assistant United States Attorneys in the prosecution of cases to protect a jurisdiction of more than 180 cities and a population of more than 18 million people. We partnered and collaborated with law enforcement at all levels of government – federal, state, tribal, and local – in our collective, forceful, and unwavering pursuit of justice.

For the past nearly four years I have had the privilege of serving as the Director of U.S. Citizenship and Immigration Services, an agency within the Department of Homeland Security whose workforce and reach span the globe as we administer the largest immigration system in the world. To this position I have brought my foundation and skills as a federal prosecutor and as a leader and manager. With an incredibly talented and dedicated workforce, we have prioritized and strengthened our agency's national security safeguards and more vigorously combated fraud; we have become more transparent and accountable to our inspectors, overseers, and the public we together serve; we have realigned our organizational structure to better execute our priorities and deliver greater efficiency; and, we have introduced and maintained greater fiscal discipline to ensure that we are careful stewards of the funds we receive.

Now I am before you as the President's nominee to be the Deputy Secretary of the Department of Homeland Security. I am deeply honored to be here and excited by the opportunity – the privilege – to work with you and with the men and women of the Department of Homeland Security to effectively and efficiently help secure our country's homeland. The Department has achieved a great deal in advancing the security of our nation, and its progress is the result of strong leadership, this Committee's oversight, and the selfless, hard work of the Department's employees who are committed to the mission and the calling of public service.

There are challenges and there are opportunities. Terrorist threats against our country are persistent and evolving, natural forces cause disasters that cost lives and wreak life-altering damage, and emerging cyber threats must be managed while protecting privacy and civil liberties and maintaining the Internet as an engine of economic growth. The Department has developed and matured in systems and processes, yet further progress is imperative. The Department must eliminate management risks that are high and the subjects of which are fundamental to good government; it must build on the significant achievements of former Deputy Secretary Jane Holl Lute. The Department must be better integrated internally, across the federal government, and with its critical and dedicated partners that are first-responders in state, local, and tribal governments, and in the private sector. The firefighters, police officers, sheriffs, emergency personnel, and critical infrastructure owners and operators across our country understand better than most the challenges of protecting, preparing, and responding to the human and natural threats we confront.

We have the capabilities to successfully address the challenges and seize the opportunities. The men and women of the Department are its greatest resource, and leadership and management can and must inspire and deliver the best in them. Through efficient collaboration and coordination with our partners at all levels of government and in the private sector, we can maximize valuable resources and spare unnecessary effort and expense. This Committee's oversight provides a critical catalyst for improvement and your rightful demands for accountability ensure disciplined and scrupulous adherence to the principles and values of good government.

I have the experience, ability, character, and commitment to help lead and manage the Department and work closely with this Committee to successfully address the challenges and seize the opportunities. I have fought in the crucible of the courtroom, led task forces and trained cadres of new prosecutors, led federal law enforcement in the largest federal judicial

district in the nation, and led the globe-spanning federal agency that administers the largest immigration system in the world. I have realigned institutions, built and maintained partnerships, charted new directions, and imposed fiscal discipline and restraint. I have accomplished this and more with my phenomenal colleagues throughout my nearly sixteen years of public service.

I hope I have the privilege of future accomplishments with the oversight of this Committee. I believe in the Department's accountability to you, and if I have the honor of being confirmed to be the next Deputy Secretary of the Department of Homeland Security, I will work closely with you to help lead and manage the Department in a manner and with personal qualities that bring pride to this Committee and earn the respect and admiration of the public whom you represent.

I have been honored to serve the United States of America. This country has given my family and me our freedom and liberty, and precious opportunities.

It is a privilege to appear before you. Thank you for the opportunity.



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

JUL - 3 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Alejandro N. Mayorkas, who has been nominated by President Obama for the position of Deputy Secretary, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jane S. Ley".

Jane S. Ley
Deputy Director

Enclosures **REDACTED**

June 28, 2013

Joseph Maher
Designated Agency Ethics Official
Department of Homeland Security
Washington, DC 20528-3650

Dear Mr. Maher:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am appointed to the position of Deputy Secretary, Department of Homeland Security.


As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

My spouse and I will divest our interests in the following entities within 90 days of my confirmation: Alerian Master Limited Partnership, AT&T, Cisco Systems, Exxon Mobil, General Electric, Goldman Sachs, Guaranty Bancorp, Intel, Johnson & Johnson, Merrill Lynch, Microsoft, PPL Corp., and Pfizer. With regard to each of these entities, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the entity until we have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to § 208(b)(2).

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13490) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Sincerely,

A handwritten signature in black ink, appearing to read "Alejandro N. Mayorkas". The signature is fluid and cursive, with the first name "Alejandro" and last name "Mayorkas" being clearly legible, and "N." as a middle initial.

Alejandro N. Mayorkas

**COMMON QUESTIONS FOR
EXECUTIVE NOMINEES**

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Deputy Secretary, Department of Homeland Security	06/27/13

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Alejandro	Nicholas	Mayorkas	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 20 Massachusetts Avenue NW		
City:	State:	Zip:	City:	State:	Zip:
Washington	DC	20007	Washington	DC	20529

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Ali (nickname)	Nicholas	Mayorkas			11/59 Est X	Present Est ()
					() Est	Est ()

Birth Year and Place	
Year of Birth (Do not include month and day.)	Place of Birth
1959	Havana, Cuba

Marital Status					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

Spouse's Name (current spouse only)			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Tanya	Fawn	Mayorkas	

Spouse's Other Names Used (current spouse only)						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
Tanya	Fawn	Nathan		X	10/67 Est X	10/99 Est <input type="checkbox"/>
					<input type="checkbox"/> Est	Est <input type="checkbox"/>

Children's Names (if over 18)			
First Name	Middle Name	Last Name	Suffix
Charlotte	Margaret Elizabeth	Mayorkas	

2. Education List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Loyola Law School	Law School	9/1982 Est X	5/85 Est Present X	Juris Doctor	May 1985
University of California at Berkeley	University	9/1977	1981 (with break in 1979) Est Present X	B.A.	June 1981
University of California at Los Angeles	University	1979	1979 Est. X	N/A	

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location (City and State only)</u>	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Federal Employment	U.S. Citizenship and Immigration Services	Director	Washington, DC	8/2009 Est X	Present Est X
Private Sector	O'Melveny & Myers LLP	Law Partner	Los Angeles, CA	9/2001 Est X	8/2009 Est X
Federal Employment	United States Attorney's Office for the Central District of California	United States Attorney (previously, Assistant U.S. Attorney)	Los Angeles, CA	9/1989 Est X	4/2001 Est X
Private Sector	Patterson, Belknap, Webb & Tyler (during portion of timeframe, known as Rosenfeld, Parnell & Shames)	Law Firm Associate	Los Angeles, CA	4/1989 Est X 2/1986	9/1989 Est X 4/1987

Private Sector	Cooper, Epstein & Hurewitz (law firm no longer in existence)	Law Firm Associate	Beverly Hills, CA	4/1987	Est X	3/1989	Est □
Private Sector	Law Office of Colyn Desatnik	Part-Time Hourly Law Clerk	Beverly Hills, CA	10/1985	Est. X	Est. 1/1986	
Private Sector	Law Office of Dennis Harley	Part-Time Hourly Law Clerk	Los Angeles, CA	6/1983		5/1985	
Private Sector	Fulop & Hardee (law firm no longer in existence)	Assistant Law Librarian	Beverly Hills, CA	6/1981		8/1982	
Academia	Loyola Law School	Adjunct Professor, Trial Advocacy	Los Angeles, CA	2006		2007	

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
Transition Team for President-Elect Barack Obama	Leader, Criminal Division Transition Team, U.S. Department of Justice	11/2008 Est X	12/2008 Est Present X □
California Commission on Fair Administration of Justice	Commissioner	2006 Est X	2008 Est Present X □

(C) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

4. Potential Conflict of Interest

(A) Describe any business relationship, dealing or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the U.S. Department of Homeland Security's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official

and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

(B) Describe any activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

During the estimated time period of 2006 through 2008, I served as a Commissioner of the California Commission on the Fair Administration of Justice (appointed by California State Senate). The Commission was formed to make proposals furthering the administration of justice in criminal proceedings.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

I have received a considerable number of awards and commendations during my tenure as the Director of U.S. Citizenship and Immigration Services, in private law practice, and during my 12 years in government service in the United States Attorney's Office for the Central District of California. These include:

Director, U.S. Citizenship and Immigration Services

- Golden Door Award, 2011
Illinois Coalition for Immigrant and Refugee Rights
- Excellence in Government Service Award, 2013
Mexican American Legal Defense and Education Fund
- Public Service Award, 2013
Coalition for Humane Immigrant Rights of Los Angeles
- One of the 101 Most Influential Latino Leaders, 2012
Latino Leaders Magazine
- One of the 101 Most Influential Latino Leaders, 2011
Latino Leaders Magazine

Private Law Practice

- Named in 2008 by the National Law Journal as one of the "50 Most Influential Minority Lawyers in America"
- Named in 2006, 2007, 2008 by Los Angeles Magazine as a Los Angeles "Super lawyer"
- Named in 2007, 2008 as one of the "Best Lawyers in America" in "Best Lawyers in America."
- Recipient, O'Melveny & Myers' Values Award, annual award given to two partners worldwide who exemplify the firm's values of leadership, excellence, and citizenship
- Chair, Warren Christopher Scholarship Committee

- Chair, O'Melveny & Myers' Values Awards Committee
- Loyola Law School Alumnus of the Year Award (2001)

Service in the United States Attorney's Office, Central District of California

- United States Postal Inspection Service Award for the successful prosecution of Buford O. Furrow, Jr.
- Special commendations from U.S. Attorney General Janet Reno and F.B.I. Director Louis J. Freeh for the successful prosecutions in Operation Polar Cap (drug money laundering cases)
- Commendations from the F.B.I. and the I.R.S. for the successful prosecution of the federal tax, loan fraud, and money laundering case against Heidi Fleiss
- Commendation from the U.S. Department of Justice for successfully directing Operation Senior Sentinel in the Central District of California (nationwide takedown of illegal telemarketers)
- Commendations for the successful prosecution of ten civil forfeiture actions in *United States v. Steven D. Wymer* (white collar fraud forfeiture actions)
- Commendation from the D.E.A. for outstanding contributions in the field of law enforcement
- Commendation from the United States Secret Service for outstanding contributions in the field of law enforcement
- Commendation from Concerned Citizens for judicial excellence
- Special Achievement Awards for outstanding service as an Assistant United States Attorney
- Named in 1999, 2000 by the Daily Journal as one of the 100 most influential attorneys in California
- I have received numerous additional awards from federal, state, and local law enforcement agencies for outstanding contributions in the field of law enforcement. However, I have not retained information on the specific awards or the dates of the awards.

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Bet Tzedek Legal Services	2002-2009	Chairman of the Board, Board Member
California Commission on the Fair Administration of Justice	2006-2008	Commissioner
Cedars-Sinai Medical Center	2005-2009, 2005-2007	Board of Governors, Member of Audit Committee
Charles Drew University of Medicine & Science	2005-2008	Board of Trustees
Loyola Law School Center for Juvenile Law and Policy	2005-2009	Board of Advisors
Anti-Defamation League	2003-2009	Regional Board
Planned Parenthood Los Angeles	2002-2009	Board Member
United Friends of the Children	2002-2009	Board Members
State Bar of California	1986 – present	Member
Federal Bar Association	2006 – 2008	Board Member
Chancery Club	2001 – 2009	Member
National Association of Former United States Attorneys	2002 – present (estimated)	Member
Pacific Council International	2006 – 2009 (estimated)	Member
World Affairs Council	2005 – 2009	Member
American Bar Association	1986-2009 (estimated)	Member
American Bar Association Committee on Ethics and Professionalism	2005-2007	Co-Chair

Los Angeles County Bar Association	1994-2000	Member
Hispanic National Bar Association	2010-2012	Member
Association of Business Trial Lawyers	2006-2009 (estimated)	Member
Sierra Club	2001-2009	Member
University of California at Berkeley Alumni Association, Member	1981-2009	Member
American Jewish Committee	2002-2009	Member
Human Rights Watch	2007-2009	Member
Nature Conservancy	2005-2009	Member
Women Against Gun Violence	2002-2009	Advisory Board Member
Criminal Law Section, State Bar of California	1997	Executive Committee Member

7. Political Activity

Have you ever been a candidate for or been elected or appointed to a political office?

No.

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Eric Garcetti, Los Angeles City Council	Hosted fundraiser	Raise funds for Candidate	2006-2008
Wendy Greuel, Los Angeles City Controller	Hosted fundraiser	Raise funds for Candidate	2006-2008
Dianne Feinstein	Raised funds	Asked for Campaign Donations	2006-2008

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

To the best of my recollection:

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Joseph R. Biden, Jr.	500.00	2008
O'Melveny & Meyers Political Action Committee	420.00	2008
O'Melveny & Meyers Political Action Committee	210.00	2008
Obama Victory Fund	2500.00	2008
Obama Victory Fund	2000.00	2008
Obama Victory Fund	2300.00	2008
DNC Services Corporation/Democratic National Committee	2500.00	2008
DNC Services Corporation/Democratic National Committee	2000.00	2008
O'Melveny & Myers Political Action Committee	210.00	2009
O'Melveny & Myers Political Action Committee	420.00	2009

Barack Obama for America	2500.00	2011
Campaign for Teen Safety -- Planned Parenthood Affiliates of California	750.00	2008

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
Immigration Chief Outlines his Priorities	The Atlanta Journal-Constitution	June 6, 2013
First USCIS National Vietnamese Public Engagement a Success	USCIS website	February 26, 2013
A Special Naturalization Ceremony in Honor of the First President of the United States	USCIS website	February 22, 2013
Introducing An Online Resource For Immigrant Entrepreneurs	USCIS website	November 28, 2012
The USCIS Electronic Immigration System's First 1,000 Cases	USCIS website	July 3, 2012
USCIS and the Smithsonian Institution Launch Preparing for the Oath	USCIS website	May 24, 2012
USCIS Combats Human Trafficking	USCIS website	January 27, 2012
USCIS Develops Transformation System: Testing in Progress	USCIS website	December 2, 2011
Ensuring that International Entrepreneurs Continue to Create Jobs Here in America	USCIS website	November 8, 2011
Addressing the Challenges Ahead: Immigration and American Competitiveness	USCIS website	October 5, 2011
Citizenship Day and Constitution Day Celebration	USCIS website	September 22, 2011

A Nation of Laws and a Nation of Immigrants	USCIS website	August 16, 2011
Encouraging Entrepreneurs and High Skilled Workers to Bolster the U.S. Economy and Spur Job Growth	USCIS website	August 2, 2011
The EB-5 Program: Creating Jobs in America	USCIS website	May 19, 2011
Director Mayorkas – Our Work Touches the Lives of Many	USCIS website	March 15, 2010
A Message from Director Mayorkas	USCIS website	January 21, 2010

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
American Immigration Lawyers Association (AILA)	San Francisco, CA	June 27, 2013
League of United Latin American Citizens (LULAC)	Las Vegas, NV	June 20, 2013
Mexican American Legal Defense and Education Fund	Washington, D.C.	April 24, 2013
Champions of Change: Entrepreneurship	Washington, D.C.	May 29, 2013
Catholic Legal Immigration Network, Inc. (CLINIC)	Crystal City, VA	May 22, 2013
Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)	Los Angeles, CA	April 18, 2013
USCIS Town Hall	Washington, D.C.	April 9, 2013
Conference of Mayors	Washington, D.C.	January 18, 2013
USCIS National Stakeholders Conference	Washington, D.C.	June 26, 2012

USCIS Town Hall	Washington, D.C.	June 7, 2012
American Council on International Personnel (ACIP)	Arlington, VA	June 5, 2012
American Immigration Lawyers Association (AILA) CLE Conference	Washington, D.C.	March 30, 2012
Testimony – Safeguarding the Integrity of the Immigration Benefits Adjudication Process	House Judiciary Subcommittee on Immigration Policy and Enforcement	February 15, 2012
USCIS Ombudsman Conference	Washington, D.C.	October 20, 2011
U.S. Chamber of Commerce	Washington, D.C.	September 28, 2011
American Immigration Lawyers Association (AILA)	San Diego, CA	June 16, 2011
Press Conference – the Unauthorized Practice of Immigration Law	Washington, D.C.	June 9, 2011
American Council on International Personnel (ACIP)	Pentagon City, VA	June 7, 2011
American-Jewish Committee Immigration Forum	Washington, D.C.	June 5, 2011
University of Southern California Immigrant Integration Conference	Los Angeles, CA	April 6, 2011
Press Conference – E-Verify: Self-Check	Washington, D.C.	March 21, 2011
National Association of Attorneys General	Washington, D.C.	March 7, 2011
Woodrow Wilson Center – Citizenship and Integration Grant Program	Washington, D.C.	September 17, 2010
Human Trafficking, DHS Blue Campaign	Washington, D.C.	July 22, 2010
USCIS Employees: World Refugee Day	Washington, D.C.	June 2010
National Association of Latino Elected and Appointed Officials (NALEO) Conference	Denver, CO	July 1, 2010

Testimony – Oversight of USCIS	Senate Judiciary Committee	May 11, 2010
American Immigration Lawyers Association (AILA) Spring Conference	Washington, D.C.	March 26, 2010
Testimony – Oversight of USCIS	House Judiciary Committee Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law	March 23, 2010
Testimony – USCIS Budget Request for Fiscal Year 2011	House Appropriations Subcommittee on Homeland Security	March 16, 2010
USCIS Town Hall	Washington, D.C.	February 26, 2011
Human Rights First: 30 th Anniversary of Refugee Act	Washington, D.C.	March 16, 2010
USCIS Town Hall	Washington, D.C.	November 19, 2009
E-Verify Symposium	Washington, D.C.	November 19, 2009
Citizenship and Integration Grant Program	Washington, D.C.	September 17, 2010
Testimony – Confirmation Hearing	Senate Judiciary Committee	June 24, 2009
Hispanic National Bar Association panel on corporate compliance and responsible corporate citizenship	Washington, D.C.	September 2008
Ninth Circuit Judicial Conference panel on “Spanning the Globe: Dilemmas of Law and Policy”	San Francisco, CA	July 31, 2008
American Bar Association conference panel “Real to Reel – Images of Ethics and Professionalism in the Courtroom” (no notes)	Washington, D.C.	April 18, 2008

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

Title	Place/Audience	Date(s) of Speech
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American Civil Liberties Union Luncheon	Los Angeles, CA	June 27, 2007
American Bar Association panel on the Sarbanes-Oxley Act: The New Corporate Standards	Los Angeles, CA	March 6, 2006
Los Angeles County Bar Association panel on United States Attorney's Office and SEC prosecutions of white collar crime	Los Angeles, CA	Fall 2003 (estimate)
Practicing Law Institute Corporate Compliance workshop	Los Angeles, CA	July 2003
American Bar Association panel on trial advocacy	Los Angeles, CA	April 2003
Orange County, California Bar Association Conference panel on criminal and SEC enforcement	Orange County, CA	March 2003

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) No.

Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?

No.

Have you been charged, convicted, or sentenced of a crime in any court?

No.

Have you been or are you currently on probation or parole?

No.

Are you currently on trial or awaiting a trial on criminal charges?

No.

To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?

No.

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

Date of offense:

Is this an estimate (Yes/No):

Description of the specific nature of the offense:

Did the offense involve any of the following?

Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes / No

Firearms or explosives: Yes / No

Alcohol or drugs: Yes / No

Location where the offense occurred (city, county, state, zip code, country):

Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No

Name of the law enforcement agency that arrested/cited/summoned you:

Location of the law enforcement agency (city, county, state, zip code, country):

As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: Yes / No

If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

If no, provide explanation:

Were you sentenced as a result of this offense: Yes / No

Provide a description of the sentence:

Were you sentenced to imprisonment for a term exceeding one year: Yes / No

Were you incarcerated as a result of that sentence for not less than one year: Yes / No

If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

If conviction resulted in probation or parole, provide the dates of probation or parole:

Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: Yes / No

Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
1996	Surrogate's Court, Kings County	In re Estate of Giselle Fox	Probate	Resolved in favor of Estate
1995	Superior Court of Los Angeles	Limon v. Mayorkas	Automobile Accident	Judgment in favor of plaintiff (\$5,000)
1991	Superior Court of Los Angeles	Mayorkas v. Del Rio et al.	Automobile Accident, Fraud	Settlement
1984	Superior Court of Alameda	Schmidt v. Mayorkas	Paternity/family law	Settlement

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

Since my confirmation in 2009, there have been over 4600 civil district court cases filed against USCIS. These suits challenge USCIS immigration benefits adjudications and authorities. I have been named in my official capacity in the majority of these civil district court filings (and appeals thereof). They do not involve my individual decisions, but rather challenge official USCIS decisions and practices carried out by officers and employees of USCIS as part of their official duties over which the Director is the highest supervisory authority.

In addition, federal employees who challenge personnel actions will file against their agency, not against individual managers. Accordingly, during my tenure at USCIS multiple complaints have been filed against USCIS. A handful of those complaints concerned actions taken by me in my official capacity. Of the complaints filed, with the Equal Employment Opportunity Commission and Office of Special Counsel, there have been no findings of discrimination or other improper conduct by me.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
March 2010	SDNY	Bedis Zormati	Plaintiff brought <i>Bivens</i> and FTCA claims against several federal agencies and numerous government officials alleging that USCIS improperly delayed his 2001 application to adjust his status to lawful permanent resident (which was granted in 2008) because of his Arabic descent	On November 15, 2010, the SDNY issued a decision granting the United States government's motion to dismiss the FTCA and <i>Bivens</i> claims for lack of subject matter jurisdiction and for failure to state a claim. In issuing its decision, the Court held that the government had not waived its sovereign immunity with regards to the alleged constitutional tort claims. The Court also found that the Plaintiff failed to state a claim with regards to the <i>Bivens</i> claims

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

No.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
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Issued/Initiated			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

12. Tax Compliance

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No.

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred

compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Aljando N. Mayson

This 19th day of July, 2013



District of Columbia
 Subscribed and sworn to before
 me this 19th day of
July 2013
[Signature]
 Notary Public

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Alejandro Mayorkas to be
Deputy Secretary of Homeland Security**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Deputy Secretary of Homeland Security?

I am deeply honored and grateful to the President for nominating me to be the next Deputy Secretary of Homeland Security. While I cannot speak for the President, I believe I was nominated for this position because I have proven my ability to effectively lead a large organization that spans the world in presence and reach and one that has varied and expansive responsibilities and goals. In my current position as Director of U.S. Citizenship and Immigration Services, and before that as United States Attorney for the Central District of California, I have established myself as a leader and manager who is able to inspire and guide a large organization to achieve its mission responsibilities with greater efficiency, accountability, and transparency. I am a leader with integrity, discipline, and commitment to the highest ideals of government service.

2. Were any conditions, express or implied, attached to your nomination? If so, please explain.

No.

3. What specific background and experience affirmatively qualifies you to be Deputy Secretary of Homeland Security?

Since I was confirmed by the U.S. Senate in August 2009, I have effectively led and managed U.S. Citizenship and Immigration Services, the federal agency that administers our nation's legal immigration system, the largest in the world. The agency has an 18,000-person workforce, offices throughout the nation and the world, and mission responsibilities that are varied and expansive. I have inspired and guided the workforce to achieve its mission responsibilities with greater efficiency, accountability, and transparency. Under my leadership, U.S. Citizenship and Immigration Services has achieved unprecedented success in its careful stewardship of resources, efficiency and modernization, innovation, and effectiveness. I have overseen a significant elevation of the agency's safeguards to protect national security and to deter and detect fraud. I have attached for your reference a summary of U.S. Citizenship and Immigration Services' significant accomplishments during my tenure as its Director.

Prior to becoming the Director of U.S. Citizenship and Immigration Services in August 2009, I was a partner in the international law firm of O'Melveny & Myers LLP. In that capacity, I advised large corporations in crisis situations and on matters of corporate governance, refining my education and experience in leadership, organizational responsibility and accountability, and effective management. I served as a member of O'Melveny & Myers LLP's worldwide governing Policy Committee, and as the Chair of its Values Committee.

Prior to joining O'Melveny & Myers LLP, I served as the U.S. Senate-confirmed United States Attorney for the Central District of California, leading one of the largest United States Attorney's Offices in the nation. I was the first United States Attorney in that Office to have been promoted from within, having served immediately prior to my appointment as an Assistant United States Attorney for the Central District of California for approximately nine years. In the United States Attorney's Office, I prosecuted federal crimes across the entire spectrum of federal criminal law, including national security cases, public corruption, government fraud, narcotics trafficking, cybercrimes, immigration crimes, financial fraud, and civil rights violations.

I have developed and refined leadership and management skills over the course of my career in public service and the private sector that equip me well to help lead and manage the Department of Homeland Security. I am able to propel an organization, however large and expansive in size and mission, to achieve unprecedented levels of success; I can do so by bringing out the best in its people. My leadership is grounded in integrity, discipline, hard work, accountability, responsible stewardship, and the highest ideals of public service.

I cannot identify my professional background and experiences as qualifying factors without commenting upon my family and my upbringing. My parents brought my sister and me to this country as political refugees escaping the Communist takeover of Cuba. My parents instilled in me a profound gratitude and loyalty to this nation and a deep and abiding respect for the law. They taught me how to lead an ethical and principled life, one based on values and hard work. It is their guidance that is the bedrock of my qualifications and why I am confident I can fulfill the responsibilities of the Deputy Secretary of Homeland Security in a way that makes this Committee proud.

4. **Have you made any commitments with respect to the policies and principles you will attempt to implement as Deputy Secretary of Homeland Security? If so, what are they and to whom have the commitments been made?**

If confirmed, I commit to be bound and abide by the Oath of Office I will swear to uphold, should I be confirmed as the Deputy Secretary of Homeland Security. I have not made any other commitments with respect to the policies and principles I will attempt to implement if confirmed as Deputy Secretary of Homeland Security.

5. **If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.**

If I am confirmed as the Deputy Secretary, I will follow all applicable recusal laws and policies with regard to matters that arose in U.S. Citizenship and Immigration Services during my tenure as its Director and that are raised to the office of the Deputy Secretary.

II. Role and Responsibilities of Deputy Secretary of Homeland Security

6. **The Deputy Secretary of the Department of Homeland Security (“DHS” or “the Department”) has very little specific statutory authority in the Homeland Security Act; in practice, much of the Deputy Secretary’s authority is derived from arrangements or agreements made with the Secretary.**

- a. **What do you believe your role at DHS will be as Deputy Secretary vis-à-vis the role of the Secretary? On which mission areas or management functions of the Department do you expect that you will be principally engaged?**

Because the Deputy Secretary serves as the first assistant to the Secretary, if confirmed I would expect to undertake a role in strategic and operational matters across the entire Department. In addition to those duties assigned by statute and Executive Order, the Department’s standing delegations from the Secretary include a wide range of responsibilities assigned to the Deputy Secretary. If confirmed, I will seek the Secretary’s further direction on the areas of responsibility in which I will focus, drawing upon my expertise and experience in management, law enforcement, national security and immigration.

- b. **How will Sec. Napolitano’s planned departure from the Department and possible temporary vacancy at the Department affect your role?**

I am proud of what the Department has accomplished under Secretary Napolitano’s leadership. Under her direction, the Department has become stronger and more integrated than ever before. Because of the timing of her departure, there is a possibility that, if confirmed, I would serve for a short period as the Acting Secretary pursuant to the Federal Vacancies Reform Act. If such a situation occurs, I would be prepared to serve as Acting Secretary until a new Secretary of Homeland Security is confirmed.

7. **On what priorities do you believe the Department should focus, if you are confirmed as Deputy Secretary of Homeland Security? What do you hope to accomplish during your tenure as Deputy Secretary?**

Over the past four and one-half years, under Secretary Napolitano’s and Deputy Secretary Lute’s leadership, the Department has made significant progress in transforming 22 agencies from across the Federal Government into a single integrated Department, building a strengthened homeland security enterprise and a more secure America better equipped to confront the range of threats we face. With the Secretary’s and Deputy Secretary’s departures, it is critical that we continue to build on this progress. If confirmed as Deputy Secretary, I will continue to focus on the Department’s core missions: preventing terrorism and enhancing security; securing and managing our borders; enforcing and administering our immigration laws; safeguarding and securing cyberspace; and, building resilience to disasters. Critical to accomplishing our core

missions is to build on the progress that has been made in maturing and strengthening the homeland security enterprise. If confirmed as Deputy Secretary, I will drive the Department's efforts to implement a comprehensive, strategic approach to Department-wide integration and improved acquisition oversight, ensuring full consideration of the investment life cycle in cost estimates, establishing procedures to thoroughly vet new requirements and alternative solutions, and supporting full funding policies to minimize acquisition risk. I will also continue the Secretary's initiatives to cut costs, find efficiencies, share resources across Components, and consolidate and streamline operations wherever possible.

If confirmed as Deputy Secretary, I will work closely with this Committee to fulfill these critical and core responsibilities and I will ensure that this Committee is fully informed of the Department's progress.

- 8. In many areas, the responsibilities of the Department of Homeland Security intersect with those of other cabinet departments.**
- a. How do you view the role of DHS vis-à-vis other cabinet departments, and what lessons from your work at U.S. Citizenship and Immigration Services can help you establish or maintain effective working relationships with other Departments?**

The Department of Homeland Security's success in achieving its varied mission responsibilities depends significantly on its coordination and collaboration with other cabinet departments, especially because many of the Department of Homeland Security's responsibilities complement those of other cabinet departments and because the Department of Homeland Security has a federal coordinating role in a number of different arenas.

As the Director of U.S. Citizenship and Immigration Services, I have worked closely with partners across the federal government and built strong collaborative relationships with leaders in other cabinet departments to ensure the effective administration of federal law. Like the Department of Homeland Security of which we are a part, U.S. Citizenship and Immigration Services shares complementary responsibilities with other cabinet departments, including for example the Departments of State, Justice, Labor, and Health and Human Services. Being a good partner, understanding, developing, and respecting respective roles and responsibilities, and building collaborative and complementary relationships rather than inefficient redundancies are vitally important to good governance and careful stewardship of public resources. I have done so. I am an eager and cooperative partner focused on the overarching effectiveness and efficiency of the federal government and, if confirmed as Deputy Secretary of Homeland Security, I would work to ensure that the Department of Homeland Security achieves its mission in the service of this overarching goal.

b. Do you believe any authorities or interagency organizational structures should be modified to ensure DHS is able to effectively coordinate interagency operations, such as catastrophic disaster response?

I have been an active participant in many of the existing structures that enable effective interagency coordination, such as through procedures developed by the President under the National Security Council and the Domestic Policy Council. Although I do not have specific proposals for changes to structures or authorities at this time, if confirmed I would look forward to the opportunity to continually assess existing and alternative methods for effective coordination on interagency operations. As the environments for addressing the challenges we face change--whether in addressing disaster response, counterterrorism, or effective implementation of immigration policies--we benefit from a flexibility that allows for the modification of our coordination structures to meet those challenges most effectively.

9. How will your experiences as the Director of U.S. Citizenship and Immigration Services, the United States Attorney for the Central District of California, and a partner in a private law firm influence your leadership approach at the DHS?

Through my professional experiences, including my current and prior leadership of significant federal government organizations, I have developed as a leader who can bring out the best in people, one whose leadership is grounded in integrity, discipline, hard work, accountability, responsible stewardship, and the highest ideals of public service. I have learned how to tackle the most complex and long-standing challenges, to effect change when warranted, to develop and strengthen partnerships, to innovate, and to bring greater discipline to the management of large institutions. Should I be confirmed, I will bring these qualities and commitment to the Department of Homeland Security in my role as its Deputy Secretary.

10. During your previous confirmation hearing, you described your role in the commutation of a convicted drug dealer's sentence by President Clinton. The individual in question, Carlos Vignali, was convicted in 1994 for helping to deliver more than 800 pounds of cocaine from Los Angeles to Minneapolis. His sentence was commuted by President Clinton in 2001, after he had served less than half of his sentence. At the time, press reports suggested that you had played a role in this commutation. Can you explain exactly what your role was in this commutation, including whether you ever recommended that Mr. Vignali's sentence be commuted?

As I testified before the Senate Judiciary Committee during my last confirmation process, in late 2000 to the best of my recollection, I received a call from the White House about the Vignali case. I telephoned the Department of Justice, to which I reported as U.S. Attorney, and inquired whether it would be appropriate for me to return the telephone call and I was informed that I could do so. I returned the telephone call and, at the outset of the brief conversation that followed, I was asked whether I recommended the commutation and I said I did not. I said that I was not familiar with the facts of the case and that deference should be given to the United States

Attorney for the District of Minnesota, who led the prosecution of the Vignali case. My subsequent response to general questions about rehabilitation and the role of family in rehabilitation was apparently construed otherwise. I made a mistake in returning the telephone call to the White House.

III. Policy Questions

Management, Integration, and Mission Support

Management

11. **In 2003, the Government Accountability Office (GAO) placed the integration and transformation of the Department on its “High Risk” list. In February of this year, GAO narrowed the focus of the Department’s “High Risk” designation. In doing so, GAO explained that DHS has implemented key homeland security operations and has made considerable progress in transforming its component agencies into a single cabinet-level department. However, despite finding the Department has made important strides in strengthening management, continued progress is needed in improving acquisition, information technology, financial management, and human capital management functions.**

- a. What role do you believe the Deputy Secretary should play in addressing the “High Risk” management weaknesses that have been identified by GAO?**

The Department has made significant progress in addressing the “High Risk” management weaknesses that the GAO has identified, but there is more work to be done. The “High Risk” management weaknesses must remain a high priority and, if confirmed as the Deputy Secretary, I will work closely with the Department’s Under Secretary for Management, GAO, this Committee, and other critical players to ensure that the Department’s progress is achieved as effectively, efficiently, and swiftly as possible. If confirmed, I will keep this Committee fully apprised of the Department’s efforts and its progress.

- b. What do you believe are the most important actions the Department should take to strengthen the overall management of the Department?**

In its June 2013 report to GAO, the Department identified the following high priority actions and outcomes over the next two years to further strengthen the Department’s management function:

- Achieve a clean opinion on a full-scope financial statement audit for FY 2013. Further, ensure that the necessary support infrastructure (e.g., people, processes, and systems) is in place to sustain a clean opinion for multiple years.
- Complete the pilot phase and institutionalize the Integrated Investment Life Cycle Management framework.
- Improve employee morale.

- Complete the integration of business intelligence systems across management's business lines to ensure valid data inform critical business decisions.

If confirmed as Deputy Secretary, I will assess these high priority actions and outcomes in the context of the Department's management needs and supplement this list as warranted. In addition, I will ensure that action items are clearly and specifically defined, timetables for action are fully in place and adhered to, and clear and sound metrics are in place in order to measure the success of our efforts.

12. **In your 2009 Senate Judiciary Committee confirmation hearing, in response to a written question from Senator Grassley, you stated you would "develop a close working relationship with ICE to help ensure that fraud and abuse are addressed through criminal prosecution...[and] to better understand our current communication of information to ICE and the information needs in ICE's enforcement of criminal law."**

- a. **As Director of USCIS, how did you work to ensure a robust working relationship between Immigration and Customs Enforcement (ICE) and USCIS?**

One of the first things I did when I became the Director of USCIS was to elevate our Fraud Detection and National Security component to the full Directorate level and increase the number of its staff by approximately 25 percent. I took this step to strengthen the agency's efforts to help safeguard our national security and combat fraud, including to enhance our working relationship with ICE and other intelligence and law enforcement partners.

As the Director of USCIS, I have worked closely with ICE to ensure that our immigration laws are effectively administered and enforced. During my tenure as Director of USCIS, the agency has collaborated extensively with ICE to strengthen our work in combating immigration crimes. USCIS has developed training for its adjudicators to more effectively identify and communicate the conditions that warrant a fraud referral to ICE, ensuring that USCIS case referrals for criminal prosecution are accurate and complete and that referrals are conducted in a consistent manner. Since 2009, USCIS has referred more than 15,000 cases to ICE for criminal prosecution, a more than 100 percent increase in the referral rate from the previous four years.

Our collaboration with ICE includes robust support for ICE's work in the criminal investigation arena. USCIS partners with ICE in identifying fraud and public safety concerns in the immigration benefits adjudication process by allocating more than 20 USCIS officers to ICE's Document Benefit Fraud Task Forces. These task forces are collaborations between ICE's Homeland Security Investigations and other federal, state, and local agencies that target criminal organizations and beneficiaries perpetrating identity, document, and benefit fraud schemes. Our Fraud Detection and National Security Directorate has detailed officers to ICE's Homeland Security Investigations to facilitate operational information sharing and to assist ICE with fraud investigations. USCIS has detailed an officer to the Homeland Security Investigations' Forensic Laboratory, a crime laboratory specializing in the scientific authentication and research of travel

and identity documents. This partnership has provided USCIS with access to a document exemplar library and document intelligence reports, the ability to obtain forensic documentation of identity documents submitted in support of immigration applications and petitions, and training opportunities in identifying fraudulent identity documents. We have provided ICE officers with access to our Fraud Detection and National Security Directorate's case management system, thus providing them with real-time access to all fraud and national security leads and cases identified by USCIS. The Homeland Security Investigations' Forensic Laboratory has provided our Fraud Detection and National Security Directorate access to its electronic document library to further facilitate our agencies' shared anti-fraud mission.

Since my tenure began as USCIS Director, we have also enhanced our collaboration with the FBI Joint Terrorism Task Force and all State and Major Urban Area Fusion Centers, all of which count ICE as a partner as well. These relationships provide USCIS with greater access to information that is critical to efforts to combat fraud and protect national security, while also facilitating the sharing of USCIS information and subject matter expertise that is useful to ICE and all of our law enforcement and intelligence partners.

- b. Do you believe there should be more effective coordination between USCIS and ICE? If yes and you are confirmed as Deputy Secretary, how will you use your experience as Director of USCIS to ensure this working relationship continues and is more effective?**

Coordination between and among agencies that share responsibilities is vital to the effective and efficient administration of government. The ability to execute complementary roles effectively achieves greater results, and the obligation to avoid or eliminate unnecessary redundancies and duplication of efforts, are critical to good governance and careful stewardship of resources. I will always look for new and better ways to increase coordination and collaboration to make the organizations I lead more effective and efficient.

Acquisitions

13. **In examining the Department's governance of its major acquisitions, GAO has found the Department's acquisition policies are generally sound and, if implemented, would help mitigate the risks of cost growths and schedule slips. However, GAO also has found the Department has authorized and continues to invest in many major acquisitions even though the acquisitions lack the key foundational documents needed to manage risks and measure performance, such as reliable cost estimates. What role should the Deputy Secretary play in ensuring that the Department's major acquisitions conform to the Department's policies throughout the acquisition lifecycle? Do you believe the Deputy Secretary should have an increased role on the Acquisition Review Board?**

In accordance with Management Directive 102, the Department's governing acquisition policy, the Deputy Secretary may serve as the Acquisition Decision Authority for some or all of Level 1

(> \$300 million) programs. In the Acquisition Decision Authority role, the Deputy Secretary may also choose to chair the Acquisition Review Board or delegate that responsibility to the Under Secretary for Management, who currently oversees that process as the Department's Chief Acquisition Officer. If I am confirmed as Deputy Secretary, I will closely monitor the progress of our major acquisition processes and make whatever changes are warranted to ensure that major acquisitions strictly adhere to the Department's policies and best practices. If confirmed, I will work closely with this Committee to ensure that this Committee is kept apprised of the Department's progress in the governance and effectiveness of major acquisitions.

With respect to GAO's findings, virtually all of the legacy programs cited as lacking foundational documents were initiated prior to the implementation of Management Directive 102-01 in January 2010. Further, most of those programs have been in "sustainment" mode for five years. The Department concluded that any retroactive changes to documentation would be largely administrative in nature and not of significant value to a particular program's performance.

However, if a legacy acquisition program comes forward to the Acquisition Review Board for approval to proceed to the next phase (e.g., exercise of an option, significant change in scope), then the documentation required by Management Directive-102 must be completed before authorization is granted. It should be noted that since Management Directive-102 was signed in 2010, no major acquisition program has been allowed to proceed to the next stage unless it complies with Management Directive-102 or it received authorization from the appropriate Acquisition Decision Authority to deviate from that policy.

Financial Management

14. **For the first time, the Department obtained a qualified audit opinion on its Fiscal Year 2012 financial statements. What role should the Deputy Secretary play in ensuring that the Department achieves and sustains a clean audit opinion?**

The Deputy Secretary is responsible for the effective and efficient stewardship of Department resources and the development and enforcement of accountability mechanisms to ensure this is accomplished. The Deputy Secretary works with agency leadership, in close coordination with the Under Secretary for Management, to ensure that weaknesses are identified and addressed, agencies and the Department are audit ready, and financial reporting is delivered consistent with business best practices.

This is a basic requirement of good government and it is especially important since passage of the DHS Audit Requirement Target Act of 2012 (DART Act, Public Law No. 112-217), signed into law on December 20, 2012. This law requires the Department to obtain an unqualified

(clean) opinion on the full set of financial statements in fiscal year 2013, and each fiscal year thereafter.

15. **Throughout its ten-year history, the Department has struggled with its efforts to modernize and integrate the numerous financial management systems on which the Department and its components operate. What do you see as the most viable path forward for the Department to develop real-time, accurate, and comprehensive data on its finances and to use this data to inform decisions on optimal use of scarce resources?**

To continue to develop timely, accurate, and comprehensive data on its finances and to use this data to help inform decision making, DHS's strategy should be multi-faceted. DHS should continue to incrementally build Department-wide financial reporting capabilities using business intelligence and data standardization with a common accounting line. Additionally, DHS will focus on modernizing component financial systems where needed.

For financial systems modernization – efforts consistent with OMB's "Shared First" initiative – DHS should use shared service providers where possible, rather than continuing to make costly capital investments in duplicative accounting systems. This approach will eliminate waste and duplication and allow DHS to leverage well-defined financial business enterprise architecture standards to close performance gaps and facilitate decision making, safeguarding and management of assets.

Workforce

16. **What is your general approach to managing personnel at all levels? What is your general approach to labor relations? What past experiences do you believe best demonstrate your approach and style in personnel management?**

I lead by example and I manage personnel by instilling or reinforcing in them a desire to achieve the highest levels of excellence. I also motivate individuals to redefine their capabilities and aspire to levels of excellence and achievement they previously may not have contemplated. I respect each and every person as a peer, and I lead as a member of the team. I demand integrity, teamwork, collaboration, candor, and mutual accountability. I demand loyalty to the organization and its mission – a unifying force – and strict adherence to the law and the highest ethical standards.

In my tenure as Director of U.S. Citizenship and Immigration Services, I have focused on strengthening labor relations efforts. The ability of an agency to progress, effect change, and be more effective and efficient depends on the shared openness and willingness of management and the Union. I do not make decisions in the labor-management area depending on who is the author or owner of a particular proposal, but instead on the merits of the proposal itself and its impact on the well-being of the agency as a whole, taking into account all relevant factors.

While there are many experiences that demonstrate my approach and style in personnel management, one very early in my tenure as Director of U.S. Citizenship and Immigration Services is worthy of mention because I believe it communicated to my agency colleagues how I approach this critical area of responsibility. In the immediate aftermath of the tragic January 2010 earthquake in Haiti, our agency had to quickly develop and implement, in partnership with the Departments of State and Health and Human Services, policies and procedures to rescue Haitian orphans and unite them with their adoptive parents in the United States. It was a crisis situation that required swift action and the balancing of needs and concerns often in tension with one another. I worked day and night (repeatedly through entire evenings), seven days a week for several weeks, right alongside my agency colleagues. My colleagues learned that I would work at their side, that I would support them fully in the execution of our mission, that I would work to ease any tensions amongst multiple agencies and further whatever position I thought was right, and that I had the utmost confidence and faith in their abilities. While extremely difficult decisions clearly rested on my shoulders and that fact distinguished my role, I led as a member of the team.

17. **Workforce surveys have consistently found the Department's employees are less satisfied with their jobs than the government's average. What do you consider to be the principal challenges in the area of human capital management at the Department? What steps would you take, if confirmed, to identify and address the root causes of the low workforce morale?**

The greatest resource of the Department of Homeland Security is its personnel. The Department's employees are dedicated to, and fulfilled by, the Department's missions and have so indicated in the employee viewpoint surveys. If I am confirmed as the Deputy Secretary of Homeland Security, one of my management priorities will be to work closely with the DHS Office of the Chief Human Capital Officer to focus on ensuring that our personnel are equipped with the tools they need to fulfill their responsibilities at the highest levels of excellence; have opportunities for growth and development within the government sector; are fully informed and engaged with leadership and management; are equipped as managers to mentor, develop, and lead others; and, have employment processes that are fair, transparent, and open.

18. **In December 2012, the Government Accountability Office (GAO) released a report entitled, "DHS Strategic Workforce Planning: Oversight of Department-wide Efforts Should Be Strengthened." GAO made two primary recommendations—DHS should "(1) identify and document performance measures to assess workforce planning efforts and (2) document policies and procedures regarding the use of internal audit results." These recommendations should help improve the implementation of DHS workforce planning and provide a method for DHS to assess the effectiveness of this strategic planning. According to GAO, DHS has concurred with these recommendations, but none have been implemented. If confirmed, what specific steps will you take to implement policies that address these concerns and close the GAO recommendations?**

DHS has taken steps to address GAO's recommendations and recently requested GAO's approval to close-out its recommendations.

DHS has integrated measurement and assessment of its workforce planning process into ongoing Human Resources Operations Assessments (HROA). DHS developed, piloted, and finalized an audit checklist based on the DHS Workforce Planning Guide in response to GAO's recommendation. This checklist informs the HROA report, which documents the evaluation and monitors progress on Component compliance with Departmental workforce planning requirements. In November 2012, members of the DHS Strategic Workforce Planning team began reviewing Component workforce planning programs and providing direction, feedback, and recommendations for improvement.

As documented in the DHS Human Capital Audit Manual, upon completion of an audit, a formal report is prepared and sent to the Component, which in turn provides feedback and submits a response letter and action plan. The responses are reviewed to determine if the action plan appropriately addresses the requirements and recommendations that resulted from the audit findings. Before workforce planning audit recommendations and requirements are approved as closed, strategic workforce planning subject matter experts are consulted.

GAO indicated that it requires further evidence of DHS actions prior to closing out the remaining Report recommendations. If confirmed as the Deputy Secretary, I will work closely with the Office of the Under Secretary for Management to ensure that the remaining recommendations are addressed fully and promptly.

19. **At U.S. Customs and Border Protection (CBP), there is an average of approximately 22,000 officers. The National Treasury Employee Union (NTEU), representing CBP officers, notes the ratio of line officers to supervisors is approximately 6:1. Since many supervisors do not serve in the booths to process travelers entering the U.S., even if certain airports increase the number of booths available, there are often not enough officers to fill them, leaving the booths empty in some of our busiest airports.**
 - a. **Do you believe this ratio is appropriate? Should this ratio be assessed periodically throughout the year to ensure proper allocation of employee resources?**

U.S. Customs and Border Protection (CBP) has approximately 18,000 frontline CBP Officers and 2,000 First-Line Supervisory CBP Officers for a ratio of approximately nine CBP Officers to one First-Line Supervisory CBP Officer (9:1). The actual supervisory ratio varies from port to port with some ports having a smaller or larger supervisory ratio.

If confirmed as the Deputy Secretary, I will ensure that staffing models in CBP and in each component of the Department are assessed on an ongoing basis so that resource allocations are made on the basis of complete information and sound strategy.

- b. At USCIS, what is the ratio of supervisors to line adjudication officers within the agency? How often, if at all, is this ratio assessed to determine proper allocation of employee resources throughout USCIS?**

USCIS has developed Staffing Allocation Models that guide appropriate staffing levels and supervisory ratios for Immigration Services Officers. The Staffing Allocation Models are developed or revised at least annually with the beginning of each new fiscal year. While the precise ratios can vary from pay period to pay period, in FY 2011, USCIS' operating budget authorized a supervisory ratio of no higher than 1:9 for our Field Operations and Service Center Operations – the largest operational components of USCIS. Recognizing the fact that supervisors would be focused on more employee development activities and efforts to increase quality, USCIS began adjusting the ratio in FY2012 to no higher than 1:8 for Immigration Services Officers. The new ratio allows for more supervisory interaction with employees and greater review of work products to ensure immigration decisions adhere to the law and the facts.

Policy

20. **In 2007, Congress amended the Homeland Security Act to require the Department to produce, every four years, a Quadrennial Homeland Security Review (QHSR). The review is intended to provide comprehensive strategies and priorities for the nation's homeland security, and ensure that strategies are clearly linked to plans, missions requirements, and budgeting activities.**

- a. What should be the proper role of the Deputy Secretary in developing the QHSR?**

The Deputy Secretary has overall management responsibility for the second QHSR, together with the Assistant Secretary for Policy and the Undersecretary for Management. The Deputy Secretary convenes the deputy component heads at the Department Strategy Council periodically through the review, to review final results and shape the preferred approach of each study topic for final decision by the Secretary and Component principals. The Deputy Secretary also addresses QHSR issues at the NSS Deputies Committee as necessary.

- b. In what ways should the next QHSR, which the Department is drafting this year, differ from the first QHSR, which was delivered to Congress in early 2010?**

By articulating an enduring vision for and definition of homeland security, and establishing five homeland security missions, the first QHSR answered the question, "What is homeland security?" Building on this foundation, the second QHSR will preserve the existing vision statement and the five homeland security missions, and focus on how DHS, together with partners across the homeland security enterprise, will build smarter, more dynamic, risk-based approaches to homeland security that engage the broadest possible range of partners.

Information Technology

21. **In March 2012, the Administration launched the “PortfolioStat” process, which required agency Chief Operating Officers (or their designee), to lead a department-wide review of the information technology (IT) systems operating within an organization to identify and eliminate areas of duplication and waste, investments that do not appear to be well aligned to agency missions, and other key considerations regarding an agency’s IT portfolio. At a recent committee hearing on reducing duplication in IT systems, the Government Accountability Office singled out DHS as being the “gold standard” in implementing this process, with estimated cost savings of approximately \$1.3 billion expected to be achieved from FY 2013 through FY 2015. If confirmed, what steps would you take to build on the Department’s efforts to reduce unnecessary IT systems and optimize the Department’s IT investments?**

In order to build upon the Department’s efforts to reduce unnecessary IT systems and optimize the Department’s IT investments, the Office of the Chief Information Officer continues to improve the Department’s Information Technology Investment Management processes.

DHS was advanced when the PortfolioStat process was introduced in FY 2012. DHS was already analyzing its IT infrastructure spending. As a result, DHS identified the second-largest cost savings on IT infrastructure spending in the Federal Government and the Department is on target to achieve those savings by FY 2016.

During the FY 2013 PortfolioStat process, DHS received the highest marks among its peer agencies from OMB on its Information Resources Management Strategic Plan and the DHS Enterprise Roadmap. These documents describe what the Department does in terms of Information Technology, how we do it, and our future plans. The goal is to transform DHS through planning and governance disciplines, proven best practices, and innovation.

Building upon these successes, if I am confirmed I will support the Office of the Chief Information Officer in its continuing efforts to promote Information Technology management transparency and consistency across all of the components to ensure DHS continues to deliver effective, timely, cost-efficient IT programs.

Finally, if I am confirmed I will strongly encourage innovation and incorporate it into DHS’s way of doing business to ensure we effectively deliver our mission, efficiently manage resources and operations, and provide resiliency in response to unforeseen disruptions.

Research & Development

22. **As the research, development, and testing arm of the Department, the Science and Technology (S&T) Directorate evaluates and supports technology initiatives throughout the Department and its component agencies. In recent years, the S&T Directorate has focused research efforts on high-priority, shorter-timeline projects to address strategic needs and increase value for the Department's programs. For example, the Directorate's Office of Acquisition Support and Operational Analysis helps Department components identify needs and benchmarks that can be reliably and objectively tested before the procurement of a new technology. The intent is to help procurement projects finish on-time and on-budget.**

a. What is your assessment of the S&T Directorate's ability to add value for the Department?

The mission of DHS S&T is to strengthen America's security and resiliency by providing knowledge products and innovative technology solutions.

New technologies and better analytical approaches are critical to successfully countering new and enduring threats and to meeting growing operational demands. Science, technology, and analytics are keys to doing more with less.

S&T adds value to the Department in a number of ways that enables the Department to perform its mission more effectively, efficiently, and safely. S&T's contributions to the Department can be considered in four categories:

- **New Capabilities and Knowledge Products:** S&T creates new technological capabilities that address DHS operational needs, such as next generation "walk through" AIT machines that will increase passenger throughput and experience while reducing false positives.
- **Process enhancements and operational efficiencies:** S&T partners with DHS components to conduct systems-based analyses to provide streamlined, resource-saving process improvements to existing operations.
- **Acquisition Support:** S&T supports major DHS acquisitions (i.e., those with life cycle costs greater than \$300 million) by overseeing Operational Test and Evaluation. S&T is also working with the Under Secretary of Management to strengthen the "front end" of the acquisition process to help devise rigorous requirements and avoid underperformance and misallocation of resources.
- **Understanding of Homeland Security Risks and Opportunities:** S&T's relationships across DHS, the federal government, and public and private partners contribute to strategic understanding of existing capability gaps and opportunities for collaboration across departmental, interagency, and state and local boundaries.

b. Are there changes to the S&T Directorate's budget that you would recommend to enhance its ability to partner with operational components, provide technical expertise, and recruit and retain skilled personnel?

If I am confirmed as the Deputy Secretary, I will assess the S&T Directorate's budget to ensure that the Directorate is able to effectively partner with operational components, provide technical expertise, and recruit and retain skilled personnel.

c. What role do you believe the Science and Technology Directorate should play in advancing the DHS mission?

The S&T Directorate is successfully partnering with the DHS operational Components and the first responder community to develop new technologies and knowledge products that make operations more efficient, effective, and safe. I think these partnerships should be encouraged and strengthened.

The Directorate also is the primary U.S. Government funding agency in four unique areas of R&D responsibility relevant to the homeland security mission:

- Civilian biodefense;
- Unclassified cybersecurity;
- Explosives detection in the aviation environment; and,
- Technologies for first responders.

The S&T Directorate also has the statutory authority to perform Operational Test and Evaluation on the Department's major acquisitions, a critical role in ensuring that the capacities the Department procures will meet mission needs. S&T also operates five laboratories and nine University Centers of Excellence that provide unique capabilities. These include the National Biodefense Threat and Countermeasure Center (NBACC), which performed the forensics on the recent ricin letters.

If confirmed as the Deputy Secretary, I will ensure the Directorate has an important role in acquisition efforts involving technology that can make the Department more effective and efficient. DHS should be at the cutting edge of technology development, procurement, and use: its mission, and good government, demand it.

d. What Department-wide policies would you advance to improve coordination of homeland security research and development or acquisitions, especially through the S&T Directorate?

If I am confirmed as the Deputy Secretary, I would explore the following ways in which we can advance such coordination:

- DHS has accepted and is taking steps to implement GAO's recommendations regarding the defining and tracking of R&D and accounting for the operational improvements delivered through the use of DHS components' new technologies.
- S&T can be more engaged in the "front end" of acquisition efforts, where the Directorate's technical expertise can be utilized to ensure that the mission needs of the Department are translated into useable requirements and sound systems engineering principles and life cycle cost management are rigorously applied. This effort is currently underway.

S&T's scientific, engineering, and analytical resources can be more broadly leveraged throughout the Department. This could be especially important in complex and costly Level 1 acquisitions, but should be utilized more broadly to ensure sound strategic decisions and the efficient and effective use of funds in scientific and technical pursuits.

Privacy and Civil Liberties

23. **Actions to prevent terrorist attacks have the potential to raise privacy and civil liberties concerns. As Deputy Secretary, you will frequently be required to evaluate programs to determine how best to protect the homeland while at the same time protecting individuals' privacy, civil rights, and civil liberties. What basic principles do you believe should guide such evaluations?**

In 2010, Secretary Napolitano said that our national security and our national civil rights and civil liberties protections are in most cases "intertwined.... [A]mong the aspects that must be made secure are our fundamental rights and freedoms." I agree with the Secretary. In securing the homeland and doing everything possible to prevent terrorist attacks, we must not sacrifice the rights and liberties that set us apart as a nation. Ensuring respect for these values necessitates an ongoing assessment and calibration of our programs with these considerations in mind. If I am confirmed as Deputy Secretary, I will hold as one of my highest duties the responsibility to protect all that we value as a society, including our privacy, our civil rights and our civil liberties.

DHS currently has a number of structures in place to ensure appropriate vigilance to privacy and civil liberties concerns. For example, DHS uses the Fair Information Practice Principles (FIPP) to assess and evaluate the impacts of programs, systems, and initiatives on individuals' privacy. The FIPPs have been incorporated into our Department-wide Management Directive and Instruction on Privacy Policy and Compliance, giving all DHS personnel notice of their responsibility to protect personal information. The FIPPs are a widely accepted framework that is at the core of the Privacy Act of 1974 and is mirrored in the laws of many U.S. states, as well as many foreign nations and international organizations. Section 222 of the Homeland Security Act, which codifies the duties and responsibilities of the DHS Chief Privacy Officer, explicitly calls on the Chief Privacy Officer to "assur[e] that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974." The FIPPs provide the foundation of all privacy policy development and implementation at the Department and must be addressed whenever a DHS program or activity,

whether new or ongoing, raises privacy concerns or involves the collection of personally identifiable information from individuals, regardless of their status.

Unlike the more widely-established framework for privacy considerations under the Privacy Act (and its FIPPs), civil rights and civil liberties concepts are derived from a number of sources: fundamental Constitutional rights, like those found in the Bill of Rights; statutory rights, such as the prohibition on discrimination on the basis of disability found in the Rehabilitation Act and Americans with Disabilities Act; and additional rights and norms developed through regulations, executive orders, and other policy documents.

24. **To ensure that privacy and civil liberties concerns are appropriately addressed at the highest levels of the Department, Congress created both a Privacy Officer and an Officer for Civil Rights and Civil Liberties. If confirmed, how will you seek to support the mission of these important offices and ensure that privacy and civil rights and liberties are appropriately supported throughout the Department?**

The Department's mission is to protect the nation, which includes protecting the ideals underlying our way of life, not just physical security. For this reason, protecting privacy, civil rights and civil liberties is both our mandate (under the Homeland Security Act, as amended, the Department is required to "ensure that civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland") and integral to our mission. In furtherance of this mission, Congress wisely recognized the need to have two senior leaders at the Department with statutory mandates that are both distinct and complementary and who report directly to and advise the Secretary and Deputy Secretary.

The Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties are responsible, respectively, for considering Departmental privacy and civil rights and civil liberties issues on a daily basis and for ensuring appropriate protections have been implemented. As such, both the Privacy Officer and the Officer for Civil Rights and Civil Liberties are key members of the Department of Homeland Security's leadership team.

If confirmed as the Deputy Secretary, my role will be to ensure that these two Officers are brought into the process of planning programs or initiatives across the Department so that we know at the outset what the concerns are and how we can properly address them.

- a. **Do you view the roles of these two Officers to be different? If so, how? If their responsibilities are similar, would you recommend these positions be consolidated into one office? Why or why not?**

DHS is unique among federal agencies in the breadth and diversity of its mission, which extends across civil and administrative functions, law enforcement, and intelligence. I view the roles of two Officers as distinct and complementary; each has an important mission that supports the activities of the Department. Congress recognized the need to have senior leaders at the

Department whose primary roles were to consider privacy and civil rights and civil liberties issues on a daily basis. Congress also recognized that the complexity of the privacy and civil rights and civil liberties issues facing the Department required two separate portfolios in order to do justice to both. The current structure, which allows each Officer to concentrate on a distinct set of complex and often novel issues, has served the Department well. In a department as large and diverse as DHS, having two senior leaders, each focusing specifically on one key aspect of our mission, ensures that each is fully addressed.

The Chief Privacy Officer is responsible for ensuring that privacy considerations and protections are comprehensively integrated into all DHS programs, policies, and procedures, and for ensuring transparency - the ability to access information and records about our programs, mission, and about individuals. Pursuant to this statutory authority, the Chief Privacy Officer is tasked with ensuring that the Department's use of technologies sustains and does not erode privacy protections relating to the use, collection, and disclosure of personal information. The Chief Privacy Officer also ensures that personal information contained in Privacy Act systems of record is handled in full compliance with fair information practices, as set forth in the Privacy Act of 1974, as amended. The Chief Privacy Officer is also the Co-Chair of the Privacy Committee of the Federal Chief Information Officers Council. The Committee currently serves as the interagency coordination group for federal Chief Privacy Officers and Senior Agency Officials for Privacy. To achieve this mandate, the Chief Privacy Officer leads a dedicated staff of privacy professionals who comprise the DHS Privacy Office.

By comparison, the Officer for Civil Rights and Civil Liberties (CRCL Officer) has a discrete set of functions that are distinct from those of the Chief Privacy Officer and are also set forth in law. Pursuant to this mandate, the CRCL Officer must review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion by employees and officials of the Department; must assist the Secretary, directorates, and offices of the Department to develop, implement, and review DHS policies to ensure civil rights and civil liberties protections are included; must oversee compliance with constitutional, statutory, regulatory, policy or other requirements related to individuals' civil rights and civil liberties affected by Department programs and activities; and must investigate complaints and information indicating possible abuses of civil rights or civil liberties.

Like the Chief Privacy Officer, the CRCL Officer also has a dedicated staff of policy advisors and EEO specialists who further the mission by supporting other DHS elements by advising Department leadership and personnel on civil rights and civil liberties during policy creation and implementation; by communicating with individuals and communities affected by Department activities to both inform those communities and to promote attention within the Department to those communities' concerns; by investigating civil rights and civil liberties complaints; and by leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

Even with these different sets of responsibilities, however, the Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties coordinate and work closely together on many issues,

as the Department recognizes there are often intersecting and shared interests in the realm of privacy, civil rights and civil liberties.

If I am confirmed as Deputy Secretary, I will work closely with this Committee to address any concerns or issues this Committee has with respect to the Department's efforts to protect privacy interests and civil rights and civil liberties.

b. How do you expect these Officers to work with the Privacy and Civil Liberties Oversight Board (PCLOB)? What do you understand the role of the PCLOB to be vis-à-vis these two Officers?

The Department recognizes the PCLOB as an independent bipartisan agency within the executive branch that has a mandate related to oversight (and to a more limited extent, coordination) of privacy, civil rights and civil liberties concerns related to counterterrorism activities by executive branch agencies. The Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties met with four PCLOB members to discuss general topics of shared interest in the counterterrorism arena shortly after the confirmation of the board members, and the Chief Privacy Officer has met with the Chair separately. DHS – and specifically the Privacy Office and the Office for Civil Rights and Civil Liberties – look forward to working with a fully-constituted and staffed Board in a cooperative and meaningful way to ensure that DHS's counterterrorism-related operations include appropriate privacy and civil rights and civil liberties protections.

DHS Consolidation

25. For many years, DHS leadership has stated that having a unified headquarters in one location is vital to operations and the maturation of a cohesively functioning DHS. The St. Elizabeths' campus was envisioned as the headquarters for DHS, but the pace of the renovations has slowed due to reductions in available funding.

a. How important is the consolidation of DHS headquarters to improving the operations and efficiency of DHS?

The Department's experiences across the spectrum of operations highlight the critical need for the Department to operate with increased integration to effectively perform its mission.

The DHS mission is to lead a unified national effort to secure America. Yet the Department's legacy facilities are scattered in over fifty locations throughout the National Capital Region. This dispersion can impose inefficiencies in daily operations, problems that can be magnified at the most important moments -- when the Department must act as a nimble and integrated team responding to significant natural disasters or terrorist threats. To support the incident management and command-and-control requirements of the Department's mission, it is

important to continue development of the DHS Consolidated Headquarters at St. Elizabeths Campus in a secure setting.

Consolidation will allow the strategic realignment of the real property portfolio in the National Capital Region to more effectively and efficiently support the DHS mission. In addition, consolidation will contribute to reduced facility costs and provide quality workspace to attract and retain the best professional workforce.

b. How will you continue efforts to consolidate DHS headquarters operations and management in the interim?

In the interim, DHS's portfolio management program is focused to support the mission while reducing leasing, maintenance, and operating costs. This will be accomplished by improving space utilization and continuously refining real property requirements for both mission and mission support. Strategies to achieve greater efficiencies in real property include consolidating locations where efficiencies are demonstrated, continuing implementation of the workplace strategy for space efficiencies (improving space utilization and refining real property requirements), and disposing of surplus space.

With the Coast Guard's move to its new Headquarters at St. Elizabeths commencing in August of this year, it is important that the Department pivots from this first phase of the project and continues to make steady progress with the ongoing program to consolidate the DHS Headquarters. This effort will significantly reduce the number of locations in the National Capital Region, with St. Elizabeths eventually housing the core of DHS leadership and mission functions. The full build-out of St. Elizabeths has the potential to eliminate 35 or more locations across the National Capital Region.

Inspector General

26. **What is your view of the role of the Department of Homeland Security Inspector General? Please describe what you think the relationship between the Deputy Secretary and the Department's Inspector General should be. If confirmed, what steps would you take as Deputy Secretary to establish a working relationship with the Inspector General?**

The Department of Homeland Security Inspector General is a critical leader in ensuring the effective and efficient stewardship of Department resources in the service of our mission. The Inspector General brings unique independence and objectivity to the analysis of an agency's efforts and to issues arising within its workforce. The Inspector General is a great asset to the Department. During my time at USCIS, I have viewed the Office of Inspector General as an independent partner, not an adversary. We share the same mission of improving our ability to perform our missions every day. If confirmed, I will continue to partner with the Inspector

General as appropriate. I will also work collaboratively with my colleagues to ensure that the improvements suggested by the Inspector General are prioritized within the Department.

The Deputy Secretary can and should ensure that the Inspector General is fully empowered and equipped to meet its responsibilities and that agencies within the Department are fully cooperative with the Inspector General. The Deputy Secretary can also ensure that areas of deficiency, concern, or improvement that the Inspector General identifies in the course of its audit or investigative work are remediated or addressed fully and as expeditiously and efficiently as possible. The Deputy Secretary plays a critical role in ensuring independence, accountability, and valuable response.

If confirmed as Deputy Secretary, I would immediately establish systematic procedures with the Inspector General to ensure that I am aware of (when appropriate) Inspector General audits and investigations, any impediments to the timely completion of that critical work, results and recommendations, the status and progress of agency responsive actions, and the metrics of success. It would be my responsibility to ensure the quality of the relationship, the work, and the results.

27. How have you worked with the Department of Homeland Security Office of Inspector General (DHS OIG) in your current role as Director of USCIS?

The OIG has made valuable recommendations to improve USCIS' efforts to detect fraud in immigration benefit adjudications, which we have implemented. For example, as a result of OIG recommendations, we have promoted better collaboration between our fraud officers and adjudications officers, and strengthened training programs for all decision-makers, including improved guidance on the roles and responsibilities of officers and supervisors. I have also met with the OIG numerous times to support them in their investigations by clarifying roles and processes in USCIS.

28. Since your confirmation in August 2009, the DHS OIG has issued a number of reports on various issues within USCIS. In particular, there have been two reports on USCIS efforts to detect and deter fraud—a 2010 report on the ability to track fraud committed by immigration officers and a June 2013 report on the tracking and monitoring of fraud within family-based immigration benefits. In 2010, the DHS OIG made several recommendations for you to make changes to ensure employees were properly trained on what constitutes misconduct and what the required employee reporting responsibilities should be. In 2013, the DHS OIG reported USCIS has failed to track some fraudulent applications for family-based immigration benefits awarded through I-130 petitions and I-485 applications.

- a. In your 2009 confirmation hearing before the Senate Judiciary Committee, you stated one of your priorities would be to instill "public confidence in the secure, fair, and effective administration of our Nation's immigration laws...This means**

we must continue to strive to improve the agency's fraud prevention and detection operations..." At the hearing, in your discussion with Senator Feinstein, who noted the great deal of fraud throughout the immigration system, you stated one of the critical aspects of your initial agency review would "be a focus on the prevention, detection, and the ability to address fraud." What actions have you taken during your tenure as Director of USCIS to address the issues raised by these DHS OIG reports and, overall, to reduce fraud within the immigration system?

I value the role of the Office of the Inspector General and its role as an independent entity within the Department to detect and deter waste, fraud, abuse, and misconduct in DHS programs and personnel, and to promote economy and efficiency in those programs. With respect to the 2010 OIG report entitled, "Efforts to Detect and Deter Fraud committed by Immigration Services Officers," USCIS concurred with all recommendations and took corrective action. All six recommendations have been closed by the OIG. The corrective actions included displaying posters about convicted USCIS employees and contractors; ensuring that collateral duty Local Security Officer functions were executed under the purview of Field Security Managers; issuing a Management Directive on Adverse Actions and Discipline that included a robust Table of Offenses and Penalties; and revising mandatory ethics and integrity training for all employees. With respect to the June 2013 report, "U.S. Citizenship and Immigration Services' Tracking and Monitoring of Potentially Fraudulent Petitions and Applications for Family-Based Immigration Benefits," the OIG issued one recommendation related to clarifying and enforcing USCIS's procedures to ensure that database checks are accurately created and updated for all benefit fraud cases. USCIS took immediate corrective action on this recommendation and the issue is now closed with the OIG.

Our quick action and responsiveness to the OIG's recommendations are one demonstration of my commitment to ensuring the integrity of the immigration system. One of my first significant acts as Director of USCIS was to elevate our Fraud Detection and National Security component to the full Directorate level and increase the number of its staff by approximately 25%. This promotion reflected my belief, which I still hold today, that combating fraud and national security threats is at the very core of our mission at USCIS, and that the component of USCIS that primarily oversees those responsibilities must have a seat at the leadership table with other operational components.

I have taken many additional actions to reduce fraud during my tenure, including the following:

- Developed and implemented redesigned Permanent Resident Cards (green cards), Employment Authorization Documents, Certificates of Citizenship, and Replacement Naturalization Certificates, all with enhanced security features that are more tamper- and counterfeit-resistant;
- Enhanced our overseas verification efforts, including by increasing the number of Fraud Detection and National Security Directorate officers posted overseas. Our overseas verification program combats immigration fraud by helping foreign-based USCIS officials confirm statements and authenticate documents that originate

overseas. We developed standardized protocols to enhance the program's consistency and effectiveness and have continued to increase the staffing of Fraud Detection and National Security Directorate officers overseas;

- Increased the staffing of our Administrative Site Visit Verification Program (ASVVP) and expanded the analytical use of ASVVP data. Through ASVVP, we conduct unannounced pre- and post-adjudication site inspections to verify information contained in certain visa petitions. The program is designed both to detect and deter fraud, and we use data derived from ASVVP in analytical studies that inform and improve our ongoing anti-fraud efforts;
- Launched the Validation Instrument for Business Enterprises (VIBE), a Web-based tool that uses commercially available information to validate the business operations of companies and organizations looking to employ foreign workers. VIBE enhances USCIS's ability to adjudicate employment-based immigrant and nonimmigrant petitions efficiently and accurately;
- Launched the Unauthorized Practice of Immigration Law initiative, a nationwide collaborative effort with federal, state, and municipal agencies and enforcement authorities to combat *notario* fraud and other unscrupulous practices that victimize vulnerable immigrants;
- Improved communication and collaboration between the Fraud Detection and National Security Directorate cadre of officers and the Adjudications workforce by establishing a Fraud Detection and National Security Directorate Operations Branch in the Field Operations Directorate. This new Branch ensures that Field Operations Directorate offices receive the support required to accomplish their fraud detection and national security mission;
- Enhanced the analytics and reporting capabilities of our Fraud Detection and National Security Data System. The system is used to document, analyze, and manage our agency's fraud and national security cases. Among other steps, the separate applications previously used to manage fraud cases and national security cases, respectively, were combined into a single system. The new, consolidated system allows officers to conduct person-centric queries and display all relevant information about an applicant, petitioner, or beneficiary. We also expanded the system's ability to import application-related data from other USCIS systems, substantially enhancing the breadth, accuracy, and utility of records in the Fraud Detection and National Security Data System; and
- Launched fraud reporting tools and began delivering fraud bulletins in real-time to agency personnel. The fraud-detection bulletins are designed to inform our officers of the latest fraud issues, including identifiable trends and practices.

- b. If a USCIS adjudication officer discovers fraud during his review of an applicant's case, denies the application and properly records the incident, what happens to those denials?**

When a case is denied because of fraud, USCIS issues a Notice to Appear in order to initiate removal proceedings.

- i. Are those cases automatically referred to Immigration and Customs Enforcement (ICE)? Why or why not?**

Yes, all cases denied for fraud and issued a Notice to Appear are referred to ICE for removal proceedings. Cases involving fraud are priorities for enforcement by ICE.

- ii. If ICE returns the case to USCIS, what happens to the case? How does USCIS ensure the applicant does not merely re-apply or circumvent the system due to lack of prosecution or removal for fraud?**

If an individual whose case was denied for fraud and who was put into proceedings is not removed by ICE, the file is returned to USCIS.

USCIS takes into account previous findings of fraud whenever the law permits. Adjudication of a new benefit request under these circumstances will always include a review of prior evidence and findings and, in many cases, there are statutory bases for denying the new request. For example, approval of petitions filed on the alien's behalf may be barred if there is evidence the alien previously entered a sham marriage to gain an immigration benefit. New applications may also provide new avenues of inquiry for our Fraud Detection and National Security Directorate and could lead to new administrative investigations and more detailed statements of findings.

- c. In what areas of DHS do you believe there is the most room for improvement to better address concerns raised by the DHS OIG about fraud?**

Key areas for growth in anti-fraud capability at USCIS include:

- Use of technology to upgrade and fine-tune screening and analytic capabilities that can be applied against individual cases and against USCIS's larger data sets to produce accurate trends and analytics products. This approach is critical to the continuing maturation of USCIS as a quality-focused and data-driven organization.
- Appropriate information sharing between law enforcement agencies, national security agencies, and USCIS. This information sharing, implemented with measured and commensurate privacy and civil liberties protections, increases the safety and security of our communities.

- Continued commitment to training, development, and use of risk-based models in the identification of the most impactful criminal enterprises and threats within the immigration system to ensure community protection and the integrity of the lawful immigration system.
- Deepening our existing strong commitment to the use of intelligence and data to drive decision-making and to make timely and useful information available to USCIS adjudications staff. USCIS has committed to building its professional cadre for this purpose in concert with the DHS Intelligence Enterprise.
- Maintaining and deepening critical partnerships with key law enforcement and national security partners. These relationships provide USCIS with greater access to information that is critical to combating fraud and protecting national security, while also facilitating the sharing of USCIS information and subject matter expertise that is useful to our partners.

If I am confirmed as the Deputy Secretary, one of the very first steps I will take is to meet with the OIG and other Departmental leadership to learn of the ways in which the Department can more effectively and forcefully address concerns about fraud, and I will work to implement those improvements immediately

Preventing Terrorism and Enhancing Security

DHS's Core Security Mission

29. **Ten years have passed since DHS was created. In your view, how has its core mission changed? What do you think its core mission should be for the next ten years? How do you define homeland security?**

DHS was created fundamentally to prevent terrorism. That core mission remains undiminished. At the same time, much has been learned since DHS was created about the range of challenges we face. The accelerated flow of ideas, goods, and people around the world, while vital to supporting and advancing America's interest, also creates security challenges that are increasingly borderless and unconventional.

Hurricane Katrina, widespread international cyber attacks, the expansion of transnational criminal activities, and H1N1 influenza are examples of central threats and hazards to homeland security that are not necessarily linked directly to preventing terrorism. As such, DHS defined homeland security in 2010 in the first QHSR as "a concerted national effort to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive."

Given today's security environment, that definition should endure, as should the core missions of the department: to prevent terrorism, secure our borders, enforce and administer our immigration laws, safeguard cyberspace, and help build national resilience.

Risk Management

30. **The nation faces a wide range of potential threats and events, but DHS has finite resources to address them.**
- a. **What principles will guide your decision-making regarding the use of risk-analysis and risk-based resource allocation to set priorities within the Department?**

Risk analysis is a critical input to prioritization and resource allocation. Pursuant to Congressional authorization, DHS consolidated its strategic planning function and its cross-Departmental risk modeling and analysis function into the Office of Strategy, Planning, Analysis & Risk, and integrated considerations of strategic planning, risk modeling, and analysis. By doing this, risk analysis becomes an essential element in setting priorities, through the QHSR process and other strategic planning processes, which then carries over to the resource allocation process.

- b. **How will you determine if some threats or events require enhanced emphasis and investment or have already received sufficient focus?**

The Department has determined that the QHSR will be risk-informed using an analytically rigorous and disciplined study process to (1) identify top risks and risk insights in the preparation phase of the review, and (2) analyze the costs and benefits of alternative strategic approaches, to include risk reduction, during the Study and Analysis phase.

- c. **How will you ensure that Department resources and grants are used to buy-down risk and yield measurable increases in safety?**

DHS is currently piloting an Integrated Investment Life Cycle Management system, which is designed to have cross-Departmental strategy and requirements inform resource allocation and major investment oversight. This process, combined with existing risk-based, stakeholder-engaged processes for allocating resources and developing grant guidance and paired with the Department's performance measurement process, provide the basis for DHS to ensure that Department's resources and grants buy-down risk and yield measurable increases in safety.

If I am confirmed, I will work with leadership across the Department to ensure that Department resources and grants are used effectively and efficiently, that their use is pursuant to clearly

defined action plans and timetables, and that their results are measured and assessed with clear and meaningful metrics. If I am confirmed, I will communicate openly and proactively with this Committee to report the Department's plans, progress, and results in resource and grant use.

Counterterrorism

31. **From your perspective, what role should DHS play in countering domestic terrorism from lone wolves or those that are not connected with a specific foreign terrorist organization?**

DHS's approach to countering lone-actor terrorism and countering violent extremism in general includes the following three priorities:

- Better understanding the behaviors and indicators of violent extremism through analysis and research;
- Supporting law enforcement and community-oriented policing efforts through training and grant prioritization; and
- Enhancing partnerships with communities, law enforcement, and international partners.

DHS has designed an approach to countering violent extremism that applies to all forms of violent extremism, regardless of ideology. DHS has a number of activities underway to help communities and state and local officials identify and prevent all forms of terrorism and violent extremist acts within the Homeland, regardless of the ideology motivating each event. If I am confirmed, I will study this approach and assess its effectiveness in order to evaluate the resource expenditures associated with it.

32. **As the events that led to the Boston Marathon Bombing come into clearer focus, it appears that, despite the substantial improvements made since 9/11 in the dissemination and sharing of terrorism-related information, this remains an area that needs continuing oversight and attention. Specifically, it appears that there are challenges managing the quality and quantity of information sharing between federal agencies, as well as some technological challenges, that should be examined. Do you have recommendations on how DHS, FBI, NCTC, and other federal agencies can work better together to more effectively share terrorism related information?**

Over the past several years, DHS has worked closely with NCTC, DOJ, the FBI, and other federal, state, and local partners to improve information sharing, and we will continue to work with federal, state, and local partners to enhance and improve information sharing efforts.

While our ability to detect and mitigate threats abroad is robust and mature, our ability to detect and mitigate a purely domestic threat requires different capabilities and is still maturing. This

includes continuing to develop and enhance the following efforts:

- National Analysis: DHS, NCTC, FBI and other federal agencies working together conduct analysis to understand threats facing the Homeland;
- Grassroots Analysis: Analytic resources place national threats into a local context for state and local partners;
- Identifying pre-operational behavioral indicators that were present in previous attacks in order to better train and prepare law enforcement to recognize the behaviors and indicators;
- Standardizing how we train front line-law enforcement and security personnel to recognize, document, and report terrorism-related suspicious activities for investigation and analysis, all while understanding and protecting the privacy and civil liberties of Americans; and,
- Encouraging the public to be vigilant and to report suspicious activities to law enforcement.

An alert public, working in partnership with informed and well-trained local law enforcement personnel, is fundamental to our ability to protect the Homeland. The events in Boston serve as a stark reminder that we must continue to be tireless in our efforts to provide local communities the information, support, tools, and other resources they need to be successful.

Office of Intelligence and Analysis and DHS's Intelligence Mission

33. **The DHS Office of Intelligence and Analysis is a critical part of DHS, serving as the Department's primary interface with the broader Intelligence Community, supporting state and local fusion centers, and integrating the intelligence-related activities of the DHS component agencies.**

- a. What would be your key near-term priorities to improve the effectiveness of the Office of Intelligence and Analysis?**

If I am confirmed, I will help ensure that I&A continues to sharpen its focus on the analysis of unique homeland security data sets and the management of DHS's intelligence enterprise. I will also help ensure that I&A's cooperation with federal, state, local, and tribal partners is well coordinated, efficient, and effective.

- b. Who do you view to be the primary customers of DHS's intelligence?**

I&A's primary customers include DHS leadership and Components, state, local, and tribal authorities, and private sector partners.

c. How can the DHS Office of Intelligence and Analysis better measure the utility of its intelligence products?

I&A currently measures the utility of its intelligence products through formal feedback mechanisms, including feedback from its state and local customers and the Intelligence Community. I&A relies on customer feedback as a critical measurement of intelligence product utility. Electronic customer surveys currently provide I&A with insights into how customers have used individual intelligence products, how satisfied they were with several aspects of product quality, and how products might be improved to better meet the needs. In an effort to gain further insights, I&A is currently designing a survey that will be issued to a representative sample of I&A's diverse customer base, accompanied by a series of individual customer interviews.

If I am confirmed, I will bring resources currently existing within the Department to work with I&A to ensure that its mechanisms to measure effectiveness reflect best practices.

d. How do you think DHS could provide the greatest intelligence value for national policymakers and state and local governments?

DHS's position at the intersection of the U.S. intelligence and law enforcement communities enables unique homeland security intelligence analysis of threats to our borders, transit systems, cyberspace, and critical infrastructure to support a broad range of intelligence customers, from national policymakers to state and local operators in the field and the private sector. Our analysis is tailored based on our unique understanding of customers' perspectives and needs—whether it be the Secretary considering nationwide programs or resource decisions, a senior operator in CBP or TSA, or front-line state and local personnel.

- I&A leverages DHS and multi-sector law enforcement information, such as airline passenger data, border inspections and travel screening encounters, incursions against cyber networks, federal investigations, and state and local information, such as suspicious activity reports, in light of assessed threats derived from classified intelligence sources. Such an all-source approach provides a window into the homeland angle, as well as the likelihood, viability, and vulnerabilities associated with these key threats, whether they originate in the U.S. or abroad.
 - With respect to state and local entities, DHS's information sharing with frontline law enforcement, homeland security partners, and the national Intelligence Community enables the collection, analysis, and dissemination of information on issues of importance to state and local law enforcement.
- e. Do you think that there should be any adjustment in the way that DHS allocates resources to support its intelligence mission? Is the current resource allocation between the Office of Intelligence and Analysis and DHS's components appropriate?**

If I am confirmed as the Deputy Secretary, I will analyze the way that DHS allocates resources to support its intelligence mission, including the resource allocation between I&A and the DHS Components. I will do this to ensure the effective and efficient use of the Department's resources. If I am confirmed, I will work with this Committee as a critical part of that overall effort.

f. What value do you think DHS's support for state and local fusion centers is yielding for the nation and state and local governments? What can be done to improve the fusion center program?

The fusion centers are one of the mechanisms in place to ensure that intelligence information is shared effectively among federal, state and local partners. It is through the fusion centers that intelligence information can be exchanged at all levels of government, including information obtained by the federal government and shared with first responders so that they are better equipped to detect and prevent attacks.

I&A is increasing its collaboration with state and local authorities that invest in the fusion centers to enhance the quality of analytic products and achieve the more effective integration of resources. If I am confirmed, I will work to ensure that the fusion center program is effectively utilized as a vehicle for interagency cooperation and collaboration.

34. The Homeland Security Act of 2002 expressly gives the Secretary of Homeland Security responsibility for coordinating with state, local, and tribal governments on a wide range of matters including information sharing and preparedness activities. If confirmed, what specific steps would you take to promote effective information sharing between the Department and its state and local partners?

Over the past several years, DHS has greatly enhanced and expanded its collaboration with state and local officials and first responders to prepare for, respond to, recover from, and mitigate the effects of disasters and other threats, supporting efforts across the homeland security enterprise to build nationwide capabilities. Around the country, DHS works side by side with state and local law enforcement and emergency responders in our communities and along our borders. DHS trains thousands of Federal, state, local, and international officers and agents through more than 550 basic and advanced training programs available at the Federal Law Enforcement Training Center (FLETC). FEMA, in partnership with the FBI, the National Counter Terrorism Center, and other partners, conducts active shooter and mass casualty event training through FEMA's Joint Counter Terrorism Awareness Workshop Series. DHS conducts vulnerability assessments of key infrastructure, disseminates intelligence regarding current and developing threats, and provides connectivity to Federal systems to help local law enforcement and homeland security agencies across the country in reporting suspicious activities and implementing protective measures.

In support of Administration efforts to combat violence and prevent mass casualty events, DHS provides training, products, and resources to a broad range of stakeholders on incident response. Additionally, the Department is working to expand its "If You See Something, Say Something"

campaign throughout the country by partnering with a variety of entities including transportation systems, universities, states, cities, sports leagues, and local law enforcement. Launched in July 2010 in conjunction with DOJ's Nationwide Suspicious Activity Reporting Initiative, this simple and effective program helps to raise public awareness and emphasizes the importance of reporting suspicious activity to the proper state and local law enforcement authorities.

If confirmed, I will ensure that these information-sharing efforts are assessed with appropriate frequency so that resources and capabilities are utilized most effectively and efficiently.

Aviation & Transportation Security

35. **DHS has made substantial progress improving the security of our domestic and international aviation networks since 9/11, including the implementation of the Secure Flight and Air Cargo Advance Screening programs. The Department has also recently begun moving away from a one-size-fits-all approach to passenger screening toward a more nuanced approach tailored to the different levels of risk posed by particular passengers. Trusted traveler programs, such as CBP's Global Entry and TSA's Pre-Check, are designed to identify low risk passengers and process them separately so that the Department can focus more of its attention and resources on high-risk and unknown travelers. However, the Department is considering permitting some unverified travelers to use TSA's trusted traveler screening checkpoints on a random basis.**

- a. Do you believe randomly-designated travelers ought to receive the same lower level of scrutiny and screening as verified, low risk passengers participating in the Department's trusted traveler programs?**

The Department is testing an initiative called Managed Inclusion. This initiative is part of the Department's risk-based security approach to move away from a one-size-fits-all model and closer toward the goal of providing the most effective security in the most efficient manner. Managed Inclusion uses a real-time threat assessment by Passenger Screening Canines and Behavior Detection Officers in the screening checkpoint queue to efficiently and securely evaluate for potential threats to security. Passengers screened by these canines and officers are then eligible to proceed through a lane that involves expedited screening.

Managed inclusion is a process that is being tested and its results will be evaluated for effectiveness.

- b. Do you believe this practice fits within the Department's risk-based aviation security strategy?**

The Secure Flight system managed by TSA vets all passengers against terrorist watch lists prior to boarding pass issuance. I understand that this will always override any assessment through Managed Inclusion. However, given that the vast majority of the traveling public poses little to no risk to aviation security, the Managed Inclusion concept appears to further the risk-based approach to security. Applying risk to determine how we apply security screening in the aviation environment is the direction that the Department has embarked upon; by increasing focus on those populations that are higher risk, we are actually increasing our security overall while improving the passenger experience and enabling the Department to use its resources in the most efficient and effective way.

If I am confirmed, I look forward to sharing the results of the Managed Inclusion test program with this Committee and working with the Committee on the direction forward.

c. Do you support allowing airports to participate in the Screening Partnership Program?

The Department is committed to providing the most effective security in the most efficient way. Airports must apply to participate in the Screening Partnership Program (SPP), which allows them to use a private vendor for airport screening rather than having TSA perform these services. As laid out in the Aviation and Transportation Security Act of 2001 (P.L. 107-71) and FAA Modernization and Reform Act of 2012 (P.L. 112-95), this is a three-step process, whereby airports must apply to TSA to participate in the program, followed by TSA posting a Request for Proposals (RFP) to solicit vendor bids, and then selecting a contractor to provide these services. P.L. 112-95 requires that the selected bid not compromise security or detrimentally affect the cost-efficiency or the effectiveness of the screening of passengers or property at the airport. If I am confirmed, I will ensure that TSA continues to follow the requirements of the law and does so effectively and efficiently.

d. Do you believe any changes should be made to the Federal Air Marshal program?

The goal of the Federal Air Marshal Service (FAMS) is to continue to provide the most effective security in the most efficient manner. I am aware that FAMS promotes confidence in our nation's civil aviation system through the effective deployment of Federal Air Marshals to detect, deter, and defeat hostile acts targeting United States air carriers, airports, passengers, crews, and other transportation infrastructure assets. I also understand that FAMS co-manages the Visible Intermodal Prevention and Response (VIPR) program, which augments security in aviation and surface transportation venues. I understand that FAMS has always operated on a risk-based concept of operations.

In FY12, the Homeland Security Committees requested an independent analysis of the optimal staffing, scheduling, and resource requirements for FAMS in light of the full range of security

capabilities that TSA and the Department can use to complement FAMS operations. To conduct the analysis, FAMS contracted with the Homeland Security Studies and Analysis Institute (HSSAI), a federally-funded research and development center. A final report is expected at the end of this summer. If I am confirmed, I will have the opportunity to review the report and discuss it with TSA Administrator Pistole. At that point I would be in a better position to comment on any possible changes to the FAMS program and I would look forward to sharing information and views with this Committee.

Maritime Security

36. **GAO has continued to highlight areas for improvement with access control for U.S. ports, particularly with the management of the Transportation Worker Identification Credential (TWIC) program. TSA and the Coast Guard are responsible for the implementation and enforcement, respectively, of the TWIC program to manage the access of maritime workers to regulated maritime facilities. Earlier this year, under a proposed rule for TWIC card readers, the Department proposed mandating electronic card readers only for a small subset of port facilities, while most other facilities would continue enforcement using spot checks. However, in the past GAO has reported that its investigators were successful in accessing ports using counterfeit TWICs, authentic TWICs acquired through fraudulent means, and false reasons for requesting access. In addition, a 2013 GAO review of the TWIC card reader pilot program raised questions about the effectiveness of card readers.**

- a. Do you believe the proposed TWIC reader rule adequately addresses access control issues at U.S. port facilities?**

Yes, the Department believes that the proposed TWIC Reader Requirements rule adequately addresses access control issues at U.S. port facilities.

- The proposed rule uses a targeted, risk-based approach that applies reader requirements to facilities that present approximately 75% of the potential total consequence at less than 20% of the cost had the Department applied the requirement to all vessels and facilities.
- As with other security regulations, the Department balanced the gains in security with the costs of installing and implementing TWIC readers. After analyzing the costs and benefits, the Department determined to require readers on those vessels and facilities that pose the greatest risk.
- As technology changes (and costs are reduced), and/or if risks rise, the Department will re-evaluate requirements and may propose reader requirements for a broader cross-section of the industry.
- TWIC cards have a number of security features which make them difficult to counterfeit. Coast Guard regulations specify how security personnel can and should visually assess the validity of a TWIC. These security features and

procedures, when properly employed, provide a significant security benefit even without the use of a TWIC reader.

- A common credential enables federal, state, tribal and local law enforcement entities to be able to verify the identity of individuals, a step that would not have been feasible prior to TWIC implementation given the potentially thousands of different facility-specific credentials.

b. Do you believe the TWIC program would benefit from additional management at the Departmental level given that it's a program which cuts across multiple agencies and offices?

The TWIC program is already the beneficiary of oversight and guidance from DHS headquarters. In accordance with the recent Acquisition Decision Memorandum signed by the Under Secretary for Management on April 2, 2013, Management Directorate officials worked with TSA, the U.S. Coast Guard, and FEMA program staff to draft a charter for a TWIC Executive Steering Committee to provide Departmental level leadership to this program. Headquarters leadership actively participates in the Executive Steering Committee.

In addition, subject matter experts from a number of DHS Management Directorate lines-of-business have collaborated to support the mission of the TWIC Executive Steering Committee, providing critical, in-depth analysis for program management, customer service, and technological issues. This support has been provided within the framework of a partnership with TSA and U.S. Coast Guard leadership.

Securing and Managing Our Borders

Border Security

37. **During the debate on S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act, the issue of how secure our borders are and how we can best measure that security was hotly debated. As you know, the Border Patrol has more than doubled in size since 2000 and apprehensions of undocumented immigrants at the border have decreased by roughly 80 percent over that same period, dropping to their lowest levels since the early 1970s.**

a. In your view, what more needs to be done in order to fully secure the border?

In order to build on the gains already achieved, we must address the magnets that pull people to illegally cross our borders. The overwhelming majority of those who seek to cross our borders are drawn to our country by the ability to find employment and the desire to reunite with their family. Through the adoption of new worksite enforcement measures, like mandatory electronic employment verification, the elimination of bureaucratic obstacles that keep families apart, and the implementation of common sense immigration policies that give employers the workforce they need, we will sharply reduce the incentive for people to cross our borders illegally, triggering a dramatic reduction in the overall number of people who attempt to illegally enter our

country. These commonsense provisions, which form the President's core principles for immigration reform, will promote border security.

Operationally, the Border Patrol must continue to invest in mobile surveillance technologies that serve as a force multiplier for its agents. The threat faced along the Southwest and Northern borders is dynamic as the smuggling organizations that seek to exploit the borders shift their tactics in reaction to Border Patrol operations. The Border Patrol must have the capability to detect the shifts in smuggling patterns and have the mobility to shift resources to counter these threats as they move to areas where agents were not previously stationed. The Border Patrol has identified those mobile surveillance technologies that have proven to be effective in the individual Border Patrol sectors, and continued investments in these technologies will further enhance Border Patrol effectiveness.

- b. DHS has been criticized for not making more of its internal border-related performance measures available to Congress and the public. One of the expert witnesses at a HSGAC hearing earlier this year testified that as a result of this, in his opinion, data-informed answers to key questions are not available, including where the vulnerabilities for increased undocumented immigration are the largest: at the ports of entry, between ports, or through visa overstays. What will you do, if confirmed, to ensure that Congress, and the public, are provided with more data on the working of our immigration system?**

If I am confirmed, one of my top priorities as Deputy Secretary will be to ensure that the Department is more transparent to Congress and the public about Departmental operations. Critical to this effort is to develop, maintain, and make available accurate metrics that reveal the workings of our immigration system. Ensuring that the Department has the systems in place to accurately collect and make public this data is critical to our long-term success.

- 38. Since its creation, the Department has promoted efforts to push the border outward in order to stop dangerous people and goods from entering the United States. Many of the Department's programs which build on this principle – such as CBP's Container Security Initiative, which allows high risk containers to be inspected overseas before they are loaded onto a ship bound for the U.S., or CBP's Preclearance program, which lets CBP Officers interact and inspect travelers before they board an aircraft – require stationing personnel overseas. However, stationing personnel overseas is typically much more expensive.**

a. What role do you expect to play as Deputy Secretary in relation to the international activities of the Department?

As DHS has matured, it has become increasingly clear that securing the homeland requires robust collaboration and engagement with international partners (to include other nations, NGOs, trade groups, and international institutions). Of necessity, then, DHS has been working to better organize and strategically expand its international engagement. To institutionalize this effort, in the last two years DHS has:

- promulgated a management directive for international affairs;
- formed an International Governance Board to coordinate internally;
- expanded the DHS Attaché program;
- conducted an international footprint review;
- implemented an international pre-deployment training;
- developed an international engagement plan; and,
- advanced the development of an international capacity building program.

Recognizing the resource-constrained environment in which DHS operates, it will be critical in the future to ensure that DHS's engagement with international partners, whether in Washington or abroad, is guided by a clearly articulated strategic vision and focuses on efforts that promote economic vitality and protect national security.

If I am confirmed, I will work with DHS's Office of International Affairs to provide strategic guidance for the Department's international work. In addition, I will work to ensure that DHS's international footprint is aligned with our strategic priorities. Lastly, I will work with Congress to identify how to ensure that the authorization and appropriations processes are aligned with DHS's efforts internationally.

b. What do you believe the priorities of the Department should be in its engagement with foreign governments and international organizations?

I believe DHS should focus on three priorities in this regard: (1) developing and advancing DHS policies, practices, and principles, such as risk management and advance information in the international community; (2) securing the flows of legitimate goods and people while interdicting illicit cargo and travelers; and (3) sharing information and knowledge with foreign counterparts.

c. Has the Department completed a cost-benefit analysis for its programs stationing personnel overseas? If so, what specific benefits does the Department believe it receives?

Yes. At USCIS, I ordered such a review, and I know that other DHS Components have as well. USCIS results, which generated \$4.6 million in cost savings, fed into the Department's first DHS-wide Footprint Review. USCIS decided to terminate its presence in some cities where it

was no longer cost-effective, and to expand in other cities where it was. Secretary Napolitano reviewed those proposals, along with those of all other DHS Components, and approved them.

There is no doubt that having DHS personnel overseas is beneficial for the Department and the U.S. taxpayer. The remarkable progress DHS has achieved in information sharing, common vetting, law enforcement investigations, border security, migration management, maritime and aviation security, cargo screening, disaster response, and cybersecurity is directly attributable to the work of DHS professionals working overseas. The work of DHS personnel abroad has contributed to the national and economic security of our nation.

DHS personnel overseas are able to work directly with international partners; they represent and advocate DHS's mission, priorities, and programs; and, they train and advise foreign partners. That said, the Footprint Review uncovered challenges in comparing costs across Components. The Office of International Affairs has begun exploring these issues and, if I am confirmed, I intend to examine them as Deputy Secretary so we are better able to gauge and achieve effectiveness.

d. Do you believe the Department should develop a strategic plan for determining where personnel should be stationed overseas?

DHS has already taken several steps in that direction. DHS completed its first International Strategy in 2010 and a more detailed International Engagement Plan (IEP) in 2013. The IEP provides strategic guidance against which DHS Components can plan activities and engagement. There is more to be done, but this effort has already begun.

DHS personnel abroad are all deployed by the DHS Components to advance their goals and objectives. The Components rightly have some discretion in their deployments. If I am confirmed as Deputy Secretary, I will review Components' costs and results and hold them accountable to the strategic vision set by the Secretary.

Interior Enforcement

39. **Most of the immigration reform debate in the Senate focused on the security of our borders. However, should immigration reform be enacted, the robust enforcement of our workplace and immigration laws in the interior of the country will be critical in order address one of the fundamental underlying causes that brings people here illegally: the desire to find employment. This is particularly true for the estimated 40 percent of the undocumented population who entered the U.S. legally and then subsequently overstayed.**

- a. What do you believe are the most important things that we will need to do to ensure that our interior enforcement is robust enough to ensure that employers are not continuing to hire undocumented workers once immigration reform is enacted?**

The implementation of new worksite enforcement measures, such as mandatory electronic employment verification, paired with commonsense immigration policies that provide employers with the workforce they need, is critical to our ability to eliminate the magnet that pulls people to illegally cross our borders. The commonsense immigration reform bill passed with strong bipartisan support by the Senate requires all employers, on a phased-in basis, to verify that their newly hired employees are authorized to work in the United States using an electronic employment verification system maintained by DHS. The mandatory, nationwide nature of the electronic employment verification requirement will serve two important functions: (1) it will significantly reduce the incentive of individuals to come to the United States to work illegally, and (2) it will allow DHS to more easily identify employers who use employees not authorized to work in the United States and to focus its worksite enforcement resources on those employers.

In combination with the increased penalties for hiring unauthorized workers and the increased availability of authorized workers, the result of the verification requirement will be fewer employers hiring unauthorized workers in the first place and greater enforcement against those employers that do employ unauthorized workers. Accordingly, should comprehensive immigration reform be enacted, the Department must focus its attention and resources on the successful development and implementation of the mandatory electronic employment verification system.

- b. How will you work as Deputy Secretary in order to ensure that ICE and USCIS coordinate their enforcement actions in order to most effectively target immigration fraud?**

If confirmed as Deputy Secretary, I will devote significant attention to ensuring that ICE and USCIS use their considerable fraud prevention resources to target immigration fraud. Both ICE and USCIS have established offices focused on investigating, identifying, and rooting out immigration fraud in all aspects of the immigration process. At the Department level, I will make sure that these offices – ICE's Homeland Security Investigations and USCIS's Fraud Detection and National Security Directorate – build on their already strong working relationship

to leverage each other's expertise and combine forces wherever appropriate in order to address situations where fraud is suspected as part of an individual application, whether for an existing benefit or for a new benefit created as part of comprehensive immigration reform. Further, should comprehensive immigration reform be enacted, I will make certain that both ICE and USCIS quickly and effectively implement the requirements mandated by the legislation and appropriately coordinate efforts to detect and prosecute fraud.

Entry-Exit System

40. **The deployment of a biometric entry system has been one of the landmark achievements of the Department in the wake of the terrorist attacks of September 11. It has been unable to match that success when it comes to deploying a biometric exit system, despite a Congressional mandate to do so. Instead, the Department has focused its recent efforts on deploying a working biographic exit system based on passenger manifest data collected by the airlines and sea carriers.**
- a. Please describe your thoughts concerning the relative merits of a biographic exit system versus a biometric exit system. What would a biometric exit system do that a biographic system cannot accomplish, and what would that added capability cost?**

Currently, DHS does not have biometric capture capability on exit. In planning for a future system, we need to ensure we will not be placing a tremendous resource burden on both the public and private sectors.

- U.S. airports do not have specially designed and designated exit areas for outgoing international passengers to wait prior to departure, nor do they have specific checkpoints through which an outgoing international passenger's departure is recorded by a government official, as is the case in many other countries.
- Based on models developed in 2008 that involved fingerprinting all departing foreign nationals, DHS estimated that such a program, were it to be implemented at airports alone, would cost between \$3.4B and \$6.2B over ten years.
- At the land border, the infrastructure problems are even more acute, with far fewer lanes serving departure from the United States than for admission, and many land border ports-of-entry have severe infrastructure restrictions on expansion, for geographical or environmental reasons.

While a biometric based program may have some advantages, DHS has confidence in its biographic targeting, pre-arrival, entry screening, and enhanced biographic exit programs. In all environments (air, land, and sea), biometrics may be collected upon a traveler's arrival and checked immediately against watch lists. Numerous biographic-based checks are queried simultaneously and, in the air and sea environments, biographic-based checks are completed well before the traveler boards the aircraft or vessel. Finally, because of the significant improvements

in DHS's enhanced biographic system over the last several years, the need for a biometric exit system has been called into question, particularly in light of the costs and infrastructure challenges described above.

b. Do you believe a biometric entry and exit system should be deployed at land, sea and airports? Why or why not?

While a biometric-based program may have some advantages, DHS has confidence in its biographic targeting, pre-arrival, entry screening, and enhanced biographic exit programs. In all environments (air, land, and sea), biometrics may be collected upon a traveler's arrival and checked immediately against watch lists. Numerous biographic-based checks are queried simultaneously and, in the air and sea environments, biographic-based checks are completed well before the traveler boards the aircraft or vessel. Finally, because of the significant improvements in DHS's enhanced biographic system over the last several years, the need for a biometric exit system has been called into question, particularly in light of the costs and infrastructure challenges described above.

Additionally, the Science and Technology Directorate of DHS is partnering with U.S. Customs and Border Protection and the National Institute of Standards and Technology to invest \$22M to develop new approaches and plan evaluations of new technologies that would provide the ability to enhance entry and exit operations and capture biometrics at a significantly lower operational cost than the previous biometric technologies piloted.

- Such enhancements, would provide further improvements to the Department's ability to match entry and exit records of the current system and thus also to overall data integrity and operations.
- With the \$22M, DHS is currently developing a test facility, which is scheduled to be completed in late 2013, in order to begin to test emerging biometric collection technologies, including facial recognition and iris technology, in an airport-like exit environment.

c. The Department has failed to provide Congress with data concerning the numbers of individuals that overstay their visas, broken out by nation of origin, despite a number of Congressional mandates to do so. What will you do if confirmed to ensure that it provides this data in a timely manner?

The process for identifying and tracking overstays has been long in coming, and there have been a number of requests by Congress to develop that system. Under the leadership of Secretary Napolitano, DHS has been able to build a system that allows us to have fidelity in the data within the last 2-1/2 years and DHS plans to publish it. DHS has committed to reporting those numbers by the end of this calendar year. It has done this through the entire Department working together to automate the system of tracking entries and exits, linking-up the databases, and improving its matching algorithms.

If I am confirmed, I will work with the responsible offices within the Department to ensure that they have the tools they need to produce a reliable product in accordance with congressional deadlines.

Enforcing and Administering Our Immigration Laws

Electronic Case Files and Management

41. **U.S. Citizenship and Immigration Services has struggled to bring its records into the electronic age. You have stressed the importance of changing this and advancing the agency's so-called "Transformation" project to create secure, on-line accounts and notification for immigration applicants. The project continues to face delays and criticisms, yet you have expressed optimism that it is gaining traction and will provide results soon.**
- a. What were the key challenges facing the Transformation project when you took over as head of U.S. Citizenship and Immigration Services, and how did you tackle those challenges?**

The Transformation effort has been underway at USCIS for more than ten years. When I became the Director of USCIS, the agency was in the midst of its third attempt to successfully launch Transformation.

As a result of delayed deployments of the first release of USCIS's new IT system (USCIS ELIS), I requested that the USCIS Chief Information Officer examine the cause of the delays, examine the system architecture, and report back to me on the findings. We concluded that the broad reasons for delay included:

- Trying to automate too many policies, rules, and processes for decision-making, which ultimately we determined were not necessary or cost-effective to maintain in the long-term.
- Cumbersome and inefficient program governance, which affected the timing for raising issues to leadership and for final agency action.
- Failure to implement best practices for creating and monitoring an Integrated Master Schedule.
- Use of a development methodology ("waterfall" approach) that did not allow the Government to see problems early enough in the process to remedy.
- Having a single contractor responsible for supporting the entire program which did not promote effective decision-making and development and deployment processes.
- Creating a system that was overly complex and required integration of 29 different Commercial-Off-the-Shelf software products.

To address the challenges identified above, USCIS seized the opportunity to:

- Simplify over 60% of the business rules that were originally planned for the solution.
- Adjust the Governance Structure, implementing a Transformation Executive Steering Committee chaired by me and with voting members from DHS headquarters and USCIS components. Additionally, decision-making authority was pushed to the right level for this project, which allowed the staff and contractors to implement solutions faster and only elevate those issues that required a leadership decision.
- Update the Program Life Cycle Cost Estimate and complete an Integrated Master Schedule for the review and approval by DHS and GAO.
- Transition to an Agile software development methodology that allows for business operators, developers, subject matter experts, and testers to work together to ensure development meets the business needs.
- Restructure our contract to allow for agile development and significantly reduce the number of resources assigned to the project. In addition, we developed and approved a new Acquisition Strategy that provides for multiple contractors to be involved in development, thereby increasing competition.

Simplifying the system architecture by reducing the number of off-the-shelf products for the foundation of USCIS ELIS, and incorporating technology that enhances flexibility in design, allows easier maintenance and permits more rapid development.

b. What do you see as the key issues and milestones going forward with this effort?

Going forward, the USCIS team needs to be continuously vigilant in preventing an increase in non-critical requirements and ensuring that contract developers are meeting development milestones and the program's needs. The agile development process allows for continuous monitoring of the Transformation initiative to ensure that the agency meets its goal of moving all of its immigrant benefits to the electronic environment in the next three to four years. Every two weeks, the development teams must demonstrate completed functionality to the internal user, providing the internal user a "real-world" experience and an ability to quickly identify issues that need to be resolved. Catching problems early in development also helps ensure a quality product. We have implemented strong leadership over the program and I have confidence it is on the right path.

42. **In a briefing to committee staff on the Transformation project, USCIS officials reported the agency receives almost 7 million immigration applications and petitions every year. Recognizing that different types of applications and petitions can take different lengths of time to complete, on average, how many applications is each adjudication officer expected to process each day? If possible, please provide those averages broken down by type of application/petition.**

USCIS calculates completion rates for each of its applications and petitions based on data and feedback from its employees. These completion rates are generally not used to establish processing targets for the agency's adjudications officers, but instead are used primarily for scheduling interviews with applicants, allocating resources, assessing employee utilization, and monitoring work flows relative to the agency's published processing times and regulatory mandates.

The calculation of an overall average completion rate is problematic because of the marked differences between application types and the work that is involved in adjudicating them.

43. How many types of applications/petitions require an adjudication officer to conduct an interview of the individual alien applying for benefits?

a. How much time, on average, is allotted to each adjudication officer to conduct the required interviews?

With respect to the USCIS Field Operations Directorate, an applicant for naturalization is required by statute to be interviewed by an employee of USCIS (8 U.S.C. § 1446). In other cases, USCIS conducts interviews where appropriate. All applications and petitions are adjudicated based upon evidence submitted or evidence directly available to USCIS.

USCIS does not track average interview time. Average adjudication time for those cases that are routinely interviewed is 1.19 hours per naturalization application, 1.16 hours per marriage-based petition and 1.28 hours per adjustment of status application based upon a spousal petition. Not all of this adjudication time is devoted to the actual interview.

In addition to those cases that are normally interviewed, USCIS routinely refers other cases for interview when the in-person interview is likely to provide relevant information that can best be obtained through oral testimony. The time required for these interviews is determined on a case by case basis.

As required by law, USCIS interviews all applicants for naturalization; and, pursuant to USCIS regulation or policy, USCIS interviews certain petitioners and beneficiaries such as those who seek to adjust status based upon a petition filed by a United States citizen or lawful permanent resident spouse. In marriage-based adjustment of status cases, interviews assist the USCIS officer in assessing the bona fides of the marital relationship. In most cases other than naturalization and marriage-based adjustment of status, USCIS has sufficient evidence and tools (such as issuing written requests for further evidence) to adjudicate the case without the need for an in-person interview.

Within the Refugee, Asylum, and International Operations Directorate, there are five key benefit types that require an interview. General goals and time allocations, which vary according to case complexity, are developed based on employee data and feedback:

- Form I-589, Application for Asylum and for Withholding of Removal: Asylum Officers are expected to complete nine I-589s per week and are allotted four hours per case for the entire adjudication, including the interview. Asylum interviews take approximately one to three hours per case, depending on the complexity of the case.
- Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105-100, NACARA: Asylum Officers are expected to complete four I-881s per day and are allotted two hours per case for the entire adjudication, including the interview. NACARA interviews take approximately 30 to 45 minutes per case, depending on the complexity of the case.
- I-730, Refugee/Asylee Relative Petitions: I-730 beneficiaries who are overseas are interviewed by either a USCIS Officer or a State Department Consular Officer before a travel eligibility determination is made. The purpose of the interview is to confirm the beneficiary's identity and that a valid relationship to the petitioner exists. The interview also explores whether any ineligibilities or grounds of inadmissibility are present. USCIS officers are not allotted a specific amount of time for the interview, which can vary based on evidence presented, the background of the beneficiary and whether any complex or novel issues arise. However, interviews generally range between ten minutes and one hour.
- N-400, Application for Certification of Citizenship: Interviews are conducted for military members and eligible family members overseas to determine eligibility for citizenship. USCIS officers are not allotted specific time period for the interview, which may vary depending on the case. However, interviews generally take about 15-30 minutes.
- I-590, Registration for Classification as Refugee: USCIS officers interview applicants seeking refugee resettlement in a variety of locations overseas, including refugee camps, U.S. Embassies, U.N. buildings or compounds and other facilities. The interview is designed to elicit information to assess whether the applicant meets the refugee definition and is otherwise admissible to the United States. Depending on the complexity of the case, an average refugee interview may take between one to two hours. Adjustments may be made for unusually complex cases to allow for more interview time.

44. **USCIS launched the Transformation Project in 2005 and awarded an initial contract to IBM in 2008 to create the software that would be needed. Yet, the new system (USCIS ELIS) was not deployed until May 2012—roughly two years behind schedule. In a briefing to committee staff, USCIS officials stated there was no life cycle cost estimate completed for the Transformation Program at the time of award, but they estimated the contract for the software component was approximately \$493 million for five years. The most recent life cycle cost estimate for the Transformation Program is \$2.4 billion - \$2.6 billion from 2006 – 2032. How do you expect USCIS will be able to operate on schedule and within budget, given the previous delays? What role, if any, will you have in this effort if confirmed as Deputy Secretary?**

The USCIS team has made significant changes to its approach for this Transformation initiative. I believe the groundwork has now been laid for our agency to implement Transformation on budget and on time notwithstanding the earlier difficulties in the program that I found upon my arrival at USCIS.

We have modified the guidelines of our existing contract, shifting to an integrated, hands-on approach during the development and testing process. The agile development approach also lets us see problems earlier in the process and allows us to resolve them before actual deployment of a release. In addition, we have changed our governance model to one that places more trust in the staff involved in Transformation, providing high-level guidance and approval for capabilities and not specific requirements. These changes have allowed the last four releases to be deployed on time.

We are adjusting the system architecture to a more simplified model using open source technologies and are producing our next release according to this model. Finally, the Office of Transformation Coordination has implemented stronger project management controls, including monitoring of the program's approved Life Cycle Cost Estimate and Integrated Master Schedule.

If confirmed as Deputy Secretary, I would have oversight of all major investments in the Department, including Transformation. I have installed strong leaders who will drive the Transformation initiative forward. The teams working on Transformation are top-notch and have broad and enthusiastic support from leadership and staff throughout USCIS. If confirmed as Deputy Secretary, I will work with the Under Secretary for Management to ensure the Department's investments are well managed and deliver results on schedule and on budget.

Deferred Action for Childhood Arrivals

45. **In response to an executive order, U.S. Citizenship and Immigration Services has launched the Deferred Action for Childhood Arrivals program, or DACA, to register undocumented young immigrants who meet certain criteria and grant them temporary relief from deportation and work authorization. As of this spring, more than 500,000 individuals have applied to this program.**

a. What were the primary administrative challenges in designing and deploying this new program, and what are some of the key steps you took to meet these challenges?

On June 15, 2012, Secretary Napolitano directed USCIS to create, within 60 days, a new process under which certain individuals who came to the United States as children and meet several eligibility criteria could request deferred action. Standing up the new Deferred Action for Childhood Arrivals (DACA) process within this timeframe was a significant operational challenge for USCIS, and is one that USCIS's employees met with incredible poise, dedication, efficiency, and success.

We had two months to prepare for a rapid influx of cases that initial estimates suggested could increase USCIS's overall workload by twenty percent. Our implementation was efficient and effective. The steps we needed to take, all of which we accomplished on time, included the following:

- Development of an entirely new filing process for individuals requesting deferred action;
- An assessment of the estimated costs of administering the program, and the fees that the agency would need to charge to fully cover those costs;
- Development of new forms and instructions, and revision of existing forms and instructions, in coordination with the Office of Management and Budget;
- Development of a hiring plan to meet this new and significant workload;
- Promulgation of comprehensive and easily understandable standard operating procedures for our officers, and corresponding external policy guidance to inform the public about the new program;
- Development of a robust battery of anti-fraud and national security protocols to ensure the new process was administered with integrity. Further detail about the series of integrity measures USCIS has implemented in the DACA program is set forth below in response to sub-question (c);
- Development of new training regimens, which are critical for ensuring consistency in adjudications, adherence to law, and program integrity. The trainings covered both eligibility criteria and anti-fraud and national security protocols;
- Updating information technology systems to handle a new process involving new forms;

- Taking an agency-wide and nimble approach to determining where the new workload should be accommodated and continuously shifting work between different parts of the agency to ensure workable distribution and minimize creation of backlogs; and,
- Extensive public engagement and publication of information to ensure maximum transparency and public visibility into the process.

b. What are some lessons learned to date?

Our experience in standing up the DACA process has reinforced for me that for any large-scale operational effort to succeed, an organization must be flexible and efficient. We knew that DACA could quickly increase our overall caseload by one-fifth or more, and until we could hire more staff we would have to make do with the resources we had. It was an all-hands effort. We designed the process so that we could direct incoming DACA cases to whichever USCIS service center had the capacity to process them at that time. Our field offices around the country in turn took on work previously handled by the service centers. We managed the work and calibrated our overall agency processing strategy in real time so that all resources were utilized and none were wasted. USCIS succeeded because it was nimble and because all parts of the agency pulled together as part of the effort, a lesson applicable to any large administrative undertaking.

Another lesson that leading USCIS's implementation of DACA reinforced for me is that it is always possible, and indeed critical, to perform ably and quickly without cutting corners. From the first day, I made clear that the DACA process had to be a process with integrity. We would have full vetting of all requestors, fulsome and comprehensive internal and external policy guidance, public transparency and engagement, and efficient use of our resources. I believe our approach was critical in gaining the confidence of our employees and the public as we launched this new program.

c. Some critics have expressed concern about the relatively high approval rates for the DACA program, while others believe these approval rates reflect the fact that steep fees and other application challenges mean that only qualified individuals are submitting applications. What steps has USCIS taken to combat fraud in this program and do you believe the agency's screening procedures are effective?

In building the DACA process, USCIS adopted an array of measures to combat fraud and protect national security and public safety. I believe our screening and safeguards have been effective and indeed we have imported certain features into other programs that USCIS administers based on the success of the DACA security model.

The series of integrity measures we have leveraged in the DACA program includes biometric capture and full vetting of each requestor; extensive collaboration with federal, state and local enforcement authorities; development of an interview process based on both random sampling and fact-based targeting to detect and deter fraud; development of an internal publication on

fraud trends in the program based on real-time collection of information from the field that has been so successful that USCIS has broadened the publication to cover other programs within the agency; and publication of materials making clear that those seeking to defraud USCIS will be treated as enforcement priorities subject to removal action and criminal prosecution to the fullest extent of the law.

As with all immigration programs at USCIS, DACA cases are decided by well-trained and dedicated career officers (including fraud and national security experts) who are instructed to decide each case based solely on the law and the facts presented to them.

d. What does your experience with the DACA program tell you about the approaches and resources that would be needed to undertake a large scale legalization program for many of the 11 million undocumented immigrants living in the U.S., as contemplated by S.744?

One lesson from my experience leading USCIS in implementing the DACA program is that this agency has the capability, through its strong sense of mission and its talented workforce, to stand up new programs quickly and with integrity in a manner that protects our national security.

46. Are DACA applicants required to undergo an interview at USCIS? Why or why not?

As in other immigration programs, USCIS utilizes its discretionary interview authority in the DACA program. In cases where further information is needed or fraud or other misconduct is suspected and the agency believes an interview would be a useful tool for gathering that information, we do so. Furthermore, we have developed a pilot program to interview randomly selected DACA requestors at USCIS field offices. This program creates a deterrent to fraud and also helps detect fraud and serves as a broader quality control mechanism.

USCIS does not interview every single DACA requestor. Doing so would not be a wise allocation of our limited resources, which should be focused on the high-risk cases. Usually it is additional documents, rather than an in-person interview, that will provide the clearest evidence for assessing DACA eligibility. (To give an example, the best evidence for the DACA educational guidelines is generally a school transcript or report card, not an in-person meeting about the requestor's educational experience.) USCIS has therefore utilized its authority to issue requests for additional documentary evidence in DACA cases at or above the levels it issues such requests in other types of cases.

Comprehensive Immigration Reform

47. **If the Senate-passed comprehensive immigration reform legislation advances, the Department will face daunting implementation challenges across a range of issues and agencies. For instance, the Department would need to undertake multiple large scale acquisitions, rulemakings, and hiring efforts.**
- a. Please discuss some of the key challenges you believe the Department would face in implementing comprehensive immigration reform and what you believe the Department would need to do to prepare properly and to execute the requirements of the bill.**

Although implementing the bill's requirements would be a significant undertaking, I am confident that the Department has the ability to successfully implement the legislation. Some of the key challenges would include hiring the additional border patrol personnel; acquiring the infrastructure, technology, and equipment necessary for the strategies called for in the bill; the establishment of the registered provisional immigrant status program; and, the implementation of both the mandatory employment verification system and an exit system in international airports. The Department's leadership, both at the headquarters level and the component level, will be fully engaged to ensure that any comprehensive immigration reform legislation is successfully implemented if enacted. The Senate-passed legislation contains numerous requirements with statutory deadlines, and the Department will have to plan appropriately to ensure that those deadlines are met. This planning will need to include ways to measure progress and safeguards against fraud, waste, and abuse.

- b. Do you believe the Department would need new or enhanced oversight mechanisms to accompany such an effort?**

The Department has made significant strides with regard to improving the oversight of the various processes of the Department. If I am confirmed, I would assess the capabilities of the existing oversight mechanisms before recommending new or enhanced ones. I would not hesitate to make the recommendations that I thought necessary based upon thorough assessment.

- c. How important do you believe that coordinating the actions of the various components at the Department will be to successfully implementing the reforms? What role would you expect to play in this coordination?**

Given the cross-cutting nature of the Senate-passed legislation, I believe it will be vitally important to coordinate across the Department – and with other departments as necessary – to ensure that the legislation is implemented consistently, efficiently, and effectively. Coordination is also necessary to avoid duplication of effort and resources. Although the role I would play if I am confirmed as the Deputy Secretary would ultimately be the Secretary's decision, I would expect that I would be integrally involved in monitoring the components' progress implementing the legislation and resolving issues as they arise.

48. **Do you believe the needs of USCIS will change significantly if the Senate-passed comprehensive immigration reform legislation becomes law? If so, please explain the primary areas in which USCIS will be affected, including, but not limited to, fee setting, the number of new adjudication officers, and new technology.**

Implementing the significant new programs and changes to existing programs required under S. 744 will be a major challenge for USCIS, but I believe the agency is well prepared to meet this challenge and, in general, the bill provides workable timetables, resources and procedures for USCIS to set fees and build the capacity needed to meet its statutory obligations.

49. **Did the Senate-passed comprehensive immigration reform legislation adequately address the needs of USCIS? Why or why not?**

Yes. In crafting the bill, the Senate generally took account of the operational and resource needs of USCIS. In particular, it included a mechanism to provide startup funds that will be critical to USCIS's ability to quickly and effectively stand up the programs and processes necessary to implement the bill. In addition, instead of creating all new programs in every instance, the bill in many places incorporated and/or expanded programs, policies, or structures that USCIS already has in place or has plans to put in place shortly.

E-Verify

50. **Many immigration experts believe that the weak link in U.S. immigration policy is our ability to address the demand for undocumented workers. Despite a 1986 law making it a crime to hire undocumented immigrants, it is still too easy for workers and employers to operate outside the rules. As a result, jobs continue to pull undocumented workers to the U.S. There is a strong need for a more effective way to verify which job applicants are citizens or immigrants with valid work authorization. Many people believe E-Verify, the agency's electronic worker verification pilot program, can provide the solution. It is currently a voluntary program, but would become a mandatory program under S. 744, the immigration reform bill that recently passed the Senate.**

- a. How do you assess the program's success thus far, and what steps have you taken to improve and expand the program during your tenure at DHS?**

E-Verify is an accurate, efficient, and robust tool to ensure a legal workforce in the United States. We have made a number of important enhancements to E-Verify during my tenure at USCIS. It is a strong program that is growing stronger.

The ability to produce quick and accurate results is important in the E-Verify program, and in FY 2012, 98.7 percent of work authorized employees were confirmed instantly or within 24 hours, up from 97.4 percent in FY 2009.

In November 2010, USCIS expanded E-Verify's photographic matching tool to include U.S. passports and U.S. passport cards, as well as the previously included USCIS-issued documents (Employment Authorization Documents and Permanent Resident Cards). The photo tool is a significant safeguard against identity theft and the use of false identification documents. The addition of U.S. passport photos allows the employer to match the photo displayed in E-Verify to the photo on the employee's U.S. passport or U.S. passport card to determine whether the document was fraudulently produced.

In March 2011, DHS launched E-Verify Self Check. Self Check is a service available in English and Spanish that allows individuals to verify their work authorization status online and to proactively resolve records mismatches before formally seeking employment. To help prevent unauthorized access to an individual's records, Self Check uses a third-party identity assurance service.

In June 2011, USCIS launched the RIDE (Records and Information from DMVs for E-Verify) Program in Mississippi to further increase the accuracy of E-Verify and assist in preventing identity theft. RIDE allows E-Verify to confirm the validity and authenticity of Mississippi driver's licenses. In 2012, USCIS expanded the RIDE program to Florida and on July 14, 2013, Idaho was the newest state to join.

E-Verify continues to score high marks in employer customer satisfaction. E-Verify was given a customer satisfaction score of 86 out of 100 on the American Customer Satisfaction Index (ACSI) survey performed in 2012. This is a one point improvement over the prior year score of 85, and our score has remained exceptionally high compared to the average score for a government program, which is 67. ACSI surveyed E-Verify users and evaluated key aspects of the program such as registration, the online tutorial, ease of use, technical assistance and customer service. Key findings of the survey revealed that the vast majority of users were likely to recommend E-Verify to other employers (score of 86), were confident in E-Verify's accuracy (score of 87), and were likely to continue using the program (score of 94).

E-Verify's Monitoring and Compliance Branch (M&C) continues to increase monitoring of E-Verify to identify potential instances of repeated and egregious misuse by employers. M&C uses behavioral algorithms to detect patterns of potential program misuse in E-Verify transactional data. M&C employs different compliance assistance tools to assist employers such as emails, telephone calls, desk reviews, and site visits. To address discrimination and misuse that adversely affects employees, DHS has partnered with DOJ's Office of Special Counsel for Immigration-Related Unfair Employment Practices (DOJ/OSC). Employees can report system misuse by calling the E-Verify or DOJ/OSC Hotline.

The E-Verify program and its employer user base continue to grow. The number of employers registered to use E-Verify has increased to more than 465,000 as of July 2013 with the number of new employer registrations averaging 1,000 – 1,500 per week in FY 2013. We have seen a steady increase in the volume of queries. Last fiscal year, E-Verify processed 21.1 million queries. In FY 2013 to date, employers have run over 18.7 million queries.

b. What are some of the key issues DHS must confront if it seeks to convert the program into a national, mandatory verification system?

Preparation for a national, mandatory verification system would require enhancements for scaling up the program. These include:

- Upgrading the E-Verify information technology infrastructure to handle additional capacity and adapt to emerging technologies.
- Expanding education initiatives to educate U.S. employers, particularly small businesses, on how to enroll in E-Verify and properly use the system.
- Expanding education initiatives to educate the U.S. workforce on E-Verify and worker rights and responsibilities.
- Expanding the redress process for employees who receive mismatches.
- Increasing staffing levels at USCIS to meet the new demand for case resolution, customer assistance, outreach, and monitoring and compliance activities.

USCIS Fee Structure

51. **The CFO Act of 1990 (P.L. 101-576) requires each agency's CFO to review, on a biennial basis, the charges imposed by the agency for services it provides and make recommendations for revising those charges to ensure cost recovery. However, according to a briefing to committee staff, USCIS has, in the past, failed to consistently conduct such a comprehensive review of its fee structure. In fact, the agency went without such a review for almost a decade, until 2008. During your tenure, there have been two comprehensive fee reviews, in 2010 when fees increased by an average of 10% and in 2012 when fees were not adjusted at all.**
- a. The last fee review was completed before the announcement of Deferred Action for Childhood Arrivals (DACA). Do you believe the fee structure should be revisited through an out-of-cycle review in order to account for this influx of applications? Why or why not?**

No. There is no need for an out-of-cycle fee review to consider the DACA requests received in FY2012 and FY2013 to date, as USCIS is currently conducting its regularly scheduled biennial fee review covering the fiscal periods FY2014 and FY2015. The volume of requests received,

and the costs incurred to administer this program, are being considered under the current fee review process. As of July 2013, USCIS has collected sufficient revenue from fees submitted by DACA requestors to recover the agency's costs of administering the DACA program.

52. **USCIS operates almost exclusively on fee income. As a result, to ensure effective and efficient service, USCIS must not only accurately estimate the fees it must charge, but also ensure it collects those fees.**

a. Does USCIS allow fees to be waived? If so, what criteria are used to make the fee waiver determination and who has the authority to make those decisions?

In some circumstances, USCIS does allow fees to be waived. In general, discretionary fee waivers are available for some applications if the party requesting the benefit is unable to pay the prescribed fee. Because the waiver is based on the applicant being unable to pay a fee, waivers are not granted for immigration benefit requests that require demonstration of the applicant's ability to support himself or herself, hire an employee, or from individuals who seek immigration status based on a substantial financial investment.

To request a fee waiver, a person requesting an immigration benefit must submit with the benefit request a written request for permission to have the request processed without payment of a fee. The request must state the person's belief that he or she is entitled to or deserving of the benefit requested, the reasons for his or her inability to pay, and evidence to support the reasons indicated. There is no appeal of the denial of a fee waiver request.

In November 2010, USCIS introduced the first-ever fee waiver form (Form I-912) to bring more structure and consistency to the discretionary fee waiver process. In addition, in March 2011, USCIS issued a Policy Memorandum that guides USCIS employees in the adjudication of fee waivers. The Policy Memorandum outlines the following criteria, of which one must be met to demonstrate an inability to pay:

- The applicant or members of the applicant's household are currently receiving a means-tested benefit. A means-tested benefit is one for which the individuals' income or resources determine eligibility and/or the benefit amount;
- The applicant's household income is at or below the 150% poverty level at the time the petition is filed; or,
- The applicant is experiencing financial hardship that prevents the applicant from paying the filing fee, including unexpected medical bills or emergencies.

Most fee waivers are adjudicated by individual Federal employees in USCIS's Office of Intake and Document Production. Federal employees in USCIS's Service Centers or District Offices may also adjudicate fee waivers for applications filed directly with them.

USCIS's Fraud Detection and National Security Directorate has focused appropriate attention on fee waiver integrity management. In the field there is an engaged and active working relationship focused on ensuring fee waiver integrity and anti-fraud work between the USCIS adjudications units involved in the fee waiver work and Fraud Detection and National Security personnel associated with screening and detection of fraud. The Fraud Detection and National Security Directorate has established a working group that is dedicated to harvesting best practices in detecting and deterring fee waiver fraud, ensuring the most effective fraud indicators are employed, updating enterprise training needs, and determining what, if any, process improvements can be implemented in this arena. Fee waiver fraud is a topic included in the planned Fraud Detection and National Security fraud training program focused at the adjudications corps nationwide.

b. Is there a fee charged for DACA applicants? If so, are these fees allowed to be waived? On average, how many DACA applicants have received fee waivers to-date?

Individuals requesting Deferred Action for Childhood Arrivals (DACA) must submit a combined fee of \$465 (composed of a \$380 fee for the Form I-765 plus an \$85 fee for biometric services). Traditional fee waivers are not available for DACA requests. In very limited circumstances reserved for the most vulnerable segments of the population, USCIS may exempt individual DACA requestors from paying fees. In order to be considered for a fee exemption, prior to submitting the request for DACA, a potential DACA requestor must submit a letter and supporting documentation demonstrating that the requestor meets one of the following conditions:

- The requestor is under 18 years of age, homeless, in foster care, or under 18 years of age and otherwise lacking any parental or other familial support, and the requestor's income is less than 150% of the U.S. poverty level;
- The requestor cannot care for himself or herself because he or she suffers from a serious chronic disability and has income of less than 150% of the U.S. poverty level; or
- At the time of the request, the requestor has accumulated \$25,000 or more in debt in the past 12 months as the result of unreimbursed medical expenses for himself, herself or an immediate family member, and the requestor's income is less than 150% of the U.S. poverty level.

As of July 18, 2013, over 550,000 DACA requests had been filed, but USCIS has approved only 126 fee exemptions.

c. When fees are waived, what funding resource does USCIS use to cover the costs associated with processing the case?

When fees are waived or exempted, other fee-paying applicants and petitioners fund the cost of processing the case. Section 286(m) of the Immigration and Nationality Act provides USCIS with the authority to set fees for providing adjudication and naturalization services at a level that recovers full costs of providing all such services, including the costs of providing similar services provided without charge to asylum applicants and other immigrants. It is under this authority that USCIS ensures it has enough revenue to fund all cases and requests that are processed.

Safeguarding and Securing Cyberspace

53. **For years, there have been significant vulnerabilities in our cyber networks. These vulnerabilities have led to massive identity theft, monetary loss, and leaks of classified information, and have had an effect on all levels of government and throughout industry. Additionally, cyber threats to Supervisory Control and Data Acquisition (SCADA) systems – which control industrial processes – have the potential to cause devastating impacts on critical infrastructure, including the electric grid and the water supply.**

a. If confirmed, what steps do you intend to take to improve the nation's cyber security, both with respect to the government and private networks?

Cybersecurity is a shared responsibility, and each of us has a role to play. Emerging cyber threats require the engagement of our entire society—from government and law enforcement to the private sector and members of the public. DHS actively collaborates with public and private sector partners every day to improve the security and resilience of critical infrastructure while responding to and mitigating the impacts of attempted disruptions to the Nation's critical cyber and communications networks. Securing cyberspace requires a layered security approach that includes both protection and prevention activities:

- Establishing and implementing minimum standards and best practices;
- Creating a cooperative environment where information is being shared quickly and efficiently to protect government and private sector networks;
- Developing and utilizing the latest intrusion detection and prevention technologies; and
- Raising the penalties for malicious cyber actors by increasing the enforcement of cyber crime laws and actively disrupting their organizations and operations and deterring potential cyber threats.

If I am confirmed, I intend to build on the work being performed at the Department and ensure that it is strategic, effective, efficient, and resourced appropriately.

b. What authorities do you believe the Department needs to effectively secure our federal government networks against ongoing cyber attacks?

Today the Department is tasked with the broad mission space of leading protection for Federal networks and critical infrastructure, often without statutory language specifically tailored to supporting our efforts. While the Department is constantly improving its capacity to meet these challenges, the Department believes that legislation to codify this mission would be especially helpful.

Specifically, with passage of FISMA legislation in the House on April 16, 2013, DHS still feels a need for clarification of existing DHS authority related to the protection of Federal civilian networks. Legislation should also build upon DHS's current role in coordinating cyber incident response and maintaining situational awareness regarding cyber threats to agencies and other critical infrastructure. And finally, authorizing hiring and pay flexibilities for the Department for cybersecurity positions would greatly benefit its internal efforts to grow its cyber workforce.

c. What steps will you take to encourage private sector companies to act to protect critical cyber infrastructure pursuant to the *Framework to Reduce Cyber Risks to Critical Infrastructure* being developed by the private sector through the National Institute for Standards?

The Executive Order directs NIST to lead the development of a framework to reduce cyber risks to critical infrastructure in collaboration with industry. Private sector and State and local government participation in the NIST-led development of the Cybersecurity Framework is critical to success. That is why DHS has built their participation into every aspect and every phase of EO implementation in a truly collaborative process, including:

To inform the development of the incentives reports, the Integrated Task Force hosted a series of workshops with private sector participants to discuss incentive structures that could be used to promote the adoption of the forthcoming voluntary Cybersecurity Framework. These meetings with industry and Federal agency partners informed the draft incentives report and helped ensure the perspectives of various sectors were reflected. The Department is considering incentives for companies to implement voluntary cybersecurity practices, such as targeted liability protection or the promotion of a cyber insurance market.

d. Do you believe that DHS's networks are secure?

DHS has advanced network defenses that it uses to protect and deliver the DHS mission. I am informed that there is one caveat; technology refresh is becoming difficult due to the existing budget reductions. If I am confirmed, I will investigate this issue fully.

e. Would you recommend any policy changes within the Department to improve its network security?

If I am confirmed, I will study this issue to determine whether policy changes are required to improve the Department's network security.

Ensuring Resilience to Disasters

FEMA Management

54. **FEMA has struggled with a number of longstanding management difficulties. Over the past several years, for example, the Department's IG and GAO have called attention to problems FEMA faces in financial management, human capital, information technology, and performance management. If left uncorrected, these problems could hinder FEMA's ability to respond to disasters and also lead to opportunities for waste, fraud, and abuse. If confirmed, what will you do to ensure that these problems are addressed?**

FEMA continues to make significant progress in these areas. Administrator Fugate requires an operational approach to management that emphasizes speed, agility, and smart decision-making. These efforts allowed FEMA to respond effectively to some of the busiest, and most costly, disaster seasons on record.

Administrator Fugate's leadership introduced a new level of fiscal discipline, effective funds management, and an evidence-based approach to evaluating performance. FEMA SES-level managers meet regularly as a group with the Administrator and Deputy Administrator for FEMA Stat meetings, stringent reviews of key business, readiness, and operational metrics.

Administrator Fugate also required reforms to FEMA's disaster workforce and instituted the FEMA Qualification System (FQS) and Reservist program. His leadership incorporated the DHS Surge Force, instituted the FEMA Corps volunteer program and established the Incident Management Assistance Teams (IMAT) Pilot Program. To further enhance management oversight, several key leadership vacancies in FEMA's administrative management were recently filled with proven professionals that are taking a more strategic and holistic approach toward operational management and meeting mission needs.

FEMA recently instituted changes designed to address deficiencies identified by the DHS Office of Inspector General and the Government Accounting Office. FEMA identified SES-level Designated Program Officials to increase accountability and designed increased efficiencies at the program level. The Office of Policy also implemented a system to group existing recommendations into management improvement opportunities. This program allows management to identify systematic weaknesses and identify wider solutions in order to close out recommended actions and avoid repeat audit findings.

FEMA remains committed to ensure that continued progress is made and that management attention is appropriately focused on these and other important infrastructural issues at FEMA.

Homeland Security Grants

55. **The President has proposed reforming the homeland security grants by eliminating all of the Department's terrorism-related grants and replacing them with a single, all-hazards "National Preparedness Grant Program" (NPGP). Under this proposal, what steps do you think should be taken to ensure that grant recipients develop the capabilities needed to address acts of terrorism as well as natural disasters?**

The FY 2014 National Preparedness Grant Program (NPGP) prioritizes the development and sustainment of core capabilities as outlined in the National Preparedness Goal (NPG). Particular emphasis will be placed on building and sustaining capabilities that address high consequence events that pose the greatest risk to the security and resilience of the United States and can be utilized to address multiple threats and hazards. The NPGP continues to utilize a comprehensive process for assessing regional and national capability requirements through the Threat and Hazard Identification and Risk Assessment (THIRA) and capability estimation processes, in order to prioritize capability needs and invest in critical national capabilities.

The NPGP draws upon and strengthens existing grants processes, procedures and structures, emphasizing the need for greater collaboration and unity among Federal, state, local and tribal partners. This is particularly important as stakeholders work together to make smarter investment decisions, develop shared or deployable capabilities, and share resources through Emergency Management Assistance Compacts (EMAC) or other mutual aid/assistance agreements.

In many ways, the NPGP structure mirrors the collaboration and decision making process that occurs during disasters, when various stakeholders and jurisdictions come together to plan, build, and execute capabilities together. This collaborative process is designed to break down stovepipes between various stakeholders and give all grantees enhanced awareness of initiatives in the state and region as well as the overall strategic direction and priorities.

NPGP grantees will be required to align their proposed investments to core capabilities, incorporate effectiveness measures, and regularly report progress on the acquisition and development of identified capabilities. These measures will enable all levels of government to collectively demonstrate how the proposed investment will build and sustain core capabilities necessary to strengthen the Nation's preparedness that will address acts of terrorism as well as natural disasters.

56. **Since 2003, the Department has issued nearly \$40 billion in preparedness grants. While the Post-Katrina Emergency Reform Act and the Implementing Recommendations of the 9/11 Commission Act of 2007 require FEMA to develop performance measures and a comprehensive assessment system to evaluate their effectiveness, FEMA has yet to meet these requirements. As a result, we lack systematic analysis of grant effectiveness and are unable to gauge how much the grants have contributed to strengthening preparedness. If confirmed, what will you do to ensure that FEMA finally meets these requirements?**

Since the release of Presidential Policy Directive 8: National Preparedness (PPD-8), FEMA has established measurable goals and objectives through the National Preparedness Goal (NPG) and National Preparedness System (System) that enable it to systematically measure improvements in first responder capabilities and state-wide preparedness.

FEMA established the Threat and Hazard Identification and Risk Assessment (THIRA) to provide a common approach for identifying and assessing risks, documenting their associated impacts, and setting capability targets. It creates an integrated risk picture through a five-step process that identifies threats and hazards; details their consequences; examines the core capabilities needed by states, territories, and urban areas; sets capability targets; and applies the results to products like the State Preparedness Report (SPR).

The Post-Katrina Emergency Management Reform Act requires states to complete an annual capability assessment and FEMA provides an annual SPR tool for all 56 states and territories to use to complete these assessments. Jurisdictions use the targets established in the THIRA to rate their current capability levels against these targets. The THIRA and the SPR address the development and implementation of performance assessments, identification of capability targets and gaps, and estimation of current preparedness based on those targets.

Because grantees must link grant investments to capability gaps or requirements or gaps they have identified as part of the THIRA and SPR, FEMA can measure grantees' annual progress in meeting the targets they have established for each of the 31 core capabilities defined in the NPG. The guiding doctrine for the System is relatively new.

FEMA understands it has a lot more work to do. It still needs to improve grantees' implementation of the System. Last year was the first time states and territories developed THIRAs. FEMA is revising its THIRA guidance to better define capability targets and improving its technical assistance in order to help grantees develop better products. FEMA also needs to establish a closer link between capability requirements and grant funding.

FEMA will be issuing guidance on state strategies that will tie capability targets and resource requirements to funding sources. It has established a solid framework for measuring preparedness, and FEMA will continue to improve its measurement and validation of the grantees' progress toward meeting the NPG.

Mitigation

57. **Mitigation is very cost-effective in reducing the lives lost and damages caused by disasters. The federal government has a number of programs that promote mitigation. At FEMA, for example, there is the Pre-Disaster Mitigation Program, which aims to blunt the impact of a disaster in advance, and the Hazard Mitigation Grant Program, which helps address mitigation during the rebuilding process after a disaster.**

- a. What needs to be done to encourage and support state and local governments, individuals, and businesses to adopt mitigation measures?**

Building codes and land use regulation provide powerful tools that can be used to reduce exposure to future disasters and build back better after an event occurs. Regulations related to zoning and site selection along with relocation incentives can encourage desired land use. Together with building design regulations, these standards can promote hazard mitigation goals that create resilient communities.

FEMA's existing programs encourage the adoption of land use standards and building codes. Nearly 22,000 communities currently participate in the National Flood Insurance Program (NFIP). In order to participate in the NFIP communities voluntarily adopt minimum floodplain management regulations. Communities that have adopted these minimum standards reduce flood damages by over \$1.7 billion annually.

Structures built to NFIP criteria experience 80% less damage through reduced frequency and severity of losses. FEMA's Building Science Branch through its various technical bulletins, guidance documents, and training also provide states, local and tribal governments the tools and know-how to build safer and stronger.

- b. What steps should be taken to ensure that federal mitigation activities are well-coordinated so that some areas are not left unprotected and that efforts are not duplicated?**

In May 2013, FEMA released the National Planning Frameworks, including the National Mitigation Framework. The Mitigation Framework addresses how the Nation will develop, employ, and coordinate core mitigation capabilities to reduce loss of life and property by lessening the impact of disasters.

The Mitigation Framework describes the seven core capabilities necessary for successful mitigation that will lead to a more resilient Nation. This Framework is driven by risk rather than the occurrence of incidents. By fostering comprehensive risk considerations, the Framework encourages behaviors and activities that will reduce the exposure and vulnerability of

communities.

Leaders at the state and national levels support local leadership by facilitating effective ongoing mitigation through setting a vision, aligning programs, and supporting local efforts as needed.

FEMA's mitigation planning program provides guidance, resources, and training to state, local, and tribal governments to develop hazard mitigation plans to identify hazards that impact them, actions and activities to reduce losses from those hazards, and establish a coordinated process to maximize resources.

As of May 31, 2013, 56 jurisdictions (including all States, the District of Columbia and the U.S. Territories), 123 tribal governments, and about 21,478 local governments have FEMA-approved (or approvable pending adoption) mitigation plans, covering almost 75% of the U.S. population. Funds to develop state, local, and tribal mitigation plans and implement mitigation projects are available from FEMA's Hazard Mitigation Assistance grant programs.

Coordination occurs among the various Federal Insurance and Mitigation Administration (FIMA) components, state and tribal mitigation planners, and other stakeholders to ensure that areas are protected and efforts are not duplicated.

Disaster Declaration Process

58. In two hearings before this committee, Secretary Napolitano and FEMA Administrator Fugate both stated that the use of the per capita damage indicator as part of the federal disaster declaration process needs to be reformed.

a. What steps do you think should be taken in the short- or long-term to reform the federal disaster declaration process?

FEMA is currently undertaking several initiatives relating to the disaster declaration process.

The Sandy Recovery Improvement Act of 2013 (SRIA) amended the Stafford Act to provide Federally recognized tribal governments the option to make a request directly to the President for a Federal emergency or major disaster declaration, or tribal governments are still able to seek assistance, as they do presently, under a declaration for a state.

FEMA is developing pilot guidance which will be used to process tribal government requests for emergency and major disaster declarations. FEMA will then use information and lessons learned from the pilot phase, along with extensive tribal consultation, to establish the tribal process in the regulation through notice and comment rulemaking.

In addition, another provision of SRIA directed FEMA to update its regulations regarding factors considered when evaluating a major disaster declaration request for Individual Assistance.

These changes will also be made through the notice and comment rulemaking process.

Finally, in September 2012, the GAO issued a report titled, *Federal Disaster Assistance: Improved Criteria Needed to Assess a Jurisdiction's Capability to Respond and Recover on Its Own*, which included a recommendation that FEMA reevaluate the methodology it uses in assessing a jurisdiction's capability to respond to and recover from a disaster without Federal assistance.

In response to this recommendation, FEMA agreed to review the criteria used to determine a state's response, recovery, and fiscal capabilities to include an evaluation of the appropriateness of the current per capita damage indicator. This review is underway and is expected to be completed by the end of FY14.

b. What measures do you think would be effective for determining when state and local capacity to respond to a disaster is overwhelmed?

FEMA is currently conducting extensive reviews of all aspects of the disaster declaration process, including factors which should be considered when determining the need for the Individual Assistance and Public Assistance programs, as well as the manner in which the unique circumstances of tribal governments should be taken into account in the process.

During these reviews, FEMA is considering information from many sources. Regarding tribal government declaration requests, FEMA has undertaken, and will continue to undertake, extensive tribal consultation to determine the unique circumstances and concerns relating to tribal governments and their members. Information learned during this consultation will inform FEMA's pilot guidance, which will be followed by rulemaking to implement this important authority.

Regarding the evaluation of requests for Individual Assistance, SRIA section 1109 directs FEMA to establish more objective criteria, to include specific conditions that may contribute to trauma. That provision also directs FEMA to work with state, local, and tribal emergency management agencies to develop this criteria. This effort is underway and will continue as the notice and comment rulemaking process proceeds.

In addition, the GAO has also made several suggestions regarding how FEMA could evaluate requests for Public Assistance, including the use of measures of state fiscal capabilities, such as Total Taxable Resources or State Personal Income, and increasing the per capita damage indicator. These are among the many factors FEMA is considering in its review.

U.S. Secret Service

59. Former U.S. Secret Service Director Mark Sullivan highlighted the challenge that the USSS has faced in balancing its dual missions, given the increasing staffing and travel demands for the security mission.

a. Do you believe the U.S. Secret Service's dual missions are compatible and complimentary?

The dual missions of the Secret Service are complementary and mutually reinforcing. The Secret Service is a distinct entity within the Department of Homeland Security and has two missions, criminal investigations and protection. Criminal investigative activities have expanded to encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. Protection activities include ensuring the safety and security of the President, Vice President, their families, and other identified individuals and locations. Additionally, the Secret Service is the lead agency in planning and executing the security for designated National Special Security Events.

Prior to being assigned to a permanent protective detail, all Special Agents serve as a criminal investigator conducting investigations in a Secret Service field office. This provides agents the opportunity to obtain critically important investigative skills and experience. The expertise, maturity and judgment Special Agents develop as criminal investigators are essential to their transition into the next phase of their careers – protecting our Nation's highest elected leaders. Additionally, during a Special Agent's tenure in their initial field office, they are routinely assigned to temporary protective assignments. The organizational structure of conducting investigations and serving on temporary protective assignments throughout the first phase of their careers fosters Special Agent development in both investigative and protective arenas and promotes the philosophy of having a cadre of well-trained and experienced Special Agents capable of handling the Secret Service's dual responsibilities.

Furthermore, through a network of 142 domestic offices and 22 international investigative offices, the Secret Service investigative mission executes another critical function: the investigation of threats against the President and other Secret Service protectees. These investigations are essential in supporting the protective mission. Secret Service Special Agents in the field offices respond to any threat made against a protectee, 24 hours a day anywhere in the world. Having obtained essential skills from conducting criminal investigations, Secret Service Special Agents are equipped with the experience and expertise to investigate threats made against protectees.

The Secret Service plays an integral role in the Department's ability to fulfill its mission through its mandated authorities to manage risks and threats to critical infrastructure, key leadership, and events. The Secret Service has adapted its techniques, skills and methods in order to be successful in carrying out its authorities to counter emerging threats and challenges in both

mission spaces.

For example, the Secret Service has applied experiences gleaned from both its investigative and protective missions to develop tools in the cyber arena to mitigate threats. The agency has fielded a computer network defense system that employs open source software and commercial, off-the-shelf hardware to identify cyber threats to critical infrastructure supported by the Secret Service's protective operations. The Secret Service has utilized this technology at all National Special Security Events since 2010. This application was developed in collaboration with the Secret Service's academic partners and based upon the agency's experiences investigating complex criminal cyber activities directed at the nation's financial system.

b. How should they be prioritized?

The investigative skills that Secret Service Special Agents develop in the field enhance and improve their abilities as they advance to a full-time protection detail. The Secret Service's investigative mission seeks to identify the most serious threats posed to the financial sector and disrupt those threats through criminal investigations. Additionally, the Secret Service's protective mission preserves the continuity of government and ensures the security of events of national significance. Both missions are complementary and mutually reinforcing and should receive the resources and focus needed.

IV. Relations with Congress

- 60. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?**

Yes.

- 61. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?**

Yes.

- 62. The 9/11 Commission Report recommended that Congress create "a single, principal point of oversight and review for homeland security." What challenges do you foresee for a Deputy Secretary taking over a department that has direct engagement with over 100 committees and subcommittees in Congress? How will you deal with this issue?**

Numerous organizations, think-tanks, academics, and journalists have looked at this issue in the years since the 9/11 Commission made this recommendation, the only unimplemented

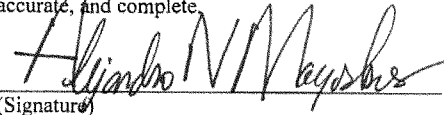
recommendation of the Report. There is wide agreement that lack of consolidated oversight and jurisdiction creates not just a heavy administrative burden for the Department, but a complex and sometimes contradictory legislative process. The challenges were clear in the last Congress when necessary re-authorization of the Department was hampered by multiple referrals and limited scope. I support Secretary Napolitano's call for consolidated jurisdiction and, if confirmed, I will continue to emphasize this point with Congress and be available to assist it however possible.

V. Assistance

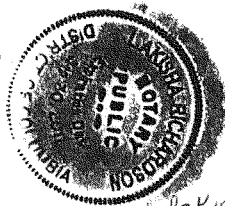
63. **Are these answers your own? Have you consulted with DHS or any interested parties? If so, please indicate the individuals or entities with whom you have consulted, and the nature of the assistance they have provided.**

The answers are my own. I have consulted with staff in the Department for updates on various programs and projects, to inquire as to factual or historical information required to provide responses to certain questions, to confirm dates of events, and to properly cite any specific statutes or directives. I am responsible for the content of all responses.

I, ALEJANDRO N. MAYORKAS hereby state that I have read the foregoing Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 22nd day of JULY, 2013





**Senator Tom Coburn, M.D.
U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire for the
Nomination of Alejandro Mayorkas to be
Deputy Secretary of Homeland Security**

I. Role and Responsibilities of Deputy Secretary of Homeland Security

1. **Please provide a comprehensive account of your actions with regard to Carlos Vignali, including but not limited to any conversations, correspondence, meetings and other communication with the following individuals:**

a. Todd Jones

I telephoned Mr. Jones in response to inquiries I had received regarding the Vignali case. I was not familiar with the case and Mr. Jones was the United States Attorney whose office prosecuted the case. I inquired of Mr. Jones about the case and he and, to the best of my recollection, one of his office's Assistant United States Attorneys informed me that it was a narcotics trafficking case that proceeded to trial and Carlos Vignali was convicted and duly sentenced. I do not recall the dates of my communication with Mr. Jones.

b. Andrew Dunne

I do not recognize this name.

c. Denise Reilly

I do not recognize this name.

d. Bruce Lindsay

To the best of my recollection, I received a telephone message from Mr. Lindsay's office in The White House requesting a return call regarding the Vignali matter. I consulted with the U.S. Department of Justice whether it would be appropriate for me to return the telephone call and I was told that I could do so. I returned the call. I did not speak with Mr. Lindsay and I do not recall the name of the individual with whom I spoke. I believe the date of the telephone call was in late 2000.

e. Meredith Cabe

I do not recognize this name.

f. Roger Adams

To the best of my recollection, Roger Adams served as the Pardon Attorney in the U.S. Department of Justice during my service as United States Attorney for the Central District of California. After I received a telephone message from Mr. Lindsay's office in The White House requesting a return call regarding the Vignali matter, I telephoned the U.S. Department of Justice to determine whether or not I could return the call to The White House. I do not recall whether it was Roger Adams with whom I spoke, but I think it was. I received permission to return the call to Mr. Lindsay's office.

g. Horacio Vignali

Horacio Vignali is, to the best of my knowledge, the father of Carlos Vignali. To the best of my recollection, I met Horacio Vignali on a few occasions, including at one law enforcement-related event and one charitable event. To the best of my recollection, on one of these few occasions Horacio Vignali informed me of Carlos Vignali's incarceration for a drug-trafficking crime and his hope that the sentence that Carlos Vignali was serving would be reduced.

h. Hugh Rodham

I recognize this name from reading the newspaper. To the best of my knowledge I have not had a communication with Hugh Rodham.

2. **At the time of your conversations with White House officials and other prosecutors regarding Carlos Vignali's case, did you believe Mr. Vignali was innocent of the charges of which he was convicted, as Mr. Vignali alleged?**

No.

3. **Did you believe that absent Mr. Vignali's expressing guilt in these crimes and subsequent remorse for his actions, it was appropriate for him to receive clemency?**

No.

4. **At your 2009 Senate Judiciary Committee confirmation hearing, you testified that in a conversation with White House officials, you stated clearly that you did not recommend commuting Mr. Vignali's sentence ("At the outset of that brief conversation I was asked whether I recommended the commutation, and I said I did not.") But you subsequently testified that you made comments in the same conversation in favor of commutation ("I made comments that clearly were construed, and not unfairly so, to mean that my opinion leaned in favor of commutation.") Is your testimony that you made comments both for and against commuting Mr. Vignali's sentence?**

No. At the outset of the brief conversation I was asked whether I recommended the commutation and I said I did not. I said it was not my case, I was not familiar with the

facts of the case, and deference should be given to the United States Attorney for the District of Minnesota who prosecuted the case. My subsequent response to general questions about rehabilitation and the role of family in rehabilitation was apparently construed otherwise.

5. **During the testimony cited above, you repeated that you believed “it was a mistake to engage in that conversation at all.” Is that specific conversation the only activity in which you participated regarding Mr. Vignali that was a mistake?**

Yes, and I continue to acknowledge that it was my mistake to return the phone call.

6. **Do you believe that all other conversations and communications in which you engaged regarding Carlos Vignali were appropriate?**

Yes, I do.

7. **Do you understand how your actions with regard to Mr. Vignali, and your subsequent statements regarding those actions, may raise concerns about your ability to professionally and appropriately dispatch the duties of an office responsible for managing major federal law enforcement entities including the U.S. Secret Service, U.S. Immigrations and Customs Enforcement, and Customs and Border Patrol?**

I am able to professionally and appropriately dispatch the duties of an office responsible for managing federal law enforcement entities. I have led my career, including my sixteen years of public service – twelve years of which I served as a federal prosecutor – with character, integrity, and distinction. I was an excellent federal prosecutor and I am immensely proud of my service as a federal prosecutor. I forever will remain proud to be a part of law enforcement, a noble calling, and I always have had and I continue to have the support of the law enforcement officers and agents with whom I have had the privilege to work.

I respectfully submit that the letters in support of my nomination that this Committee has received from law enforcement officers, agents, leaders, and organizations are a reflection of my distinguished service as a federal prosecutor, my dedication to law enforcement, and the character and integrity with which I fulfill all of my responsibilities – as a public servant, a law enforcement official, a family man, and a person.

a. How do you address those concerns?

I address any concerns with reference to my career record past and present, including as reflected in the letters from distinguished law enforcement leaders who fully and enthusiastically support my nomination. If I am honored with this Committee’s support and with the full Senate’s support, I will execute my responsibilities as the Deputy Secretary of the Department of Homeland Security in a manner that makes each and every Senator proud.

II. Policy Questions

Interior Enforcement

8. **There are often cases where individuals subject to expedited removal proceedings or who are encountered by border patrol express a fear of persecution or torture or a fear of return to his or her home country and subsequently apply for asylum. After an individual expresses this fear, an Asylum Officer must conduct a “credible fear” interview to determine whether the individual has a credible fear of return to their home country. Thereafter, if the Asylum Officer makes a finding of “credible fear,” the asylum officer may refer the case to an immigration judge to make a determination on the case. With regard to your time as Director of USCIS, please provide the following information regarding this process:**
 - a. **Do USCIS Asylum Officers conduct any follow up review after the initial “credible fear” interview? Is there any follow up to determine whether a person granted asylum ultimately returns to their home country after receipt of such status? For example, was this done in the case of the Tsarnaev family, since they were granted asylum but ultimately chose to return to their home country? If USCIS determines an individual has returned home following receipt of asylum status, does USCIS revoke that status or otherwise limit the individual’s ability to remain in the United States under asylum or any other legal status?**

When an Asylum Officer conducts a threshold screening interview and determines that an alien has a “credible fear” of persecution or torture, the Asylum Officer places the alien into removal proceedings where an application for asylum may be presented before the Immigration Judge. USCIS is not granting asylum status in credible fear cases and does not conduct any subsequent review once jurisdiction passes to the Department of Justice/Executive Office for Immigration Review.

Separate from the credible fear screening process, in the affirmative asylum context, a grant of asylum does not convey a right to remain permanently in the United States. Asylum status may be terminated if the alien voluntarily re-availed himself of the protection of the country of feared persecution by returning to such country.

If an alien voluntarily re-avails himself of the protection of the country of feared persecution by returning to such country, an asylum office may initiate termination proceedings. However, an asylee’s return to his country of persecution or feared persecution does not automatically provide the basis for terminating a grant of asylum. During a termination interview, an asylum officer must consider the reason(s) the asylee returned to his country to visit, any problems or lack of problems the applicant faced upon return, and any precautions the applicant took to avoid harm to determine if the applicant is still unable or unwilling to return. Therefore, any decision to terminate asylum is made on a case-by-case basis.

- b. Each year from 2009 to present, the number and percentage of individuals who were placed into expedited removal and expressed a fear of persecution.

Year	Placed in Expedited Removal	Referred for a Credible Fear Interview	Percentage
2009	111,394	5,369	5%
2010	120,075	8,959	7%
2011	123,180	11,217	9%
2012	183,691	13,880	8%
2013Q3	179,800	23,632	13%

- c. Out of the result in Question 8(b), the number of individuals who were found to have a credible fear.

Credible Fear Cases	FY-09	FY-10	FY-11	FY-12	FY-13 Q3
Referrals from CBP or ICE	5,369	8,959	11,217	13,880	23,632
Completed	5,222	8,777	11,529	13,579	23,408
CF Found	3,411	6,293	9,423	10,838	19,400
Of all referred cases, % where CF was found	65.32%	71.70%	81.73%	79.81%	82.88%

- d. Each year from 2009 to present, the number of individuals, other than those placed in expedited removal, who expressed a fear of persecution.

Case Type	FY-09	FY-10	FY-11	FY-12	FY-13 Q3
Affirmative Asylum Applications	24,553	28,444	35,067	41,883	33,059
Reasonable Fear Screenings	1,109	2,060	3,233	5,070	5,043

Affirmative asylum applications may include more than one individual (i.e., a derivative spouse and/or children).

Reasonable fear screenings are conducted for aliens who are prohibited from asking for immigration benefits with USCIS or an Immigration Judge (IJ) because they have had a prior order of removal reinstated or have received an administrative removal order but have expressed a fear of returning to the country of origin or other country to which the alien may be removed. If an Asylum Officer determines an alien has a reasonable fear, the alien is referred to the IJ where he may apply for withholding or deferral of removal. These aliens are not eligible for asylum status.

Aliens may also apply for asylum as a defense to removal in Immigration Court after being placed in removal proceedings by ICE or CBP. Except in the case of unaccompanied alien children, USCIS does not receive or adjudicate these cases.

e. Out of the result in Question 8(d), the number of individuals who were found to have a credible fear.

See response for #8(c) for the number of individuals found to have a credible fear. The statistics below provide information where aliens were found to be eligible for asylum status after filing an asylum application with USCIS or to have been determined to have a reasonable fear after a referral from ICE or CBP.

Case Type	FY-09	FY-10	FY-11	FY-12	FY-13 Q3
Affirmative Asylum Grants	9,614	9,174	10,700	12,991	8,839
Grant Rate (of interviewed cases)	36%	35%	37%	41%	45%
Reasonable Fear Positive Determinations	163	202	603	938	1,323
Of all referred cases, % where RF was found	17%	16%	22%	20%	28%

f. Each year from 2009 to present, the number and percentage of asylum applications that have been granted and denied by USCIS.

Affirmative Asylum	FY-09	FY-10	FY-11	FY-12	FY-13 Q3
Grants	9,614	9,174	10,700	12,991	8,839
Denials (applicants in valid immigration status)	1,992	958	1,064	922	655
Interviewed Referrals (applicants not in valid Immigration status)	15,291	15,784	17,305	17,948	10,282
Un-interviewed Referrals (no-shows and withdrawals)	1,721	1,871	2,807	3,714	2,508
Administrative Closures (lack of jurisdiction, LPRs or USC applications)	3,900	1,677	1,529	1,318	720
Grant Rate (of interviewed cases)	36%	35%	37%	41%	45%

g. Each year from 2009 to present, the total number of people who were placed into removal proceedings.

NTAs (Form I-862, Notice to Appear) Issued by USCIS Asylum (individuals)

Case Type	FY-09	FY-10	FY-11	FY-12	FY-13 Q3
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Affirmative Asylum	23,885	20,928	23,798	25,961	15,883
Credible Fear	3,411	6,293	9,423	10,838	19,400
Total	27,296	27,221	33,221	36,799	35,283

h. Each year from 2009 to present, the total number of people who appeared for their hearings.

Once a Notice to Appear is issued and served on the U.S. Department of Justice's Executive Office for Immigration Review's Immigration Court, the case leaves the jurisdiction of the USCIS Asylum Office and is no longer tracked by USCIS.

**Post-Hearing Questions for the Record
Submitted to Alejandro N. Mayorkas
From Senator Thomas R. Carper**

**Nomination of Hon. Alejandro N. Mayorkas to be Deputy Secretary, U.S. Department of
Homeland Security
July 26, 2013**

1. Priorities and Challenges

When you took over at USCIS in 2009, you inherited an agency that was facing considerable management challenges. During your confirmation hearing before the Judiciary Committee at the time, you promised to undertake a thorough, top to bottom review and highlighted a number of priorities that you wanted to address.

- a. Can you describe for the Committee what this review entailed, what you discovered, and actions you took to address the findings of the review?**

In my confirmation hearing before the Judiciary Committee regarding my nomination to be the Director of U.S. Citizenship and Immigration Services, I committed to conducting a thorough, top-to-bottom review of the agency. I felt very strongly that such a review was needed to ensure that the agency's resources and activities were properly prioritized and that its organizational structure reflected those priorities and was designed to execute those priorities effectively and efficiently.

I began the top-to-bottom review of the agency right away. The review involved a series of measures and several of the significant measures are summarized below.

- I studied multiple externally-authored reports about the agency and the challenges it faced. The studies included reports from the Government Accountability Office, DHS Office of the Inspector General, the U.S. Citizenship and Immigration Services Ombudsman, and non-governmental organizations.
- I studied internal agency documents regarding agency priorities, management, history, and operations.
- I met with agency leaders and managers in one-on-one meetings and in groups. I asked questions about agency priorities and challenges, solicited ideas about organizational change and plans to address the agency's challenges, and discussed and debated possible solutions and ideas for agency improvement.
- I met with Members of Congress to understand their views of the agency, its strengths, weaknesses, priorities, challenges, and opportunities.

- I met with members of the agency's workforce, including leaders of the agency's union. I traveled to offices in different parts of the country and conducted town hall meetings to hear directly from the agency's employees about agency priorities, successes, challenges, and the employees' vision for the future of the agency.
- I spoke with former agency leaders to gain historical perspective on the agency's priorities, management, and challenges and to solicit past leaders' views on their efforts, the challenges they faced, and the potential they saw in the agency's future.
- I met with agency partners in various part of the federal government to understand the status of collaborative efforts, challenges in dealing with the agency, and opportunities for more effective working relationships, especially in areas of overlapping or complementary responsibilities.
- I met with members of the public to learn of their positive experiences and challenges regarding the agency's administration of our nation's legal immigration system.

As the top-to-bottom review of the agency was underway, I discovered a very dedicated and talented workforce that was committed to the agency's mission, and an organization that executed its mission with varied success. The challenges I observed were numerous, including the following:

- The agency's ability to meet its case processing time goals was identified as the first priority on top management's list of priorities, rather than the critical needs of national security and program integrity.
- The agency's organizational structure was misaligned in such a way that, for example, what should have been the agency's highest priorities were not effectively emphasized, intra-agency collaboration and dialogue were not facilitated and promoted, and agency management efforts were not fully integrated with one another.
- The agency's operations were decentralized such that different offices within the agency promulgated different immigration policies, despite the agency's obligation to enforce a single, federal framework of immigration statutes and regulations. The result was the agency's inconsistent application of law in some areas.
- Fiscal discipline was not enforced with due aggressiveness.
- Neither agency employees nor the public were provided adequate opportunities for engagement, thereby fostering complaints of agency insularity and lack of transparency.

I took a series of actions to address the challenges I learned of, and those actions continue to this day. Several of the immediate, large-scale steps I took include the following:

- I stated clearly and consistently that the agency's top priority was safeguarding our national security and combating fraud.
- I realigned the agency's organizational structure to reflect its priorities and to more effectively and efficiently execute them. This included:
 - The creation of the Fraud Detection and National Security (FDNS) Directorate. Previously, the agency's fraud detection and national security responsibilities were embedded in a Directorate that had varied responsibilities, including many that did not pertain directly to national security. By providing FDNS with a seat at the leadership table, including it in the clearance of headquarters documents, increasing its staffing, and taking other significant measures, FDNS was better integrated into the leadership and operations of the agency and the prioritization of its work was accurately reflected and resourced accordingly. The establishment of FDNS enabled USCIS to better identify, prevent, and respond to fraud and other threats.
 - The creation of the Management Directorate, bringing together under the same oversight a series of operational management responsibilities that require integration and close coordination. For example, the offices of the chief financial officer, information technology, document production, and human capital and training were brought together under unified oversight. This realignment of management offices enabled them to coordinate more effectively with one another and with the agency's operational components. It also helped achieve greater oversight and accountability.
 - The creation of the Office of Performance and Quality to propel agency officials to prioritize the quality of the work performed rather than its quantity, develop metrics to provide quality oversight, improve data integrity, and streamline processes according to best practices.
 - The creation of the Customer Service and Public Engagement Directorate to achieve greater transparency as an agency and to improve the delivery of customer service.
- I examined our policies to find ways to cut costs and increase efficiency, including leading an effort that imposed more than \$160 million in budget cuts during fiscal year 2010.
- I directed the agency to conduct a top-to-bottom policy review that involved (1) the collection of all of the agency's immigration policy pronouncements, (2) the prioritized review and analysis of those policy pronouncements, and (3) the prioritized consolidation and revision of those policy pronouncements to eliminate inconsistencies and any deviations from what the law required, and achieve adherence to the single, controlling federal statutory and regulatory framework. The review is well underway.

- I began a difficult and ongoing process to overhaul the agency's performance management system, to shift the system from one unduly focused on quantitative metrics to one that focuses on the quality of the work performed and more closely tied to agency priorities.

Progress and improvement are not static operational events, but instead compel ongoing analysis and work. The top-to-bottom review that I began upon my service as the Director of USCIS continues to this day. Its results extend far broader than the several examples identified above and will continue to increase in response to the ongoing efforts.

b. If confirmed, what lessons-learned will you take with you to headquarters?

If I have the privilege of being confirmed as the Deputy Secretary, I will take many significant lessons I learned from the top-to-bottom review process that I led and continue to lead at USCIS. The significant lessons include the following, for example:

- DHS has an incredibly talented and dedicated workforce that is committed to, and believes strongly in, the mission. The workforce is the Department's greatest resource and the workforce must be provided with the tools it needs to accomplish the mission at the highest level of excellence, including training and professional development and growth opportunities that are hallmarks of an organization devoted to its personnel. The workforce must also be provided with open and transparent processes that reflect confidence in the workforce and instill confidence in the fairness and integrity of the organization's human capital systems and decisions.
- How an organization is structured and resourced reflects its priorities and drives how effectively and efficiently it executes those priorities. Priorities and strategy must drive the budget and not the other way around. Alignment of management responsibilities is especially critical for an organization that has a wide range of components and goals, requires extensive internal and external collaboration, and is vulnerable to unnecessary redundancies and duplication of effort.
- Openness and accountability help drive progress and improvement.
- The drive to achieve goals must be equipped at the outset with well-defined action plans, timetables, and sound metrics to assess success. Oversight of goal-oriented efforts must be constant and sustained and must be open to course-corrections as lessons are learned.

Fundamentally strong management systems and controls – including, for example, those ensuring fiscal discipline and restraint, contract oversight and integrity, audit accountability, innovative and best-practice use of technology – serve as the critical foundation for progress and improvement.

c. If confirmed, what will be your priorities for the Department and what challenges or issues do you want to address?

If I have the privilege of being confirmed as the Deputy Secretary, I will devote a considerable amount of my efforts to fulfilling my responsibilities as the Department's chief operating officer. The Department is presented with opportunities and challenges, including such foundational issues as delivering a clean audit opinion, strengthening and sustaining fiscal discipline, developing sound and clear metrics for success, ensuring the integration of the Department's operations and strategies, employing innovative best practices in the use of technology, and enforcing rigor, discipline, and oversight in contracting generally and in distributing grants specifically. I would undertake immediately a more in-depth assessment. This assessment would involve, for example:

- Working with Departmental leaders, at headquarters and throughout the component agencies, to study and assess their goals, challenges, and action plans to address both;
- Working with Departmental oversight agencies to learn of their perspectives on the Department's opportunities and challenges; and
- Working with the Department's employees, in the most effective and appropriate way, to gather their input on the Department's opportunities and challenges.

As the assessment is underway, I would engage with this Committee to share my findings and assessment so that this Committee can exercise its oversight responsibility fully and ensure that the development of the Department's chief operating action plans have the support of this Committee, both in terms of prioritization and substance.

2. National Security and USCIS

You have noted in the past that when you assumed office, you were surprised to learn that the number one priority at USCIS was meeting its production goals for approving visa applications. This is particularly disturbing given the fact that immigration benefit fraud has been a longstanding concern from a homeland security standpoint. In fact, a number of the terrorists that attacked this country on September 11 had received their visas to travel to the United States based on fraudulent applications. The Committee understands that one of your first actions was to elevate the existing fraud detection and national security office at the Agency, and to prioritize national security as a goal for the agency.

a. Please describe for the Committee why you felt it was important to elevate the Fraud Detection and National Security office to a Directorate.

U.S. Citizenship and Immigration Services' most important and fundamental responsibility is to help safeguard our national security and protect the integrity of our nation's immigration system.

A quality organization's structure and alignment should reflect its priorities so that its priorities are most effectively and efficiently executed. Prior to my arrival and the top-to-bottom review I led, this was not achieved at USCIS with respect to its fraud detection and national security

responsibilities. Prior to my arrival, USCIS's fraud detection and national security efforts were stationed in a unit that was part of a larger operational directorate that included other responsibilities as diverse as records management, FOIA, and E-Verify. At meetings of top agency leadership, fraud detection and national security expertise was not represented, and leaders with that expertise sometimes did not have the opportunity to review proposed agency policy memoranda or operational changes before they were implemented. That changed quickly under my leadership.

With the creation of the Fraud Detection and National Security (FDNS) Directorate, the agency's organizational structure better reflected its priorities. FDNS and its expert leaders and managers had a seat at the leadership table, FDNS expertise was more effectively and quickly brought to bear upon agency policy-making and operational decisions (and FDNS had the opportunity to assess when its expertise was needed, something others without that expertise might not have realized), and the FDNS mission was reinforced throughout the agency and with its partners throughout the government, including the national security and law enforcement communities. In addition, FDNS was strengthened with needed additional resources.

b. Please describe for the Committee what role the Fraud Detection and National Security Directorate currently plays at USCIS.

The Fraud Detection and National Security Directorate (FDNS) is responsible for developing and creating procedures, policies, and national priorities governing USCIS's management of national security, law enforcement, public safety, screening policy, and fraud detection and prevention nationwide across all operational arenas. FDNS has management control of leadership hiring, funding, operational priorities, and resource allocation for the FDNS functions at headquarters and in the field.

FDNS field personnel work daily with adjudications staff at all adjudication staff levels and in all operational arenas. The adjudications staff are legally delegated the authority to make decisions on benefits pending before the agency. FDNS field personnel provide a variety of services to adjudicators to assist in the adjudications process and to ensure that all matters before the agency are decided with the highest degree of integrity and security. When a case is referred to an FDNS unit in the field, officers conduct investigations under the administrative authorities of United States Code Title 8. An administrative investigation can include, but is not limited to: (1) searches of government and commercial databases; (2) file reviews; (3) domestic or overseas site visits; (4) document verification (domestic or overseas); (5) witness interviews; (6) verification of facts and events relevant to the case; and (7) collaboration with other municipal, State, or Federal law enforcement and intelligence entities as appropriate.

Field-embedded FDNS officers are integrated into the local adjudications operational chains of command in order to maximize effective communication and cooperation between adjudications staff and to support FDNS investigative inquiries. This management structure has resulted in an overall increase in FDNS effectiveness in ensuring the integrity and security of the agency's adjudications process.

FDNS is USCIS's liaison with key national security, law enforcement, and Intelligence Community (IC) agencies. FDNS leadership is responsible for the USCIS Intelligence Enterprise and represents USCIS at the Homeland Security Intelligence Council chaired by the

DHS Undersecretary for the Office of Intelligence and Analysis. FDNS also attends the regular FBI National Joint Terrorism Task Force sessions, and other key IC senior level meetings. FDNS represents USCIS at key national security and law enforcement IPCs at the White House. FDNS represents USCIS's views on security, risk, and law enforcement concerns in the interagency and functions as the corporate voice for USCIS in those settings.

FDNS, via the DHS Office Intelligence and Analysis, provides robust reporting to the IC on matters of practice and operational control within USCIS. FDNS provides reporting to our internal and external partners on all issues related to immigration benefit fraud, to include emerging fraud schemes and document fraud. FDNS also reports information related to the immigration history and current immigration filings by or for individuals with national security concerns.

FDNS maintains multiple permanent liaison positions at national security and IC agencies. These liaison positions represent USCIS interests before these agencies in USCIS cases which require expertise from the national security community or the IC. They also ensure USCIS's recognized expertise in immigration records and border and immigration security law and process is available to those communities at will. Detail locations include, but are not limited, to the: (1) National Counterterrorism Center; (2) FBI's National Joint Terrorism Task Force; (3) Central Intelligence Agency; (4) Treasury Department's FINCEN; (5) National Targeting Center; (6) Homeland Security Investigations – ICE; (7) Terrorism Screening Center; (8) DHS Office of Intelligence and Analysis; (9) INTERPOL Washington DC; and (10) Human Smuggling and Trafficking Center. FDNS personnel are robustly detailed to the local JTTFs. These USCIS Officers work with JTTF personnel to assist in the overall mission of the JTTF and in specific USCIS cases they work to ensure that at-risk cases managed by our adjudications personnel are handled in a manner consistent with appropriate security principles.

c. Can you describe for the Committee any other specific actions that you have taken as Director to prioritize national security investigations and identify fraud

USCIS has undertaken a wide scope of work to enhance national security and anti-fraud capabilities during my tenure. These measures include but are not limited to the following:

Fraud Detection Enhancements

- In FY 2012, USCIS has increased the number of FDNS officers, analysts, and staff to more than 780, an approximately 25 percent increase over the prior two years. In FY 2013, USCIS increased the total FDNS staff to over 990 personnel, a 21 percent increase from the previous fiscal year. These resources will further strengthen the FDNS work for USCIS in the fraud detection, national security, and intelligence missions. Many of these positions have been allocated to field offices and service centers to strengthen coordination and collaboration with our front-line employees. In addition to those employees in the field offices and service centers, FDNS has approximately 190 employees at headquarters who are responsible for coordinating programs and developing new tools and processes to ensure integrity-based, quality adjudications.

- USCIS established a new National Security Branch in our Field Operations Directorate to achieve more integrated and effective coordination on national security and fraud matters, both within Field Operations and with other USCIS offices. The new National Security Branch supports our enhanced collaboration on intelligence and enforcement matters via the Joint Terrorism Task Forces (JTTFs) around the country.
- USCIS has enhanced our overseas verification efforts by increasing our FDNS staffing footprint and collaborating with the Department of State's Fraud Prevention Program in countries where there is no USCIS presence. The program combats immigration fraud, both pre- and post-adjudication of benefits, through site visit provision, document authentication overseas, and other measures, and we continue to develop and update standardized protocols to enhance the program's consistency and effectiveness. Our standard operating procedures include the sharing of best practices and up-to-date verification information. USCIS continues to participate in the development of immigration fraud information sharing under international agreements.
- USCIS Administrative Site Visit Verification Program (ASVVP) performed more than 21,500 site inspections in FY 2012 (an increase of over 4,000 ASVVP inspections from the previous fiscal year). The program conducts unannounced pre- and post-adjudication site inspections to verify information contained in certain visa petitions. The goal is to both detect and deter fraud. Over 75 new federal officers and 13 senior officers and analysts were hired to replace contractors to oversee the program. Data derived from the ASVVP will inform and improve our ongoing anti-fraud efforts, enabling better informed decisions on the cases. As we have reported to Congress, data from the ASVVP strongly suggests that the program has been effective in deterring immigration benefit fraud.
- USCIS launched the Validation Instrument for Business Enterprises (VIBE), a Web-based tool that uses commercially available information to validate the business operations of companies and organizations looking to employ foreign workers. VIBE enhances USCIS's ability to adjudicate employment-based immigrant and nonimmigrant petitions efficiently and accurately.
- USCIS enhanced the analytics and reporting capabilities of our Fraud Detection and National Security Data System (FDNS-DS). FDNS uses the system to document, analyze, and manage our agency's fraud and national security cases. Consolidating the management of fraud and national security cases into a single system allows officers to conduct person-centric queries and display all relevant information about an applicant, petitioner, or beneficiary. We also expanded the system's ability to import application-related data from other USCIS systems. The effect of this last change is to enhance the breadth, accuracy, and utility of records in FDNS-DS. As system limitations are identified and as our anti-fraud and national security programs mature, FDNS-DS is updated to reflect the needs and capabilities of our officers. Along with improvements in data integrity, these refinements give us better capabilities in the identification, tracking, and resolution of fraud, national security, and public safety issues.

- USCIS launched fraud reporting tools and began delivering fraud bulletins in real-time to agency personnel. The fraud-detection bulletins are designed to inform our officers of the latest fraud issues, including identifiable trends and practices.
- In an effort to prevent the unauthorized practice of law, USCIS issued a policy memorandum in May 2012 that established guidelines for the eligibility of attorneys and other representatives to appear before USCIS while representing applicants for immigration benefits. This guidance encourages USCIS officers to verify the eligibility of attorneys and other representatives by consulting the DHS Disciplinary Counsel website and the list of disciplined practitioners maintained by the Department of Justice. The memo cautions USCIS officers to be aware of individuals who have falsely claimed to be attorneys or other accredited representatives as well as those who have been the subject of Federal, State, or local court action relating to the unauthorized practice of immigration law.
- USCIS created a standardized training course—Identifying and Combating Immigration Benefit Fraud (FRAUD)—to assist FDNS officers and immigration service officers in identifying, detecting, and deterring immigration fraud. This course provides standardized national fraud detection and deterrence training to USCIS employees and focuses on:
 1. Techniques to identify various types of immigration fraud
 2. Best practices to follow in file review and interviewing
 3. Fraud referral and statement of findings processes
 4. Communication tools between FDNS officers and adjudicators

To date, over 3,725 USCIS personnel have received this training. In addition, the FRAUD course content has been incorporated into the Immigration Officer Basic Training Course.

- USCIS has performed outreach with key stakeholder communities to obtain exemplars of documents likely to require validation during adjudications of requests for the Deferred Action for Childhood Arrivals process. These stakeholders include members of the educational, international, and the law enforcement communities. As a result of these community engagements, USCIS has established an exemplar library of school records from participating institutions for USCIS adjudicators, an exemplar library of foreign identification documents obtained from the foreign embassies of those countries most represented in the deferred action population, and a continually growing list of educational accrediting agencies, various school directories, high school GED requirements by state, and known or suspected educational fraudulent document vendors. These exemplar libraries help USCIS maintain document integrity and prevent fraud. USCIS's focus to implement fraud identification tools for the Deferred Action for Child Arrivals process complemented its core commitment to integrity-based quality adjudications.

National Security, Screening and Vetting Enhancements

- USCIS has enhanced the Security Coordination Office through creation of an integrated working group empowered to centrally manage the complex and aggressive screening policies undertaken by USCIS. These enhancements include additional personnel and broadening the scope of our screening protocols and increasing their frequency to ensure that we address national security and public safety threats as soon as they are identified.
- USCIS developed and implemented with the intelligence community new vetting protocols for refugee applicants. The new vetting protocols subject refugee applicants to more rigorous screening against a number of security databases to ensure that they are eligible for refugee status and that they do not pose a threat to national security or public safety.
- USCIS has enhanced our collaboration with the FBI Joint Terrorism Task Force (JTTF), and other intelligence and law enforcement partners. FDNS officers have established working relationships with the JTTF, and all State and Major Urban Area Fusion Centers. FDNS officers are detailed to the ICE National Security Unit, the U.S. Customs and Border Protection National Targeting Center, the Department of Homeland Security's Office of Intelligence and Analysis, the Department of Homeland Security's Threat Task Force, the National Joint Terrorism Task Force, the National Counter-Terrorism Center, the Department of State's Kentucky Consular Center and National Visa Center, the FBI's Operational Deconfliction and Analysis Team, the Terrorist Screening Center, the FBI's National Name Check Program, the Central Intelligence Agency, and INTERPOL's U.S. National Central Bureau. These relationships provide USCIS with greater access to information that is critical to the development of fraud and national security matters, while also facilitating the sharing of USCIS information and subject matter expertise that is useful to our partners.
- USCIS strengthened the international exchange of threat information, including biometrics. Working with US-VISIT, we expanded our exchange of information related to asylum claimants under existing data-sharing agreements with foreign-government partners.
- USCIS has developed robust intelligence reporting activities allowing it to prepare and disseminate various intelligence reports, to include reporting specifically targeting immigration benefit and document fraud. In 2012, USCIS published an intelligence assessment related directly to fraud activities. This report generated great interest and received three positive evaluations from Customs and Border Protection. These reports were also disseminated to USCIS's external customer base which includes the Intelligence Community and federal, state and tribal law enforcement entities.

Anti-Fraud and National Security Improvements to Process Integrity

- USCIS now uses a more secure naturalization certificate to reduce fraud. The certificate, redesigned in 2010, features the naturalization candidate's digitized photograph and

signature embedded into the document. The background also features a color-shifting ink pattern that is difficult to reproduce. In addition, we began using a more secure printing process that renders the certificate more tamper-resistant.

- USCIS uses state-of-the-art technologies in the issuance of a redesigned and more secure Employment Authorization Document and permanent resident card, commonly known as the “Green Card.” The technologies incorporated into the new cards, including more secure optical media, holographic images, laser engraved fingerprints, and high resolution micro-images, prevent counterfeiting, obstruct tampering, and facilitate quick and accurate authentication of card holders.
- USCIS uses its Secure Mail initiative, which establishes a partnership with the U.S. Postal Service to enable delivery confirmation for secure immigration documents (Permanent Resident Cards, employment-authorization documents, and travel documents). Secure Mail allows our agency to confirm mailing and delivery and enables the U.S. Postal Service to track delivery and respond to applicants’ status queries. The initiative enhances the integrity of the system and improves customer service.
- USCIS further strengthened the E-Verify program’s anti-fraud capabilities. We introduced U.S. passport photo-matching as a new feature in the E-Verify program, enhancing the program’s integrity by enabling E-Verify to check the validity and authenticity of all U.S. passports and passport cards presented for employment verification. This tool enhances E-Verify’s previous, more limited, capacity to detect identity theft by enabling the employer to ensure that the identity document presented belongs to the applicant. We also began expanding E-Verify’s anti-fraud capabilities in partnership with state motor-vehicle bureaus. The new effort allows USCIS for the first time to verify driver’s licenses presented for employment authorization against state records. We began piloting the effort with one state, with opportunities for other states to participate as the program expands.
- USCIS promoted E-Verify to attract wider use, developing a robust customer service and outreach staff to increase public awareness of E-Verify’s significant benefits and inform employers and employees of their rights and responsibilities. Participation in the E-Verify program grew from 292,624 employer participants at the end of FY 2011 to 404,295 at the end of FY 2012, with an average of more than 1,500 new employers joining each week. The number of queries processed through the program grew from 17.4 million in FY 2011 to more than 21 million in FY 2012. E-Verify significantly bolstered tools to combat fraud by developing a process that allows E-Verify to confirm whether driver’s license data submitted by an employee match the information on record with a participating state.
- USCIS worked with the Department of Justice and the Federal Trade Commission to launch the Unauthorized Practice of Immigration Law initiative. Together, we partnered with state and local governments to develop and implement a comprehensive initiative that combats the unauthorized practice of immigration law by building capacity to deliver

legitimate assistance, educating the public about finding bona fide legal advice, and strengthening prevention and enforcement efforts.

3. EB-5 Visas—National Security Concerns

A number of concerns have been raised about the national security implications of the investor visa program, known as EB-5. One specific concern expressed is that the EB-5 program may be being exploited by foreign governments for espionage purposes. Another is that bad actors, including potential terrorists, could use the program to gain access to our immigration system.

a. Please walk the Committee through the specific steps required by USCIS of individuals that apply for an EB-5 visa.

Prospective investors seeking to participate in the EB-5 program must file Form I-526 with USCIS to establish that their proposed investment will make them eligible for an immigrant visa. The EB-5 program is available to prospective immigrants who invest at least \$1,000,000 in a new commercial enterprise (or \$500,000 if the job creation will principally occur in a Targeted Employment Area, which is a rural area or a high-unemployment area) that will create no fewer than ten full-time jobs in the United States.

The EB-5 program allows investors to participate based on a requisite investment in a for-profit new commercial enterprise, or in connection with business opportunities within a USCIS-designated “regional center.” Regional centers are entities that promote economic growth, regional productivity, job creation, and increased domestic capital investment. Regional centers can obtain designation by USCIS through the filing of Form I-924. Under the statute, individual investors submitting a Form I-526 based on an investment in a regional center may rely on indirect job creation for establishing eligibility. Stand-alone investors (those not applying based on an investment under a regional center) may only rely on direct job creation.

In addition to establishing that the foreign investor is in the process of investing the amount required (\$1 million or \$500,000, depending on the area), each investor must submit evidence showing that his or her investment funds were obtained through lawful means.

To establish the requisite job creation, evidence must be submitted in support of the petition showing that the new commercial enterprise will create at least 10 full-time positions—not including the foreign investor, the investor’s spouse, sons or daughters, or any temporary or nonimmigrant workers, or individuals who are not authorized to work in the United States. If the jobs have not yet been created, the petition will need to include a comprehensive and credible business plan showing that, due to the nature and projected size of the new commercial enterprise, the need for not fewer than 10 employees will result. To establish the requisite job creation through creation of indirect jobs, the petition must include statistically or economically valid forecasting tools, such as econometric models.

If eligibility has not been established, a request for evidence (RFE) or notice of intent to deny (NOID) may be issued to the petitioner affording them an opportunity to address the deficiency and establish eligibility. If eligibility is not established, the petition is denied.

Upon approval of an I-526, the petitioner (and his or her derivative family members) may file an adjustment of status application (Form I-485) if physically present in the United States. If outside of the United States, or ineligible for adjustment of status, the petitioner may apply through the Department of State for an EB-5 immigrant visa. Once the adjustment of status application is approved, or the foreign investor enters the United States after obtaining an EB-5 immigrant visa from a U.S. Consulate abroad, the investor becomes a conditional lawful permanent resident for a two-year period.

Congress set forth a two-year period by the end of which the immigrant investor must file a Form I-829 to remove the conditions from their permanent resident status. At this stage, the investor must show that he or she did invest the proposed amount of capital and that the enterprise preserved, created, or will create the required number of jobs. If USCIS approves the Form I-829 petition, the conditions are removed from the investor's status.

Congress enacted the EB-5 program in 1990, and created the regional center program on a pilot basis in 1992. Congress has reauthorized the regional center program in 1997, 2000, 2003, 2008, 2009, and 2012.

b. What steps does USCIS take when adjudicating these applications to ensure that national security concerns are being addressed as robustly as possible?

USCIS conducts robust vetting of all EB-5 cases, including both individual investor cases and regional center filings. USCIS has strengthened its vetting protocols in the EB-5 program significantly during my tenure. A detailed summary of our vetting protocols is found at Appendix A, which is marked For Official Use Only-Law Enforcement Sensitive.

c. What steps you have personally taken to ensure that national security risks, including espionage and terrorism concerns, are adequately addressed in the EB-5 program?

In addition to the steps identified above, including vetting of regional center applicants and principals and development and implementation of the annual I-924A filing requirement for regional centers, I have taken a number of significant steps as Director to bolster the EB-5 program against national security risks.

In early FY2012 agency managers with experience administering the EB-5 program brought to my attention operational reports and intelligence analyses relating to national security concerns. I directed that USCIS raise concerns regarding EB-5 program integrity with key federal agencies through the National Security Staff to ensure we could collaborate with the entire national security community on the information we had discovered. The interagency partnership initiated a process to review the EB-5 program and explore measures to enhance its integrity. That process is ongoing. This forum engaged interagency stakeholders in analysis of the EB-5

program. Participants include components of the Departments of Homeland Security (including ICE, CBP, USCIS, Intelligence & Analysis, and DHS Policy), Justice, Treasury, State, Commerce, the Office of the Director of National Intelligence, the Securities and Exchange Commission, and the FBI.

Working with the National Security Staff and interagency partners, USCIS has taken significant steps to enhance EB-5 program integrity and to mitigate inherent risks attendant to the program as currently structured under law. A list of some of these important enhancements is provided below in response to Question 3(d).

d. Has USCIS made any changes to how EB-5 visa applications are screened for national security concerns since you became Director of USCIS? Please describe all such changes, including the reasoning behind the changes and what role you may have personally played in making these policy changes.

Under my leadership, and as part of the interagency process described above in my response to Question 3(c), USCIS has undertaken a significant agenda of short, medium, and long-term work. A detailed list of this work is found at Appendix B, which is marked For Official Use Only-Law Enforcement Sensitive.

4. EB-5 Visas—Interagency Involvement

You testified during your confirmation hearing that the EB-5 visa program is very complex, and that it requires sophisticated economic analysis, as well as a robust process for identifying fraud. This Committee has long believed that complex programs such as this demand an interagency approach in order to be most effective.

a. Please describe to the Committee any efforts that you personally made, or directed USCIS personnel to make, in order to involve other agencies and DHS components in the EB-5 program. Specifically, please describe the level of involvement of the following agencies in the EB-5 program, when they became involved, and any efforts that you personally undertook in this regard:

I agree with the Committee that complex programs like EB-5 require a government-wide approach for effective administration. This belief has guided me as I have directed USCIS to enhance our cooperation with interagency partners in securing and enhancing the EB-5 program.

i. The Federal Bureau of Investigation;

In November 2011 USCIS and the FBI began enhanced engagement at the headquarters level in information sharing and additional cooperation on EB-5 security issues. There were already ongoing contacts in the field on cases of concern. The enhanced discussion at headquarters covered both operational and policy topics.

ii. The Department of the Treasury;

USCIS has liaised with Treasury Department's FinCEN and its associated resources on a case-by-case basis on EB-5 cases over time. However, enhanced discussions on policy and collaboration between USCIS and the Treasury Department on the EB-5 program began in

January 2012. The Treasury Department has provided inputs into the financial flows concerns raised by the USCIS program managers. At my direction, USCIS has formalized an agreement with FinCEN for formalized access to their platform and its associated datasets.

iii. The Department of Commerce;

At USCIS's request, the Department of Commerce has offered its expertise and made its expert personnel available to USCIS to consult on discrete economic and policy issues in the EB-5 program. USCIS's requests were made at my direction. As one example, USCIS consulted with economists from the Department of Commerce on a complex economic issue called the "tenant-occupancy" question, which involves assessing when an EB-5 investor may receive credit for jobs created by commercial tenants of developments built with EB-5 funding. Additionally, our agency has consulted with Department of Commerce experts to gain a better understanding of certain econometric models that are developed at Department of Commerce and frequently used by EB-5 applicants to prove job creation.

Shortly after I arrived at USCIS, I approached the Department of Commerce to discuss the possibility of a more formalized role for the Department of Commerce in the administration of the EB-5 program. Discussions with the Department of Commerce to expand our already-fruitful partnership are ongoing.

iv. The Department of State;

USCIS began working directly on policy discussion with State Department through the interagency process initiated in January of 2012. USCIS has access to State Department data via the Consolidated Consular Database and relies on TECS postings and other interagency-shared case processing mechanisms on an ongoing basis. In particular EB-5 cases, USCIS has leveraged its relationship to affirmatively alert the State Department that certain individuals of concern may be attempting to secure EB-5 visas through consular processing.

v. The Securities and Exchange Commission; and

Since I became Director, a key priority of mine in the EB-5 arena has been to enhance our collaboration with the Securities and Exchange Commission (SEC), which has jurisdiction over many EB-5 regional centers to the extent they issue securities and thus come within the broad scope of the United States securities laws. I initiated a meeting, for example, between myself and top SEC regional and headquarters enforcement leadership to discuss the need for securities enforcement in the EB-5 program and to advocate for the prosecution of cases to achieve accountability and to serve a deterrent purpose.

Since forming our excellent partnership with the SEC during my tenure, we have jointly taken important steps to enhance program integrity. For example, we have provided substantial assistance to the SEC in its investigations of certain EB-5 program participants, including, earlier this year, the first-ever SEC enforcement action against a regional center. We have referred a number of cases to the SEC for its appropriate investigation into possible securities laws violations. The SEC has worked with USCIS to propose indicators of possible securities fraud and to draft technical assistance to legislation that would enhance USCIS's authorities to ensure regional center compliance with the securities laws.

Earlier this year, at my direction, we invited experts from four SEC divisions to address an EB-5 stakeholder event hosted by USCIS to address securities laws compliance in the EB-5 context. It was the first such event for our agency.

vi. The Office of the Director of National Intelligence.

A summary of USCIS's work with the Office of the Director of National Intelligence relating to the EB-5 program is found at Appendix C, which is marked For Official Use Only-Law Enforcement Sensitive.

5. EB-5 Visas—Processing Visas in a Timely and Secure Manner

When you were confirmed as Director of USCIS, the EB-5 program was under intense criticism for lengthy delays and unclear standards that left applicants uncertain when or whether applications would be approved. Final decisions on applications could take years, which made it difficult for businesses to execute their business plans. The Committee understands that you have been personally involved in overhauling the EB-5 program to improve processing times, to make the approval process more transparent, and to ensure that national security concerns are being addressed.

- a. Please provide the Committee with a comprehensive overview of the steps you took to improve the speed and clarity of decisions regarding the EB-5 process, including any efforts to realign the program. What has the internal and external reaction been to those changes?**

During my tenure as Director of USCIS, I have emphasized the importance of adjudicating EB-5 cases in the most efficient manner possible while strengthening the integrity of the program and ensuring the standards on which cases are processed are transparent and predictable. We have taken a number of steps to achieve these goals.

It is important to understand the primitive and under-developed state of the EB-5 program when I arrived at USCIS in August of 2009. At that time the program had approximately nine adjudicators on staff. The agency did not have meaningful economic, business, or corporate law experience to support this staff. To apply to start a new regional center, an applicant did not have to even file a form; informal letter correspondence could initiate the process. The agency did not conduct routine security screening on those seeking to lead new or existing regional centers. The agency's insufficient structural support for the EB-5 program is further evidenced by the fee structure the agency had in place when I became Director in 2009. Despite the fact that (1) in a 2008 regulatory fee rule USCIS had raised its application fees by an average of approximately 86%, and (2) EB-5 cases were (and remain) the most challenging and time-consuming applications the agency handles, the fee charged to applicants for new regional centers in 2009 was ZERO. In the very next fee rule, in 2010, I led the correction of that error and terrible inequity and the application fee for regional centers was raised to \$6,230 – the highest fee our agency charges.

When I became Director in 2009, the agency's EB-5 policy was similarly under-developed and inadequate. Policy was found across a number of memoranda issued over the years, and those memoranda did not address many of the significant and common issues that arose in the

program. I heard from a range of stakeholders that our agency issued decisions in an inconsistent, unpredictable, and untimely manner.

It quickly became clear that the program structure was not sufficient to meet the challenges the program presented, or to maximize the program's job-creation potential.

Against this backdrop, I considered many EB-5 legal, policy, and procedural issues, often in the context of the cases in which they arose. EB-5 cases are unique in many ways, but one is that a single decision from our agency can determine whether hundreds or thousands of jobs will be created in a community somewhere in the United States. It is important that we get these decisions right. As I began in the course of my duties to consider EB-5 issues, I noted what I believed to be a disturbing trend that our agency's decisions were at times poorly reasoned and not based on a plain reading of the law. This was not the fault of our dedicated adjudicators, because our agency had failed to equip and support them properly. It was a direct and foreseeable consequence of leaving a program involving exceptionally complex eligibility criteria without sufficient policy guidance and expertise.

I resolved to provide the policy guidance and support that this important and complex program requires.

After a series of significant iterative reforms and infusion of expertise and resources, on December 3, 2012, I publicly announced the realignment of the EB-5 Program. This realignment is a direct reflection of the agency's continued focus on, and prioritization of, the program's integrity and potential to create jobs for U.S. workers. After consulting with agency leadership including the Service Center Operations Directorate and the Fraud Detection and National Security Directorate (FDNS), I decided to realign the EB-5 Program responsibilities so that they are handled by a program office devoted exclusively to EB-5 adjudications at the Headquarters level. The new program office will be staffed primarily with officers who have economic, business, and legal backgrounds and expertise. This program office also includes staffing increases for FDNS personnel in the intelligence and officer categories. The consolidation of the program into one office allows USCIS to create a collaborative workspace where experts from a variety of components, including FDNS and USCIS's Office of Chief Counsel, will be available to provide expert support and advice to EB-5 adjudications officers and economists in the most effective manner possible. Our responsibilities to uphold the integrity of the immigration system, particularly in the EB-5 program, increasingly involve interagency dialogue, coordination, and protocols. The decision to realign the EB-5 Program will also facilitate and enhance interagency collaboration and program integrity.

The new program office opened in May 2013 and is continuing the hiring process and onboarding of personnel to the new program office. This process will continue through the remainder of the 2013 calendar year as new officers and economists are brought on board and trained. During the transition, EB-5 cases will continue to be processed at USCIS's California Service Center, as well as in the new D.C. office, so that the impact of the transition to stakeholders and the pending caseload is minimal.

In addition to realigning the program into a new office to enhance the collaborative work in the program and to improve the program's ability to partner with other agencies to enhance the integrity of the program, we have taken a variety of steps to improve guidance pertaining to the standards by which EB-5 cases are adjudicated. Transparency and predictability are necessary to ensure the program's success, and to achieve these goals we have taken a number of steps to improve operational and policy guidance within the program. Under my tenure, USCIS issued both operational and policy memoranda to guide adjudicators on the EB-5 program. These memoranda have been published and are available to the public.

On May 30, 2013, our agency published in final form a comprehensive, 27-page EB-5 policy memorandum. It marks the first time in the program's history that our agency has had a single policy document to guide its work in this complex program. The policy memorandum is the result of a multi-year, iterative process in which we published three successive draft versions for public comment.

The publication of the final EB-5 policy memorandum is a seminal event for the program. For the first time, our adjudicators as well as the public have clear guidance on the range of statutory and regulatory criteria. This will go a long way to making our adjudications more predictable, addressing a long-running concern in the program. The memorandum also eliminated certain procedural requirements that had developed over the years but which did not advance our administration of the program and were not required by law. The result is a streamlined process that allows us to focus our resources on assessing the core eligibility requirements and on ensuring the integrity of the program.

Finally, I would note that earlier in my tenure, in the face of increasing claims that EB-5 projects were collapsing and investors were withdrawing because of the delays, USCIS announced as one of our proposed reforms that we would institute premium processing for EB-5 regional center petitions. Premium processing is a statutory-based program that permits the agency to charge a premium fee and, in exchange, the applicant or petitioner's case will be adjudicated on an accelerated (fifteen-day) timetable (unless certain exceptions apply). Over the next year, USCIS's national security and fraud concerns regarding the EB-5 program grew and our efforts to address those concerns increased accordingly. In light of the national security and fraud concerns with the EB-5 program, I decided we would abandon the EB-5 premium processing reform and that we would not implement it. We could not justify an accelerated adjudication timetable in light of the concerns regarding program integrity.

The external reaction to our steps to improve our EB-5 program has been extremely positive. Members of Congress from both parties whom we have briefed have recognized the uniqueness of this program and applauded the important step of realigning the program into its own dedicated office staffed with appropriate expertise. A wide range of stakeholders – from the business community to state and local officials to developers who leverage the program as an important source of capital – have likewise praised our substantial efforts.

Internally, as will be the case with any significant realignment in a government agency, some of our staff have embraced these changes, and others have not. The realignment has entailed personnel changes, including installation of new program leadership, a new model for the profile of EB-5 adjudicators, and realignment of fraud detection and national security responsibilities

directly to our FDNS headquarters. Such operational change is always challenging in large organizations, but it is critical for leaders to move forward when change is required, even if it is difficult to do so.

- b. As much as we would like the program to operate efficiently to maximize its potential to create jobs and stimulate economic growth, there are legitimate questions concerning the national security and fraud risks that come with a program like this. Please describe how you have approached the potential trade-off involved in speeding up the approval process while simultaneously ensuring there is a robust process in place to investigate any security concerns that may exist with respect to EB-5 applications.**

Congress first enacted EB-5 legislation in 1990. The regional center program was established as a pilot program by Congress in 1992 and has been reauthorized numerous times since then on a bipartisan basis, most recently in September 2012. When I arrived at USCIS and began examining the EB-5 program and our agency's administration of it, I immediately understood that the program presented significant challenges for USCIS.

While there has been and remains acute need for USCIS to administer the EB-5 program more efficiently to maximize its potential to create jobs and stimulate economic growth, there can be no trade-off between speeding-up the adjudications process and ensuring that national security and fraud concerns in EB-5 applications are fully addressed. The national security and fraud concerns are of paramount importance, and cases cannot proceed with adjudication until those concerns are addressed. I have articulated this critical, fundamental point repeatedly to USCIS officials.

One example is illustrative. In or around May 2011, in response to widespread and increased frustration from all quarters, the agency announced a number of proposed reforms to be implemented in the year ahead. The complaints were coming from many stakeholders, including the public, Members of Congress, and applicants and petitioners themselves, because USCIS was, among other challenges, not meeting its processing time goals of approximately four to five months and was instead taking more than one year and very often more than two or more years to adjudicate EB-5 cases. In the face of the increasing claims that EB-5 projects were collapsing and investors were withdrawing because of the delays, we in USCIS announced as one of our proposed reforms that we would institute premium processing for EB-5 regional center petitions. Premium processing is a statutory-based program that permits the agency to charge a premium fee and, in exchange, the applicant or petitioner's case will be adjudicated on an accelerated (fifteen-day) timetable (unless certain exceptions apply).

Over the next year, USCIS's national security and fraud concerns regarding the EB-5 program grew and our efforts to address those concerns increased accordingly. In light of the national security and fraud concerns with the EB-5 program, I decided we would abandon the EB-5 premium processing reform and we did not implement it. We could not justify an accelerated adjudication timetable in light of the concerns regarding program integrity.

c. The program provides that applicants with urgent issues can apply for expedited processing. Please explain what this option is and how it has been utilized to date.

As in other visa programs, USCIS may in its discretion expedite consideration of a case if an applicant or petitioner establishes good cause.

All expedite requests are reviewed on a case-by-case basis, and are granted at the discretion of USCIS. The burden is on the applicant or petitioner to demonstrate that one or more of the expedite criteria have been met. The criteria (which apply to EB-5 and other visa types) are as follows:

- Severe financial loss to company or individual;
- Extreme emergent situation;
- Humanitarian situation;
- Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States;
- Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity and state that delay will be detrimental to our Government);
- USCIS error; or,
- Compelling interest of USCIS.

It is important to note that a decision to expedite a case never means that the case will undergo less vetting or that the actual adjudicative review of the case will be accelerated. Rather, it simply means that the expedited case moves to the front of the line for all processing, including full vetting as deemed necessary by career anti-fraud and national security professionals.

d. In a July 24, 2013 letter to you and provided to this Committee, Senator Grassley expressed concerns that you may not be giving due weight to the security concerns regarding some EB-5 applications. In particular, he cites an allegation that you may have intervened to obtain expedited processing for some applicants before security checks had been resolved. What is your response to this allegation?

The allegation is untrue. In fact, the allegation is refuted by the documentary evidence that Senator Grassley enclosed with his July 24, 2013 letter. That evidence includes the following message I communicated in the case at issue:

“I agree that to grant an expedite request means only that we have agreed, based on some articulated and supported time sensitivity, to review the case on an accelerated basis. It does not mean or in any way suggest that we have rendered any decision on the merits of the petition. If, for example, a security issue arises that will take time to resolve, then – regardless of whether we have agreed to expedited review – we will take the time needed to resolve the security issue and we will not act until we have achieved resolution.

I agree that we need to run enhanced security and integrity checks [in the case at issue].”

It is important to understand what an expedite request is and what it is not. An expedite request is not the same as premium processing. Premium processing provides that, in exchange for the payment of a premium fee, the application will be actually adjudicated on an accelerated timetable. An expedite, by contrast, provides only that if the applicant or petitioner presents facts of special urgency, the application or petition will be moved to the front of the line; then, the actual adjudication (including any vetting work deemed necessary) will proceed on the standard timetable.

- e. What is the current policy at USCIS concerning expediting EB-5 cases? Has this policy been reviewed or modified since your confirmation, and if so what was your level of involvement?**

The criteria for expediting EB-5 cases (which are also the criteria for expediting other visa types) are as follows:

- Severe financial loss to company or individual;
- Extreme emergent situation;
- Humanitarian situation;
- Nonprofit status of requesting organization in furtherance of the cultural and social interests of the United States;
- Department of Defense or National Interest Situation (Note: Request must come from official United States Government entity and state that delay will be detrimental to our Government);
- USCIS error; or,
- Compelling interest of USCIS.

These criteria have not changed during my tenure, though our agency's practices in interpreting them in the EB-5 context have improved.

6. Gulf Coast Funds Management Regional Center

One of the questions that has been raised in news reports about the ongoing OIG investigation into your actions concerns whether you exerted undue influence over the investor visa applications process for the Gulf Coast Funds Management Regional Center. Specifically, the leaked email from the OIG alleges that you overturned a decision that was made by the California Service Center. During your nomination hearing, you testified that you analyzed an issue that was raised by an application from the Gulf Coast Funds Management Regional Center relating to how "redemption agreements" were treated in analyzing whether applications from Regional Centers met the legal requirement that investor capital be "at risk" for two years. To the best of your ability or recollection, please answer the following questions concerning this case:

- a. Please describe in detail the specific actions that you took in relation to matters involving the Gulf Coast Funds Management Regional Center, a timeline of when these actions were taken, and your rationale for taking these actions.**

The EB-5 program is the most complex program USCIS administers and it is unlike any other our agency handles. It does not solely involve an immigration-related adjudication, but instead requires complicated business and economics analysis and expertise. An EB-5 adjudication requires determinations whether, among other eligibility criteria, the requisite amount of capital is invested in the new commercial enterprise and whether it is lawfully sourced; whether the requisite amount of capital is “at risk” throughout the relevant statutory time period; whether the business project’s plans are sufficiently detailed and the plan is viable; whether the econometric models used to estimate future job creation are sound and reasonable; and, whether those models demonstrate job creation as required by statute.

Moreover, the EB-5 program’s unique business and economic complexities that USCIS must grapple with created a complex adjudicative process. Unlike traditional immigration applications that involve a single application and review, the EB-5 process involves different stages of agency review depending on the life cycle of the EB-5 business enterprise and the stage of its development. For example, the agency is often first asked to review an EB-5 petition to approve the EB-5 business proposal and business plans. The petition is supported by many legal and business transaction documents that provide development details and the many legal and econometric analyses that are required. Unlike traditional immigration applications that are a few pages in length, EB-5 submissions can consume thousands of pages. If the business proposal and plans are approved, the often hundreds of foreign investor applications follow and their applications require separate and distinct economic and forensic review. Each investor, once approved, submits another application to USCIS within two years and at that juncture the agency must adjudicate whether the number of jobs the law requires have been created or are likely to be created within a reasonable period of time.

The adjudication of EB-5 cases presents special challenges given the complex business and economic issues that these cases raise. When I first arrived as the Director of USCIS, the agency had about nine adjudicators handling EB-5 program adjudications. Our agency’s adjudicators are dedicated, talented, and hard-working individuals who aspire to execute their responsibilities ably. I have met with adjudicators throughout the nation and have heard, and responded to, their requests for training and development so that they can achieve the level of excellence to which they aspire. The complexities and demands of the EB-5 program cannot, however, be solved with the typical immigration training we deliver. Instead, the EB-5 program requires that adjudicators have the expertise to understand and analyze business plans and proposals and legal and business documents such as financing contracts, loan agreements, redemption agreements, stock purchase agreements, and other complicated transaction instruments. The EB-5 program requires that adjudicators also have the expertise to assess econometric models and economic analyses that include input and output flows involved in assessing future job creation.

Our adjudicators did not have this expertise and, in my opinion, our agency did not treat them fairly because we placed them in the untenable position of having to adjudicate complex business, economic, and legal issues without having that expertise or support. Moreover, our

policy guidance governing the EB-5 program was not as refined as it needed to be, for it did not address fundamental and repeat issues in the program, and it had not yet been strengthened by the input of economists and business experts.

As a result, the agency's administration of the EB-5 program suffered extremely long delays, inconsistent and incorrect adjudications, and a series of other challenges. Complaints about USCIS's administration of the program dramatically increased in number and escalated in tenor. The agency's challenges and the increasing complaints joined at a time of economic challenge, when the domestic capital markets were unusually dry, unemployment was high, and the need for the infusion of capital from foreign investors and the consequent creation of jobs for U.S. workers made the EB-5 program extremely popular and important.

The number and tenor of the complaints and reports that USCIS was receiving about the EB-5 program – from Members of Congress, the public, the media, and petitioners and applicants themselves – prompted me to study and learn as much about the EB-5 program as I could, as quickly as I could. The vehicle for my education was the EB-5 cases about which people were complaining, coupled with my review of the applicable law and agency policies, and extensive discussions with agency lawyers and other personnel handling EB-5 matters. I became involved in our administration of the EB-5 program because I grew quickly to understand that the program posed significant challenges for our agency. We were receiving complaints that EB-5 projects were collapsing, project developers were facing lawsuits, investors were withdrawing funds, and the program faced other economic and legal problems – all because of our delays and errant rulings.

As a general matter, I get involved when a significant problem the agency is confronting comes to my attention. The problems that have triggered my involvement have been, and continue to be, extraordinarily varied. I have become involved, for example, in cases that raise questions about our agency's performance, involve difficult questions of law, or present a policy approach that needs to be further considered; cases that raise questions of the effectiveness or efficiency of our processes; or, cases that raise questions whether we understand the business, family, or humanitarian realities that our work is designed to address. My involvement varies according to the nature of the issue that I am addressing and the manner in which it comes to my attention. I can, for example, meet repeatedly on a matter and discuss it intensely with my staff, become involved in a difficult case and dissect it, communicate with counsel on a case and discuss the issues with my staff, immerse myself in the law and relevant agency pronouncements, speak with outside experts and members of the private sector who experience the issues at hand from a different perspective, or engage with individuals, groups, associations, and large crowds. The intensity of my involvement and the duration of my involvement depend on the matter I am addressing and the focus and time the resolution requires. I work collaboratively with my staff to reach the outcome that best serves the law and our agency's responsibilities. This is done in my role as the ultimate arbiter of difficult issues for this agency, with responsibility for ensuring our agency decides cases correctly under the facts and the law. To my knowledge, my

involvement has always been – and continues to be – in accord with all legal, regulatory and ethical guidelines.

It is in this broader context that I became involved in the Gulf Coast EB-5 case. I recall receiving news that the case was experiencing significant delays and our adjudicative actions were inconsistent and incorrect. To the best of my recollection, my actions in the Gulf Coast case were as follows:

- In or around mid-2011, DHS Headquarters asked me to look into unduly long delays in the processing of the case. At around the same time, I also received complaints from Gulf Coast’s outside counsel. I shared those complaints with my colleagues. I do not recall whether complaints or inquiries were brought to my attention earlier.
- I learned from career staff that, among other things, (1) the case had a tortured history; (2) supervisors did not have confidence in the decisions that the adjudicators were making; (3) an appeal in the case was pending in USCIS’s Administrative Appeals Office (AAO) at around the same time; and (4) the appeal had been certified to the AAO by career USCIS adjudications staff under a regulation reserved for those instances “when the case involves an unusually complex or novel issue of law or fact.” 8 C.F.R. § 103.4(a)(1). Together with my colleagues, we reviewed the case history, and the issues it presented.
- I did not review case files, but instead addressed issues that had programmatic relevance, were unsettled, or otherwise reflected challenges in our administration of the program. I communicated with outside counsel to convey the agency’s responses to the complaints received.
- Once the issues were resolved and the resolutions effectuated, the level of my involvement did not need to and did not remain the same. In fact, the complaints about continued adjudication delays continued into this year, 2013, and I rebuffed efforts to become involved.
- In or around early 2013, I read a report bearing on integrity issues in the case and promptly transmitted the report to the agency’s Fraud Detection and National Security Directorate.

I have become involved in the EB-5 program because its purpose is to create jobs for U.S. workers and because our agency’s administration of the program has been so challenged. In addition to becoming involved in cases raising difficult, novel, complex, or unsettled legal or policy issues, I have responded to and acted upon reports of projects collapsing, lawsuits being filed, investors withdrawing, and other serious adverse economic developments that some have attributed to our administration of the program. I have done so by researching the law, becoming involved in cases, working closely with agency personnel, developing and proposing administrative reforms, hosting public engagements and speaking with program experts, hiring

economists, strengthening and enhancing national security and anti-fraud capabilities and safeguards, collaborating with enforcement, intelligence, and regulatory agencies, and lastly by deciding to create an entirely new EB-5 program office with new expertise and more enhanced processes and technological capabilities to effectively and efficiently address the program's complexities and challenges and help fulfill its potential. When USCIS faces significant challenges and is not meeting its mission responsibilities with the requisite level of excellence, I have viewed it as my duty as the agency's Director to get involved.

b. How specifically, and when, did this case come to your attention?

I do not recall specifically how and when the Gulf Coast case came to my attention. It has been the subject of extensive Congressional correspondence (from Members of both parties) and complaints from the petitioners themselves. To the best of my recollection, I was informed of problems with the case by DHS Headquarters and the applicant's outside counsel sometime in 2011, possibly earlier.

c. Were you personally involved in any other policy changes that were originated by or related to the Gulf Coast Funds Management Regional Center? If so, please describe the specific actions that you took, a timeline of when these actions were taken, and how these issues came to your attention.

To the best of my recollection, in addition to the issue of redemption agreements, other issues of broader programmatic applicability that the Gulf Coast case raised include the following two:

- The issue of serial Requests For Evidence (RFEs). If the agency receives an application or petition that raises an evidentiary issue or fails to fully satisfy an evidentiary requirement, USCIS may issue an RFE to provide the applicant or petitioner with the opportunity to supplement the evidentiary record. The public has complained often, and not just in the EB-5 context, that USCIS engages in the inequitable practice of "serial RFEs." For example:

If USCIS receives an application that the agency believes fails to satisfy three eligibility requirements, USCIS sometimes issues an RFE to address one of the evidentiary deficiencies, waits to receive a response to that RFE, then issues a second RFE to address the second deficiency, waits to receive a response to the second RFE, issues yet a third RFE to address the third and last deficiency, and waits to receive the last response. The public – correctly, in my view – believes this is inefficient, inequitable, and a waste of time, absent exceptional circumstances. The agency should issue an RFE that encompasses all perceived deficiencies when those deficiencies are known to the agency.

To the best of my recollection, one of the complaints in the Gulf Coast case was that the agency engaged in serial RFEs. The problem of serial RFEs has been discussed and addressed in the agency with respect to all instances in which an RFE can issue, not only

in the EB-5 program. The discussions culminated in the June 2013 publication of a new, agency-wide policy memorandum governing requests for evidence.

- The definition of “limited geographic area.” The law provides that a regional center, an area of economic activity in the EB-5 program, must be in a “limited geographic area.” That term is not defined in the statute or in the implementing regulations and has been the source of debate within the agency and in the broader public discourse. The agency continues to wrestle with this ambiguity, including engaging with legal experts, economists, and the public, and is developing a plan to resolve it with clarity and certainty. This issue arose in the Gulf Coast case as well.
- d. **During your confirmation hearing, you noted that you were still receiving complaints from representatives of the Gulf Coast Funds Management Regional Center. Can you describe the general nature of these complaints in more detail for the record?**

In early 2013, I received complaints from representatives of GreenTech regarding what they expressed were continuing delays in the adjudication of their cases.

- e. **Generally speaking, when do you believe it is appropriate for you to override a decision made by frontline adjudicators?**

I do not “override” decisions made by frontline adjudicators. I do not adjudicate cases; I do not review applications and petitions and all supporting evidence, conduct the requisite security checks, or execute the standard operating procedures that adjudicators do. Instead, legal, policy, unsettled, or difficult substantive, process, or programmatic issues rise to my attention through cases via a myriad of channels and I address and resolve them together with my staff. If during that process we become aware that the agency made an error in a case, we will correct it; we do not allow errors to be committed if corrective action is possible. If we become aware of the need for legal or policy clarifications or revisions to more rigorously execute our statutory obligations, we will make them. That is the responsibility of the chain of command.

- f. **Can you provide the Committee with some examples of other occasions or cases that led you to promulgate policies that overrode decisions made by frontline adjudicators? How many of these cases involved EB-5 visa applications?**

Hundreds of difficult, novel, complex, and unsettled legal and policy issues have risen to my attention through cases during my tenure as the Director of USCIS. These hundreds of cases include EB-5 cases. A few examples illustrate the varied nature of the issues that have risen to my level and as to which I got involved:

- A Member of Congress brought an EB-5 case to my attention. The Member communicated his concern that USCIS was acting unfairly and requested that I look into the case. I did and the Member was, in my opinion and in the opinion of my staff, correct. The general facts are, to the best of my recollection, as follows:

The agency approved a petition for a regional center and, subsequently, foreign investors invested their capital in the regional center, applied to USCIS for and obtained their conditional lawful permanent resident status, and immigrated with their families to the United States. By the time the investors sought to remove the conditions of their lawful permanent resident status in the United States after two years, USCIS had reassessed its earlier adjudicative decisions, changed its mind, and consequently denied the investors' applications to remove the conditions of their lawful permanent resident status. USCIS had reversed its course mid-stream despite the reliance that the project developers, investors and their families, and countless others had placed on USCIS's prior approvals.

I became involved in resolving the case. I spoke with my staff and our litigators, proposed settlement solutions, and reviewed and discussed settlement documents. We resolved the case and, subsequently, formulated a stronger and more equitable EB-5 "deference policy" – the policy governing the agency's deference to its earlier adjudications in an EB-5 case – that is memorialized in the agency's new May 2013 comprehensive EB-5 policy memorandum. This new policy affects many cases and the agency is assessing whether and how to apply this deference policy to its adjudications across the spectrum of immigration cases.

- I read in a front-page newspaper article about the agency's decision in a case involving a music group that had applied to USCIS for a performing arts visa and the agency had denied the application. The issue in the case was whether the group's music met the eligibility requirement of being "culturally unique." USCIS had determined that the group's music was not culturally unique because the music did not originate from one single culture but instead was a blend of different cultures; to the best of my recollection, the music group was a Jewish klezmer band. I inquired about the case, asked questions about the perceived requirement that to be "culturally unique" only a single culture can be involved rather than a blend of cultures, reviewed the applicable law, conferred with my staff, and together we determined that the definition of "culturally unique" could and should embrace multi-cultural elements in the performing arts. As a result, USCIS published a precedent administrative appeals decision that provides the dispositive guidance in all performing arts cases that the definition of "culturally unique" can embrace multi-cultural elements.
- A Member of Congress brought an international adoption case to my attention. The Member raised concerns that delays in the processing of the adoption case were causing the child and the adoptive family undue hardship. I looked into the case, discussed it with my staff, and as a result of the attention the Member brought to the case, USCIS resolved the case swiftly and the child was united with his or her adoptive American family. The case served as a lesson to me that I have applied throughout my involvement in international adoptions matters, and it served as valuable reinforcement to the men and women of USCIS who dedicate themselves to this important work: International adoption cases are by their nature urgent, because they so very often involve abandoned, orphaned, abused, or neglected children or children otherwise in need, as well as parents and families eager to provide the children with a loving home.

- My staff brought a difficult national security case to my attention, one involving sensitive information that our agency was not free to publicly disclose. The sensitive information led us to believe that the applicant was ineligible to receive the benefit for which he applied. We did not, however, adjudicate the application because of the sensitive nature of the dispositive evidence. The applicant filed a lawsuit against our agency, seeking to compel the agency to grant him the benefit he sought. My staff was concerned that without our ability to publicly disclose the sensitive information, we did not have a good faith basis upon which to contest the lawsuit. I expressed my strongly-held view that we should not accede to granting a benefit in such a circumstance, and together with my staff I discussed the available evidence and pushed a litigation strategy forward. We prevailed in the lawsuit, and importantly we are strengthening our national security procedures to ensure that in similar circumstances we are best positioned to deny an immigration benefit.
- A Member of Congress brought an urgent humanitarian case to my attention. A pregnant woman in China was facing a forced abortion and was seeking parole into the United States. It was, to the best of my recollection, around Christmas time and the case was not moving as quickly as the urgency required. I got involved on an emergency basis and the woman was paroled safely into the United States so that she could give birth to her child.

There are countless other examples of occasions and cases that led me to become involved in matters bearing upon USCIS's effective administration of immigration law. Some of these matters come to my attention from external channels. Many others come from internal channels, and I have established a number of formal and informal processes by which complex, novel or difficult issues can be raised to me by my staff and then resolved. To name a few, we hold regular Senior Policy Council meetings at which I preside; I hold weekly meetings with agency leadership to air pending issues; I hold standing meetings with component leadership to discuss issues of concern; and I routinely engage in informal discussion of issues with my staff. All of these channels, and others, have led me to engage in issues, many times in the context of a particular case pending before the agency.

- g. Your agency issued a new policy manual on the EB-5 program in May 2013 that reflects changes made in response to a number of issues that were identified in recent years, including the policy change on redemption agreements arising from the Gulf Coast Funds Management Regional Center petition that you discussed in your testimony. Can you describe this policy manual, including the range of issues it addresses and the general process by which policy revisions were considered and ultimately adopted? What was the nature of your involvement in this process?**

On May 30, 2013, USCIS issued a new policy memorandum for the EB-5 program. The new memorandum addresses the range of statutory, regulatory, and case law rules that govern this extremely complex program. When I arrived at USCIS, EB-5 policy was set forth across a number of memoranda, and those memoranda did not address a large number of the critical issues faced every day by our adjudicators. I felt that it was critical that EB-5 policy be set forth in a single document that was comprehensive so that our adjudicators could have a single point of reference. I therefore initiated the drafting process for this new memorandum. The drafting

process was extremely useful in that it forced our agency to contend with and resolve a range of policy and legal issues that previously had been unsettled or not properly memorialized, which impaired internal consistency and public transparency. I weighed in substantively on a number of these policy and legal issues in collaboration with economists and the agency's legal, policy, and operational experts.

During my tenure as Director, I implemented a process under which new policy memoranda are posted for public comment so that stakeholder input can be considered in the formulation of our policies. We followed this iterative and open process in this instance as well, posting drafts of the EB-5 memorandum for public comment three times before finalizing it earlier this year.

7. Potential for Conflict of Interest

A related question that has been raised by news reports involves contacts you may have had with representatives for Terry McAuliffe, the former head of GreenTech Automotive and current candidate for Governor in Virginia, and Anthony Rodham, the head of the Gulf Coast Funds Management Regional Center.

- a. Please describe for the Committee the nature of the contacts regarding GreenTech Automotive or Gulf Coasts Funds Management Regional Center that you had with Mr. McAuliffe, Mr. Rodham, or their representatives, and a timeline for these contacts.**

To the best of my recollection, the contacts were as follows:

A few years ago – I do not recall when – DHS Headquarters requested that I meet with GreenTech representatives to hear in person their concerns about USCIS adjudication delays. I traveled to DHS Headquarters for that purpose and heard the representatives' concerns. Mr. McAuliffe was present and also expressed those concerns. The meeting was, to the best of my recollection, less than 30 minutes. In the ensuing years, up to and including 2013, Mr. McAuliffe has called my office on a few occasions to complain about USCIS adjudication delays. I recall one voice message of his in particular and I recall one instance in which he complained to me directly. I remember that on these occasions Mr. McAuliffe was clearly dissatisfied with our agency's delays in the Gulf Coast case. In early 2013, Mr. McAuliffe walked past me in a crowd, said something like, "Your agency is killing the project," and kept walking.

In early 2013 Mr. Rodham sent me and one of my USCIS staff members an e-mail complaining about USCIS adjudication delays. I do not believe I responded to Mr. Rodham. As I described above in response to question 6(a), to the best of my recollection, in or about mid-2011 I fielded case inquiries and concerns from Gulf Coast's outside counsel, Dawn Lurie. I discussed the inquiries and concerns with my staff and responded to Ms. Lurie on the agency's behalf. I do not recall whether counsel complained to me before mid-2011. To the best of my recollection, in early 2013 another of GreenTech's counsel, Simone Williams, sought to communicate with me by telephone and e-mail about concerns regarding USCIS's continuing adjudication delays. I declined to engage with Ms. Williams.

b. What specific actions, if any, did you take in response to any such contacts?

As I described above in response to question 6.a., to the best of my recollection, in response to the issues and concerns Dawn Lurie brought to our attention, my staff and I reviewed and addressed the issues, including in an administrative appeals matter that framed several issues.

c. Did you provide, or direct USCIS staff to provide, any immigration or economic benefit to applicants from Gulf Coast Funds Management or GreenTech Auto in response to a contact you had from representatives of these entities?

No.

8. IG Investigation—Obstructing an Audit

The leaked email from the Office of the Inspector General notes that they are looking into allegations that employees at USCIS obstructed an audit of the EB-5 program being undertaken by the Securities and Exchange Commission.

a. Have you ever obstructed or otherwise interfered with an audit during your tenure at USCIS, or instructed USCIS personnel to do so?

No.

9. Clinton-era Pardon

The House's Committee on Government Reform published a written report regarding clemency decisions in the Clinton White House on May 14, 2002 (H. Rept. 107-454). The report took an extensive look at the commutation of Carlos Vignali's sentence for trafficking 5 to 15 kilograms (11 to 33 pounds) of cocaine. The report states that "[a]ccording to President Clinton's Deputy Counsel, Bruce Lindsey, the White House Counsel's Office 'reached out' to Mayorkas regarding Vignali's clemency petition. Why the White House reached out to Mayorkas – who had no role in prosecuting Vignali in Minneapolis – rather than to the federal prosecutors who convicted Vignali is far from clear." Mr. Lindsay made a similar statement about the White House reaching out to you during a hearing before the same House Committee on March 1, 2001.

a. Is this portion of the report, which notes that the White House reached out to you regarding the Vignali pardon, consistent with your recollections of the matter?

Yes.

b. In your discussion with the White House did you ever express support for the commutation of Vignali's sentence?

I did not.

When I received a call from the White House I telephoned the Department of Justice, to which I reported, and asked whether I was permitted to return the call. I was told that I could. I returned the call and at the outset of the brief conversation I was asked whether I recommended the commutation. I said I did not, that it was not my case, I was not familiar with the facts of the case, and full deference should be accorded the U.S. Attorney for the District of Minnesota who prosecuted the case. I was then asked general questions about rehabilitation and the role of family in rehabilitation. Reportedly, my comments were construed to mean that I supported the commutation, which I did not.

When I was first given the opportunity to comment publicly about this matter, I readily and without qualification admitted that it was my mistake to return the White House's phone call at all. I have never retreated from admitting my mistake and I do not do so now.

**Post-Hearing Questions for the Record
Submitted to Alejandro N. Mayorkas
From Senator Jon Tester**

**Nomination of Hon. Alejandro N. Mayorkas to be Deputy Secretary, U.S. Department of
Homeland Security
July 26, 2013**

- 1. When we met the other week we talked a lot about management style- how to keep people motivated, how to keep people happy about their work. Given that employee satisfaction surveys of DHS workers have ranked near the bottom of all federal agencies, this is critically important. How do you plan to change the culture so great managers within the agency aren't such rarities and that the majority of managers at DHS employ strong strategies to keep their people happy?**

The employees of the Department of Homeland Security are its greatest resource. The employees are deeply committed to and proud of the Department's mission. It is the responsibility of Departmental leadership and management to harness that commitment and pride, help it flourish, and ensure that personnel feel recognized, engaged, empowered, fulfilled, and inspired.

There are critical paths to make this happen, including providing employees with the tools they need to succeed (such as training and professional development programs) and performance management programs that reflect mission and value-centric principles. It is clear, though, that the manager and the manager's abilities and qualities – especially those of the front-line supervisors – are vital to employee morale.

All too often, managers are selected based on their subject matter expertise rather than their ability to manage people – to bring out the best in people, to promote their successes and address and support them in their challenges. If I am confirmed as Deputy Secretary, I will devote a considerable amount of energy and attention to developing processes in each and every Component to ensure that managers are selected according to management criteria, managers are trained in the art and science of managing people, and that managers are evaluated and developed according to management-oriented metrics. I would draw upon my focus on this area of personnel development as the Director of USCIS.

2. **We still have a lot of issues with integration of the 22 agencies that were pushed together under this Department when it was established. And these agencies have incredibly important missions from securing our borders to national intelligence to disaster relief. And putting them all under one roof—well it's an incredibly difficult job to lead a department with such diverse responsibilities. From what I've seen in my time here, a lack of communication between DHS leadership and component agency leadership has led to duplication of functions and wasted time and resources. Where can you benefit the Headquarters level in improving communications with all the different parts of DHS to ensure that missions are being adhered to, resources are being shared, and taxpayer dollars aren't being wasted?**

Integration at the Department can be improved through greater communication and collaboration and the development of more standardized management processes across all Components, with an intense focus on exchanging and implementing best practices. It is imperative that Component leadership meet, communicate, and address together (and with due frequency and regularity) goals and challenges that each Component has and that are assuredly shared or complementary. There exists ample opportunity to achieve greater effectiveness and, at the same time, eliminate unproductive redundancies and other inefficiencies. At the core lies the need to bring leaders together, exchange information about goals, efforts, successes, and challenges, and propel effective collaboration and waste elimination. The process must also impose discipline, the discipline to eliminate programmatic efforts and refrain from or cease investments that do not warrant any investment or further investment of precious resources.

If I have the privilege of being confirmed as the Deputy Secretary, I will drive this communication, collaboration, and discipline.

3. **Director Mayorkas, recently an Inspector General's report came out from DHS which uncovered that the Fraud Detection and National Security Directorate (FDNS) of USCIS, your agency, had not been properly recording potential fraud in electronic databases designed to track that data. The report went on to say that because of the lack of reliable data and supervisory oversight in this division and I quote, "USCIS may have limited its ability to track, monitor and identify inadmissible aliens and to detect and deter immigration benefit fraud." Now we just debated a bill on the floor last month that is flush with money for border security. And from this report, we're not catching fraudulent immigration applications because people in this office aren't doing their job and their supervisors aren't doing their job. What have you done or what are you planning to do to make sure there's some accountability in that office? What's the agency's track record in catching fraud in applications? Do you have metrics for that?**

I am proud of our agency's track record in detecting fraud in applications and of our significant improvement in this arena during my tenure. In FY 2012 our Fraud Detection and National Security Directorate opened 83,307 benefit fraud cases, compared with 9,028 in FY 2008. We have also taken under my leadership unprecedented steps to enhance our fraud detection and

deterrence capabilities, as outlined in my response to Question 2(c) from Chairman Carper. Our agency is catching more fraud than ever.

As to the Inspector General's Report (OIG-13-97), while USCIS disagreed with the methodology and conclusion, we did concur in the Inspector General's recommendation and implemented it swiftly – within 12 days of the issuance of the Inspector General's final report.

**Post-Hearing Questions for the Record
Submitted to Alejandro N. Mayorkas
From Senator Claire McCaskill**

**Nomination of Hon. Alejandro N. Mayorkas to be Deputy Secretary, U.S. Department of
Homeland Security
July 26, 2013**

- 1. Did U.S. Citizenship and Immigration Services (USCIS) conduct any research and development (R&D), or award contracts to conduct R&D for technological solutions while you were serving as Director of USCIS? If so, what role did the Department of Homeland Security (DHS) Science and Technology Directorate (S&T) play, if any, in the R&D work or the award of contracts?**

USCIS did not award any contracts to conduct R&D for technological solutions during my tenure as the agency's Director.

- 2. As you allude to in your questionnaire response, a May 9, 2013 Department memorandum from Rafael Borrás, Under Secretary for Management and Chief Acquisition Officer, Department of Homeland Security, to DHS Component Acquisition Executives waived acquisition documentation requirements for 42 Level 1 and 2 acquisition programs because these programs were already in the sustainment phase. You further state that this determination was made because “[t]he Department concluded that any retroactive changes to documentation would be largely administrative in nature and not of significant value to a particular program’s performance?” Can you provide the committee with the analysis behind the conclusion?**

It is my understanding that, based on the availability of limited resources to provide acquisition oversight, the Department decided to waive certain outdated documentation for 42 programs currently in their final (sustainment) phase and concentrate on those programs that are still in the requirements-through-execution phase of the acquisition lifecycle. The decision was based on the relative value of allocating resources to reconstruct information that was in many cases at least five years old and more importantly, pre-date the establishment of the department's acquisition management framework, MD 102.1. Since each of the 42 programs are already in the sustainment phase, the Department determined it would be wasteful to conduct an analysis whose primary purpose is to document a path for the program to reach the very sustainment phase at which they currently operate.

Instead, the Department acknowledges that foundational analytical work must still be completed since each program will still have to operate in the “disposal” phase. While the level of analysis will not be as detailed as required in earlier phases, the Department has directed the deployment of an independent assessment tool to closely monitor all major acquisition programs, especially those in the sustainment phase. The Quarterly Program Accountability Report (QPAR)—which is provided to our Congressional oversight committees quarterly—relies on 16 separate criteria that are applied on a quarterly basis to each program to monitor overall risk and value. Updated

baselines to inform the disposal phase have been established and afford the Department with valuable information to ensure that a program is performing within established guidelines.

3. Given that as much as 60% of a program's lifecycle cost is spent in the sustainment phase, would you revisit the decision to absolve the 42 Level 1 and 2 programs mentioned above from reporting requirements?

As indicated in the previous response, the Department determined that revisiting the waiver decision for the 42 programs would not be a cost effective solution since they are well into the sustainment phase of their life cycle. However, all programs, including those in sustainment, are monitored and reviewed and are subject to being brought forward for an Acquisition Review Board review when conditions of high risk are met. For example, the Department recently brought the Transportation Worker Identification Credential program, which is in sustainment, forward for an Acquisition Review Board review in March and provided direction to the program staff to undertake certain actions to bring the program into alignment with the Department's expectations.

Further, the Department's acquisition policies require more rigorous oversight for programs in the sustainment phase by requiring standards for life cycle cost estimates and post implementation reporting. DHS acquisition program managers must now complete an annual operational assessment to validate the program's operational cost, performance, and status of sustainment programs. Through enhanced oversight tools, the Department will be able to track when a program in the "sustainment" phase is approaching 60 percent of life cycle costs. As a program moves beyond the 60 percent threshold or anticipates additional changes to scope or schedule, the program officer would have to determine if the program will likely exceed the parameters of the "sustainment" mode. If there is a high probability that the program will no longer fall within the parameters of "sustainment," then the Department directs them to prepare the appropriate planning documents to re-start the acquisition life cycle framework at phase 1.

If I am confirmed as the Deputy Secretary, I commit to you that I will work closely with you and the Committee to review, assess, and revise as warranted the processes and issues as described above so that you and the Committee have full confidence in the Department's acquisition process from start to finish.

4. In your questionnaire response, you stated that one of the most important actions the Department should take to strengthen the overall management of the Department is to institutionalize the Integrated Investment Life Cycle Management framework." When do you expect that institutionalization to be complete?

The IILCM initiative was formally launched with the Secretary's policy memorandum in February 2013. The pilot phase commenced soon thereafter and has provided tremendous insight into the highest priority areas to institutionalize the framework in FY 2014 and beyond. The FY 2013 pilots for Cybersecurity, Common Vetting, and Biodefense portfolios have achieved the goal of informing a portion of the FY 2015-19 budget cycles. The Department is already planning to expand to five other portfolios for FY 2016-20. The IILCM team is also making progress to standardize business analytics tools, cross-Directorate resources, and policy guidance.

Ultimately, the success of IILCM will be driven by continuing to mature a solid and reliable business intelligence platform, inspiring competent resources to provide the rigorous analysis needed to make trade-off decisions among competing investments, and the willingness of the Department to discount those investments, however popular in the past, if their “risks” outweigh the “reward.”

If I am confirmed as the Deputy Secretary, I commit to work closely with you and the Committee to assess the progress of the IILCM and make whatever course corrections are needed.

- 5. In your questionnaire, you note that the DHS Audit Requirement Target Act of 2012, PL 112-217, requires DHS to obtain a clean audit opinion in FY2013 and each fiscal year thereafter. Do you believe that DHS will be able to fulfill this obligation? If not, when do you expect to meet this requirement?**

In 2012, DHS presented all of its financial statements for audit, receiving a qualified opinion. The qualification related to USCG’s general property, plant and equipment (PP&E), which includes items such as vessels, aircrafts, boats, electronics, vehicles, and internal use software. These items represent almost 10 percent of DHS total assets. USCG is carefully working through complex property issues to accurately identify and value all of its general PP&E within the audit timeframe. While the goal in FY 2013 is for the Department to obtain an unqualified (clean) audit opinion, the Department also recognizes the challenges that come with a first-time audit of general PP&E balances. The Department is cautiously optimistic and continues to support the USCG to address risks that are identified through the end of the audit.

- 6. You note in your questionnaire response that DHS’ Science and Technology Directorate supports major DHS acquisitions by overseeing Operational Test and Evaluation. There have been instances, however, when S&T’s efforts have been ignored by DHS components, leading to cost overruns and delays. Would you consider requiring components to adhere to S&T’s Test and Evaluation efforts?**

S&T plays a critical role in overseeing the quality and suitability of DHS acquisitions through the Directorate’s operational test and evaluation (OT&E) activities. By statute and DHS policy, S&T is responsible for establishing OT&E policy and procedures for DHS Major Acquisitions and providing independent OT&E oversight and assessment. DHS policies guiding acquisition (i.e., MD-26-06, MD-102) dictate which programs are required to adhere to OT&E oversight, including Major Acquisition programs with total lifecycle cost estimates exceeding \$300 million or greater. In this capacity, S&T has worked in a collaborative but aggressive manner to implement and oversee T&E for major acquisitions requiring T&E oversight. Additionally, the Director for Operational Test and Evaluation, serving as the principal T&E advisor to the Secretary and Component heads, ensures that programs that come before the Acquisition Review Board have been thoroughly and appropriately vetted via the evaluation of a system’s technical performance, operational effectiveness, and suitability. This is the final step before the Department makes significant investment into production and fielding of acquired systems. The Department has made significant progress in developing its acquisitions processes, as reflected by FY13 Senate Appropriations language stating, “The Science and Technology Directorate has established an effective test and evaluation process for DHS major acquisitions.”

- 7. You note in your questionnaire response that S&T is working with the Under Secretary of Management to strengthen the “front end” of the acquisition process. Although the front end of DHS’ acquisition process needs strengthening, given S&T’s claim of limited resources and its research and development mission, do you believe that it is the appropriate role for S&T to become involved in the acquisition process? Will this divert resources and attention away from S&T’s core mission?**

S&T is the Department’s core source for scientific, engineering, and analytical expertise, skills which are central to translating mission needs into effective technical requirements and conducting useful analyses of alternatives. S&T is a natural fit to provide acquisition support, which is also an inherent and complementary piece of S&T’s research and development (R&D) mission. S&T’s involvement in acquisitions helps the Department more effectively frame challenges, basic requirements, and operational context of possible solutions; this ultimately ensures that R&D resources are not squandered on solutions that are of limited value. Up-front participation and analysis are particularly relevant in the current fiscal environment. More robust “front end” work also directly bolsters “back end” testing and evaluation by helping Components to establish rigorous and appropriate requirements. Given this, S&T’s acquisition support to operational Components and participation in the Department’s evolving acquisition processes are not diversions from S&T’s core mission but rather a strategic outgrowth that strengthens the R&D support it provides.

- 8. Do you believe that the scope of responsibilities given to S&T is too broad? In your opinion, have S&T’s many responsibilities hindered it from doing any of them particularly well?**

No, I do not believe the scope of S&T’s responsibilities is too broad. The appropriateness of S&T’s operational analysis and testing and evaluation responsibilities follows naturally from its role as the Department’s core source of scientific, engineering, and analytical expertise. S&T has made significant changes in the way it conducts R&D, with particular emphasis on operational impact, rapid transition, and high return on investment. This strategy has proven its worth, as demonstrated by several successful R&D projects as well as by growing Component demand for S&T assistance. Today’s S&T is responsive to the operational realities of DHS and brings significant value to the Department. Through strategic planning and realignment of the organization, S&T has orchestrated a well-integrated and synergistic balance between research and development and broader analytical support to the Department.

- 9. What role, if any, does the Office of Strategy, Planning, Analysis and Risk play in the Material Threat Determination process for protection against biochemical threats?**

S&T administers the Material Threat Determination (MTD) processes based on its Bioterrorism Risk Assessment (BTRA) and supporting analysis. MTDs are written for specific bio threat agents. SPAR, as a consumer of the BTRA for cross-Departmental strategic risk analysis and assessments, has not played a role in the MTD process.

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20515-6250

Sen. Tom Carper
Chairman
Homeland Security and Governmental Affairs Committee
Dirksen Senate Office Building, Room 340
Washington, DC 20510


We write regarding the nomination of Alejandro Mayorkas to be Deputy Secretary of the Department of Homeland Security. As you know, the Department of Homeland Security Office of Inspector General has confirmed it is investigating allegations of conflicts of interest, misuse of position, mismanagement and appearance of impropriety in actions by Mr. Mayorkas, as well as other USCIS officials.

The lack of confirmed leadership at the Department is a serious problem of which we are well aware. At the White House's request, this committee has in good faith expedited its review of Mr. Mayorkas' nomination. Unfortunately, neither the White House, nor DHS, nor Mr. Mayorkas himself disclosed to us the existence of an active investigation into Mr. Mayorkas.

At this time, we believe the committee has little choice but to wait until allegations against Mr. Mayorkas are resolved before deciding whether to move forward with his nomination.

We believe it is neither appropriate nor fair to consider the nomination of an individual under investigation. On the one hand, committee members cannot fairly execute their duties without inquiring about any issues of concern regarding the nominee, which may include those under investigation. On the other, such inquiries could jeopardize the ongoing investigation.

Therefore we respectfully urge you to postpone the nomination hearing for Mr. Mayorkas until the committee can satisfactorily confirm that the current investigation has concluded and that no other outstanding investigations exist involving Mr. Mayorkas.


Tom A. Coburn, M.D.
United States Senator

Tom A. Coburn, M.D.
United States Senator

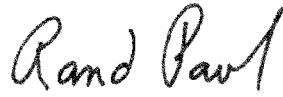

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United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

RICHARD J. GOSSELINK, STAFF DIRECTOR
 KEITH B. BISHOPMAN, MINORITY STAFF DIRECTOR

July 24, 2013

The Honorable Tom Coburn
 Ranking Member
 Homeland Security and Governmental Affairs Committee
 340 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Dr. Coburn:

Thank you for your letter requesting the Homeland Security and Governmental Affairs Committee delay consideration of the President's nominee to serve as Deputy Secretary of the Department of Homeland Security until after the Department's Office of Inspector General investigates allegations lodged against the nominee.

I appreciate your thoughts on this matter. I agree that we must be confident of a nominee's integrity and record of good conduct before recommending that the Senate confirm him. But the position of Deputy Secretary of Homeland Security is essential to helping carry out the Department of Homeland Security's mission to protect and secure all Americans. It is even more critical because of Secretary Napolitano's announcement that she will be leaving the Department in approximately six weeks. Already the Department has vacancies in 15 senior positions, including that of the Inspector General which has been vacant for over two years.

I do not believe that the circumstances warrant delaying this nominee's hearing or suspending our constitutional duty to consider the President's nominee simply because there is an OIG investigation.

As I understand it, the OIG opened its initial investigation approximately ten months ago. Since then, certain employees of the Department have told the OIG that they believed the nominee engaged in misconduct. To date these allegations have not been thoroughly investigated, and the OIG's office has informed my staff that it does not expect to conclude its investigation for months. My staff was informed by the OIG that it does not have any evidence of criminal wrongdoing by the nominee, nor has it sufficiently investigated the allegations to allow it to conclude that any wrongdoing has occurred. And, in reference to your concern that the nominee somehow hid the existence of this investigation from this Committee, the OIG has told my staff that, as of July 22, it had not informed the nominee of the investigation nor had it interviewed him.

This is not to say that the Committee should ignore these allegations. I fully intend to review the nominee's testimony and answers to the Committee's questions and to seek such other additional information as necessary to ensure that the nominee is qualified to carry out the duties of the office to the highest standards. That being said, a hearing provides an appropriate setting for Members of our Committee to ask questions of the nominee and get answers in public and under oath. This type of open forum where Members ask questions and the nominee is given the opportunity to respond should be encouraged, not stifled.

We will continue with the vetting of this nominee by holding a hearing on his nomination tomorrow and continuing to seek answers to the questions that have been raised. This course seems to me to be the one that best balances the country's need for leadership at DHS with our interest in ensuring that the leadership at the Department adheres to the highest levels of ethical conduct, and it fulfills our constitutional duty to advise and consent.

All nominees, Mr. Mayorkas included, should have an opportunity to address Members' questions about the nominees' experiences and qualifications for positions – both in public and in private. I have seized the opportunity to speak with Mr. Mayorkas privately several times in regards to his qualifications, and I believe he deserves the opportunity in a hearing to tell his story in public. I have also taken the opportunity to review Mr. Mayorkas' FBI file, not once, but twice this week. Nothing in my conversations with Mr. Mayorkas or in my review of his FBI file has convinced me that we should not be holding this hearing tomorrow.

I look forward to continuing to work with you on this nomination.

Sincerely,



Thomas R. Carper
Chairman



November 11, 2013

The Honorable Thomas R. Carper,
Chairman, Senate Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper,

I am writing to you as the last Senate confirmed Commissioner of U.S. Customs and Border Protection and former senior leader of four of the Department of Homeland Security component agencies to urge that the Committee and the full Senate act swiftly on the nomination of Alejandro "Ali" Mayorkas to fill the Department of Homeland Security's Deputy Secretary vacancy.

As you know, Mr. Mayorkas has already served the Department well and honorably in the role of Director of U.S. Citizenship and Immigration Services (USCIS). I also believe Mr. Mayorkas to be a public servant of integrity with a clear and distinguished track record of leadership. The Committee and the Senate no doubt have received enough other letters of support for his nomination to know Mr. Mayorkas enjoys a positive reputation and support among the law enforcement community and the Department of Homeland Security alumni both career and political, Republican and Democrat.

My voice could only echo the many positive things said about Mr. Mayorkas and his record. But I write to you today motivated more to express my concern about the process and what I view as a needless delay of action on this nomination caused by the Committee waiting for an investigation or report by a DHS Inspector General's office that is itself leaderless and of questionable competence at best.

I reference this morning's November 11, 2013 *Wall Street Journal* in an op-ed by House Homeland Security Chairman McCaul entitled "Nobody's Home at Homeland Security" which summarizes the situation on the Deputy Secretary nomination thus: "...*The nominee for the No. 2 position at DHS is currently under investigation by the DHS Inspector General's office, which itself does not have anyone in its top post and whose current leader is also under investigation. You read that right.*" The editorial also points out that many of the vacancies at DHS are not the fault of the Committee or the Senate but because of a delay of the Administration in timely nominating a qualified person. All the more reason that in a case where a qualified nominee for a critical post has been timely nominated that the Committee and the Senate move quickly in exercising their "Advise and Consent" Constitutional prerogative.



There is no reason to wait. If this were an investigation of criminal wrongdoing by a competent investigative law enforcement agency, the Committee might be justified in delaying action. But the allegations as I understand them are at most as to whether an agency head appropriately used his discretionary authority to take a meeting and review a case and a program that was under his supervision. The Committee itself is more than capable, I would argue, of investigating such allegations against Mr. Mayorkas. I would support and I believe Mr. Mayorkas would support a thorough review of the allegations by the committee staff, and I urge the Committee to take evidence, interview witnesses, and then hold a nomination hearing where Mr. Mayorkas might answer for himself any remaining accusations or questions and defend his record. The Committee can then decide the matter by voting favorably or unfavorably on his nomination.

I have been expressing concerns for years, going back to my time as Commissioner of Customs & Border Protection, about the DHS Office of Inspector General's (OIG) leadership, its investigative priorities, its attempted mission creep well beyond its capabilities, and the qualifications of some of its investigative personnel. Nowhere was this more apparent than in OIG mishandling of cases and workload and lack of transparency and accountability related to border corruption cases against CBP personnel. While I have always respected the important role to be played by Inspectors General at departments and agencies across our government, I believe that the DHS OIG's lack of credibility at this juncture means that their long-delayed investigation is not sufficient to delay action confirming such a qualified individual as Mr. Mayorkas to such a critical post as Deputy Secretary of Homeland Security.

I urge the Committee on Homeland Security and Government Affairs and the Senate to act immediately on the Deputy Secretary vacancy and quickly schedule both a hearing and a vote on Mr. Alejandro Mayorkas. The number of vacancies at DHS should be a source of bipartisan outrage, but this growing problem can only be fixed by giving the required attention and action to one nomination at a time.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Ralph Basham", followed by a horizontal line.

W. Ralph Basham



Former Commissioner, U.S. Customs & Border Protection 2006-2009

Former Director, U.S. Secret Service 2003-2006

Chief-of-Staff, Transportation Security Administration 2002-2003

Director, Federal Law Enforcement Training Center (FLETC) 1998-2002

CC: The Honorable Tom Coburn

Members of the Senate Committee on Homeland Security and Government Affairs

Senate Majority Leader Reid

Senate Minority Leader McConnell



**NATIONAL
FRATERNAL ORDER OF POLICE®**

328 MASSACHUSETTS AVE., N.E.
WASHINGTON, DC 20002
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CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

5 December 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

The Honorable Thomas A. Coburn, MD
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman and Senator Coburn,

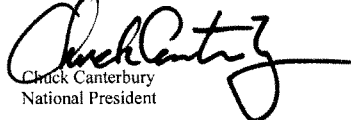
I am writing on behalf of the members of the Fraternal Order of Police to express our continued support for the nomination of Alejandro Mayorkas to be the next Deputy Secretary of the U.S. Department of Homeland Security (DHS). In the past several years, the scope and mission of the DHS has expanded and we believe that Mr. Mayorkas has the requisite ability and experience to lead the Department and meet the challenges in the years ahead.

As Director of U.S. Citizenship and Immigrations Services (USCIS), Mr. Mayorkas is responsible for the largest and most complex immigration system in the world, as well as a \$3 billion annual budget and an 18,000 member workforce with offices around the globe. In this role, he has realigned the agency's organizational structure, creating several directorates which have not only improved USCIS but also our national security. He has enhanced and streamlined many of the programs at USCIS including the Electronic Immigration System (ELIS) and the Unauthorized Practice of Immigration Law (UPIL) initiative. Mr. Mayorkas has worked to improve the agency's fiscal responsibility with cost saving measures and stringent budget reviews.

His time as a U.S. Attorney in California and in private practice prepared him for his role at USCIS and will serve him well as Deputy Secretary. His professionalism, leadership skills and integrity make him an ideal candidate for this post.

On behalf of the more than 330,000 members of the Fraternal Order of Police, I urge the committee to expeditiously consider and favorably report the nomination of Alejandro Mayorkas to be the Deputy Secretary at the U.S. Department of Homeland Security. If I can provide any further endorsement for Mr. Mayorkas, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President

— BUILDING ON A PROUD TRADITION —

10-100-0

The Honorable Tom Carper
Chairman, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Coburn
Ranking Minority Member, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn,

It is with great honor that we write in support of Alejandro Mayorkas' candidacy for Deputy Secretary of the Department of Homeland Security. Over the past several years, each of us has had the distinct privilege of working personally with Mr. Mayorkas on matters related to international adoption, child protection and disaster response. It is through such experiences that we have come to know him as a committed and compassionate leader, a skilled negotiator, and constant defender of justice.

As you well know, even under normal conditions, adopting a child from another country can be a difficult, emotional, and prolonged process for American citizens, especially those that are pursuing international adoption for the first time. Under Director Mayorkas' leadership, the United States Citizenship and Immigration Services (USCIS) have taken significant steps to make the processing of orphan visas more efficient, including reducing the overall processing time and increasing direct communication with prospective adoptive parents. In fact, a recent survey of adoptive parents revealed that the majority of prospective adoptive parents found their interactions with the USCIS to be positive and helpful to their success in adopting.

Families experiencing circumstances which have caused their adoption to be disrupted or at risk of disruption (i.e., natural disaster, changes in law, visa issues) rely even more heavily on USCIS for leadership and guidance in navigating the increased complexity, tension and anxiety which accompanies these special circumstances. From the very beginning of his tenure, Director Mayorkas has demonstrated a unique willingness to engage personally in USCIS' extraordinary efforts to respond to the needs of the children and families involved. In Haiti, Guatemala, Nepal, Vietnam and Ethiopia Director Mayorkas and his team not only worked quickly to develop ethical and efficient processes for appropriately addressing the cause for delay, but did so in a way that assured the U.S. Citizens involved that their needs, and more importantly the needs of their adopted children, would be protected.

We have been especially impressed by Director Mayorkas' obvious personal integrity and unyielding commitment to upholding the law. The ethical processing of visa petitions for internationally adopted children requires a system that is balanced between meeting a clear need

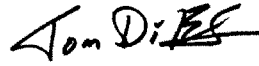
for an orphan child to have a safe, loving family and protecting against efforts to use the international adoption process as a means to engage in child trafficking. Without exception, Director Mayorkas demonstrated a clear understanding of the importance of this balance and under his leadership USCIS has been a major driver in efforts to protect against abuse of the adoption system.

In closing, the only difficulty we have in submitting this letter is finding the words that adequately depict the impact Director Mayorkas has had on issues affecting our community. If at any point we might assist the Committee in better understanding our shared experience with Director Mayorkas, we would gladly make ourselves available.

Sincerely,



Kathleen Strotman
Executive Director
CCAI



Tom DiFilipo
President & CEO
JCICS



Susan Soonkeum Cox
V.P., Public Policy and External Affairs
Holt International Children Services



Terry Baugh
President
KIDSAVE

September 27, 2013

The Honorable Tom Carper
Chairman, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC, 20510

The Honorable Dr. Tom Coburn
Ranking Minority Member, Committee on Homeland Security and Governmental Affairs
United States Senate
442 Hart Senate Office Building
Washington, DC, 20510

Dear Chairman Carper and Ranking Member Coburn:

As former officials of federal law enforcement agencies, we have decades of combined experience and leadership in the field. With that experience in mind, we write to express our support of the nomination of Alejandro Mayorkas to become the Deputy Secretary of Homeland Security.

Throughout his career, Mr. Mayorkas has demonstrated his effectiveness as a capable manager of large and complex law enforcement institutions. As U.S. Attorney for the Central District of California, Mr. Mayorkas was the chief federal law enforcement officer in the largest judicial district in the nation.

More recently, as the Director of United States Citizenship and Immigration Service, Mayorkas was charged with operating the largest immigration system in the world. Director Mayorkas is responsible for helping safeguard national security, by enhancing the scope and frequency of national security vetting of applicants for immigration benefits, including the Refugee Affairs Program. This complex security vetting process now encompasses a broader array of government databases and is conducted several times throughout the application review process before extending those benefits. Additionally, Director Mayorkas created the Fraud Detection and National Security Directorate, the USCIS Management Directorate, and the Office of Performance and Quality while promoting fiscal responsibility by instituting more than \$160 million in budget cuts in fiscal year 2010. Director Mayorkas transformed the USCIS to ensure its capability to successfully, efficiently, and effectively fulfill its mission.

Moreover, Director Mayorkas implemented a series of reforms at the United States Citizenship and Immigration Service that show his commitment to law enforcement. For the first time ever, under Director Mayorkas' tenure, the USCIS processed the statutory annual maximum of 10,000 U visas to victims of crime who cooperate with law enforcement in the investigation and

prosecution of perpetrators. USCIS is on track to realize the issuance of the annual statutory maximum number of U visas for the fourth year in a row.

Director Mayorkas' strong leadership, extensive experience, and strong commitment to law enforcement and national security clearly demonstrate that he has the skills to effectively lead the Department of Homeland Security. Therefore, we hope that the Senate will confirm Director Mayorkas promptly to serve as the Deputy Secretary of Homeland Security.

Sincerely,

Jayson P. Ahern

Former Acting Commissioner, U.S. Customs and Border Protection, Department of Homeland Security

Robert C. Bonner

Former Commissioner, U.S. Customs and Border Protection, Department of Homeland Security; Former Commissioner, U.S. Customs Service; Former Administrator, Drug Enforcement Administration (DEA); Former U.S. District Judge, Central District of California; Former U.S. Attorney, Central District of California

Anthony M. Chapa

Assistant Director (retired), U.S. Secret Service, Department of Homeland Security

John Hensley

Former Assistant Commissioner, Enforcement and Investigations, U.S. Customs Service

Ronald L. Iden

Former Assistant Director in Charge of Los Angeles Office, Federal Bureau of Investigation (FBI)

Kenneth Wainstein

Former Assistant to the President for Homeland Security and Counterterrorism; Former Assistant Attorney General for National Security; Former General Counsel of the Federal Bureau of Investigation and Chief of Staff to Director Robert S. Mueller; Former Director, Executive Office for U.S. Attorneys



July 10, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

On June 27th, 2013, President Obama announced his intention to nominate U.S. Citizenship and Immigration Services Director (USCIS) Alejandro Mayorkas to be Deputy Secretary for the U.S. Department of Homeland Security (DHS). As a former colleague, professional associate and as a friend; it is with great honor that I submit this letter in support of the President's nomination.

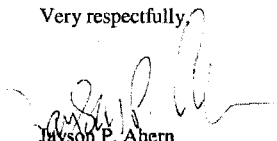
In leading one of the most critical operational components of DHS for the past four years, Director Mayorkas has led the agency that oversees the largest immigration system in the world. I had the privilege to observe his leadership first hand during the first year of his tenure, while I served in the Commissioner's role at U.S. Customs and Border Protection. His efforts in granting immigration and citizenship benefits to those deserving under the law was done in such a fashion that the integrity of the immigration system was not compromised. Further, his years of experience came significantly into play as he architected new programs to prevent against fraud and protect national security, both foundational mission objectives of the cabinet level department created to protect the homeland just over 10 years ago, that he is now nominated to lead.

In 1999, Director Mayorkas was the U.S. Attorney for the Central District of California and oversaw the prosecution of cases of national as well as international significance. Many of those cases were presented by the former U.S. Customs Service, an agency I served as the Director for in Los Angeles at that same period of time. As a 33 year federal law enforcement officer, I can unequivocally state that he was one of the finest officials that I observed over the years and had the respect of the law enforcement community he lead as their chief prosecutor.

In conclusion, it is my strong opinion that Director Mayorkas' experience and leadership will be invaluable as DHS continue the work of protecting the homeland against threats of all kinds. As the Department of Homeland Security continues to mature, Alejandro Mayorkas is the right leader to continue that development and also meet the many critical mission challenges faced each day.

I congratulate him on his nomination as Deputy Secretary of this Department and trust that this Committee will move swiftly to confirm his appointment.

Very respectfully,



Jayson P. Ahern
Principal
The Chertoff Group



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



July 18, 2013

The Honorable Thomas R. Carper
Chairman, U.S. Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairmen Carper:

**RE: RECOMMENDATION OF MR. ALEJANDRO "ALI" MAYORKAS
FOR DEPUTY SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY**

As Sheriff of Los Angeles County, I have been deeply involved in homeland security issues for many years, and I have had the pleasure of working closely with personnel from the Department of Homeland Security as a member of the Homeland Security Advisory Council.

I read with interest the decision of Janet Napolitano to resign as Secretary of the Department of Homeland Security to assume oversight of the University of California system. In thinking about the need for strong leadership within the Department during this time of transition, a friend and colleague came to mind, Alejandro "Ali" Mayorkas, and I write to recommend him to your Committee for the position of Deputy Secretary of the Department of Homeland Security.

I have known Ali for many years, and am also familiar with his remarkable record of public service; a record that, in my view, makes him exceptionally well qualified to be Deputy Secretary of the Department of Homeland Security.

Ali is the current Director, United States Citizenship and Immigration Services (USCIS), Department of Homeland Security. He was nominated to that position by President Obama in 2009 and unanimously confirmed by the Senate in August of that year. He currently has responsibility for an 18,000 member workforce throughout more than 200 offices worldwide and a \$3 billion annual budget. His law enforcement credentials also include being both an

A Tradition of Service

The Honorable Thomas R. Carper

-2-

July 18, 2013

Assistant U.S. Attorney in the Central District of California and later promoting to being The U.S. Attorney in the Central District of California. His office was based in Los Angeles, and is one of the largest U.S. Attorney offices in the country. In each of these positions, Ali has served with distinction. He has always worked well with local law enforcement. Ali maintains current awareness and insight on all homeland and border security issues.


From 2001 – 2009 Ali was a Partner at O'Melveny and Myers LLP, where he acted as Litigation Partner representing Fortune 100 companies in their highest profile and most sensitive government enforcement and trial court cases. He advised boards of directors and top executives, led internal investigations and litigated "bet the company" matters covering a wide range of industries, including telecommunications, health care, consumer safety, aerospace and media. In addition, throughout his career Ali has been a committed community member, sitting on the boards of directors and boards of trustees of multiple non-profit community service and advocacy groups. He was also appointed to act as a commissioner on the California Commission on the Fair Administration of Justice by the California State Senate.

I would add that I know Ali to be a thoughtful person of even temperament, and a person who stays focused on the problems at hand and does not go off on tangents. He has managed large, complex agencies and has done so very well. He is highly regarded by the Southern California and National law enforcement communities.

In short, I enthusiastically recommend him to your Committee as someone who would make an outstanding Deputy Secretary of the U.S. Department of Homeland Security.

Please do not hesitate to contact me at (323) 526-5000 if you have any questions regarding Mr. Alejandro Mayorkas.

Sincerely,


LEROY D. BACA
SHERIFF

July 10, 2013

ROBERT C. BONNER

595 Covington Place
Pasadena, CA 91105
Phone: (703) 635-9492
Email: rbonner@gibsondunn.com

Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Alejandro Mayorkas
Nominee for Deputy Secretary of Homeland Security

Dear Chairman Carper and Ranking Member Coburn:

I write in support of the President's nomination of Alejandro Mayorkas for Deputy Secretary of the Department of Homeland Security.

By way of background, I have served in the Department of Homeland Security (DHS) as the first Commissioner of U.S. Customs and Border Protection. I have also served as the Administrator of the Drug Enforcement Administration (DEA), as a federal district judge and the U.S. Attorney for the Central District of California. I was appointed to all of these positions by Republican Presidents and have been confirmed by the U.S. Senate four times. Having served at high levels in both DHS and the Department of Justice, I understand full well the duties of deputy secretaries generally, and have a good understanding of the talents, skills, experience and attributes necessary to performing well the position of Deputy Secretary of DHS.

I have known Ali Mayorkas for nearly 25 years and have followed his career closely. Indeed, in 1989 when I was the U.S. Attorney for the Central District of California, I interviewed and hired Ali as an Assistant U.S. Attorney (AUSA) for the Criminal Division of the U.S. Attorney's Office. I took hiring of AUSAs very seriously and all hires were based on the merits of the individual, both capabilities as a lawyer and integrity. I had not met Ali before, but he impressed me back then as a young lawyer who would make an outstanding AUSA, and he did not disappoint me. He turned into a gifted trial lawyer and public prosecutor, one of the very best in the office, during his years as an Assistant U.S. Attorney in one of the largest and finest U.S. Attorney's offices in the nation.

Honorable Thomas R. Carper, Chairman
Honorable Tom A. Coburn, M.D., Ranking Member
July 10, 2013
Page 2

As you know, Ali went on to become the Presidentially appointed United States Attorney for the Central District of California, a judicial district centered in Los Angeles that covers nearly all of southern and much of central California. It is the most populous federal district in the nation with over 17 million people. With about 240 AUSAs, Ali supervised and led one of our country's largest U.S. Attorney's Offices, and he did so with distinction. He was a superb manager of the office and was widely respected within the Los Angeles legal community and by the federal judges. Managing an office of this importance and visibility is an important experience for managing even more difficult and challenging positions.

Ali found that more challenging position, or it found him, in 2009, when President Obama appointed him, after Senate confirmation, to be the Director of Citizenship and Immigration Services (CIS). As you know, CIS is one of the seven component agencies of DHS, and one that has had some special challenges since it was fragmented from the old Immigration and Naturalization Service (INS) when it was abolished by the Homeland Security Act of 2002 as part of the homeland security reorganization. From the beginning, CIS was plagued with inefficiencies and low morale. It can truly be said that Ali Mayorkas, as director of CIS, has made great strides turning CIS into a more efficient, more capable and more automated agency.

Aside from stints in private law practice, most recently as a partner of a very prominent law firm based in Los Angeles, O'Meleny & Myers, Ali has spent a considerable amount of his career in public service. This is because he values contributing to the public good more than making money, and I can tell you that Ali could easily make ten times more in compensation in private law practice than his government income, and I am probably understating it. I mention this, because I admire Ali for making the financial sacrifice to undertake demanding, but extraordinarily important government positions. We need more like him.

But it is not merely his willingness to serve the public good that impels me to write this letter of support for his nomination, it is rather my firm belief that Ali has the experience, skills, talents and plain old good judgment to be an effective Deputy Secretary, perhaps the best DHS has ever had.

Being Deputy Secretary of DHS, as you know, involves running DHS on a day-to-day basis. It is a formidable management job. And it is a tough job, and there are very few with the management experience, political skills (and I mean "political" in the broadest, not partisan, sense), and good judgment to do this job well. Ali is one of the very few. Indeed, I would be hard pressed to come up with another who could do this challenging job better than Ali.

To do the job of Deputy Secretary well also requires a good relationship with the Secretary. Fortunately Ali has established such a relationship, particularly over the last four years as the Director of CIS. This position within DHS, has also given Ali unique insights into how DHS operates, its internal and external relationships, and importantly how it can be improved.

Honorable Thomas R. Carper, Chairman
Honorable Tom A. Coburn, M.D., Ranking Member
July 10, 2013
Page 3

In sum, I wholeheartedly support the nomination of Ali Mayorkas for the Deputy Secretary of DHS, and would be pleased to answer any questions you or your staffs may have.

Very truly yours,


Robert C. Bonner

200

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

July 22, 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Tom A. Coburn
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, urges you to support President Obama's nomination of Alejandro Mayorkas to the position of Deputy Secretary of the Department of Homeland Security (DHS).

The Chamber has developed an excellent working relationship with Director Mayorkas over the last several years where we have invariably found him open to working through a number of difficult issues, recognizing that the business community is an important constituent within the broad reach of our nation's immigration laws. As importantly, his background also demonstrates an in-depth knowledge of enforcement developed through over a decade of work as Assistant United States Attorney and United States Attorney for the Central District of California. Director Mayorkas' skills in recognizing both the concerns of those being regulated and the role of enforcement will serve him well as Deputy Secretary for DHS. As you know, these dual responsibilities are intertwined with the mission of the Department and need to be mutually addressed. His talents should also serve the country well as the Administration and Congress continues to debate, and hopefully ultimately implement, comprehensive immigration reform.

Once again, the Chamber urges you to approve the nomination of Alejandro Mayorkas to the position of Deputy Secretary of the Department of Homeland Security.

Sincerely,



R. Bruce Josten

cc: Members of the Committee on Homeland Security and Governmental Affairs

July 16, 2013

Honorable Thomas R. Carper, Chairman
Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper and Ranking Member Coburn:

The purpose of this letter is to express my personal opinion of Mr. Alejandro Mayorkas' outstanding character, dedication, and devotion to the pursuit of justice. In Mr. Mayorkas' position as the Assistant United States Attorney (AUSA)/US Attorney in the Central District of California, I had the opportunity to directly work with him on joint FBI/DOJ telemarketing fraud investigations. The joint investigations resulted in the indictment and conviction of numerous defendants for US Federal Violations, including Mail Fraud. During the time we worked together, Mr. Mayorkas was extremely diligent, persistent, and thorough in pursuing extremely complex financial fraud matters that involved millions in monetary losses to the victims.

The fraudsters in the joint cases attempted to evade justice by using false names during their telephone sales pitches to the victims. However, due to Mr. Mayorkas' ability to administer fairness, he was able to convince some defendants to cooperate and disclose the true identities of the fraudulent telemarketers. Mr. Mayorkas consistently went the extra distance as a prosecutor and charged each level of the fraudulent enterprise, including the owners, managers and lower level fraudulent telemarketers.

In addition, Mr. Mayorkas exhibited compassion and empathy when dealing with the victims of these crimes, many of them elderly who had incurred significant financial hardships. The victims also sometimes felt a sense of embarrassment in having been convinced to part with their financial savings, which Mr. Mayorkas was able to alleviate.

Mr. Mayorkas deservedly earned an excellent reputation while assigned as an AUSA in the Central District of California, as someone who was an extremely efficient and effective prosecutor. Consequently, he was often contacted directly by case agents, including myself, to address cases involving various fraud schemes. Through passion, hard work, and persistence, Mr. Mayorkas achieved a successful collaborative partnership which achieved justice on behalf of vulnerable victims. Any information and recommendations provided in this letter are based upon my own personal knowledge and should not be construed as the official views of the FBI.

Sincerely,


Nora Collas
Special Agent

NOTE: The opinions contained herein are those of the writer and do not necessarily represent the opinions of the Federal Bureau of Investigation or the Department of Justice.



O'MELVENY & MYERS LLP

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July 15, 2013

WRITER'S DIRECT DIAL
(202) 383-5388

VIA FACSIMILE AND FIRST CLASS MAIL

WRITER'S E-MAIL ADDRESS
aculvahouse@omm.com

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Re: Alejandro Mayorkas, Nominee for DHS Deputy Secretary

Dear Chairman Carper and Ranking Member Coburn:

With great enthusiasm and the utmost confidence in his ability and integrity, I very respectfully recommend the confirmation of Alejandro Mayorkas to be Deputy Secretary of the Department of Homeland Security.

My strong support for Ali Mayorkas' confirmation is based on nine years of being Ali's law partner (and working closely with him on client matters and in Firm management); closely observing Ali's performance as Director of U.S. Citizenship and Immigration Services; and my two-year experience reviewing potential nominees' background and qualifications as White House Counsel to President Ronald Reagan.

One of my first initiatives after being elected Chairman of O'Melveny & Myers in 2001 was to recruit Ali Mayorkas (who was then serving as United States Attorney for the Central District of California) to be a partner in our Firm. Ali quickly developed a client following; he was elected by his partners to the Firm's Policy Committee (our governing Board); he was a favorite mentor and adviser to numerous junior colleagues; and, in 2006, he was one of two partners (along with two associates and two staff) nominated and selected by all Firm personnel to receive the Warren Christopher O'Melveny and Myers Values Award as best representing the Firm's Values of Excellence, Leadership and Citizenship.

†In association with Tumbuan & Partners

O'MELVENY & MYERS LLP

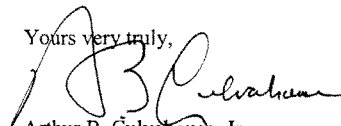
The Honorable Thomas R. Carper, Chairman, and The Honorable Tom A. Coburn, M.D., Ranking Member
July 15, 2013 - Page 2

Ali Mayorkas' record of achievement as Director of the U.S. Citizenship and Immigration Services is remarkable given the management challenges and poor employee morale when he took office. He has demonstrated professional acumen, devotion to public service and a natural ability to connect with subordinates, citizens and those who aspire to be citizens. Ali's service as USCIS Director was recognized earlier this year by the Mexican American Legal Defense Education Fund, which awarded Ali its "Excellence in Government Service Award." The video shown at the Awards Ceremony profiling Ali's tenure as USCIS Director was inspiring and made his many friends very proud.

Finally, very much unlike some nominees that I have observed over the years whose performance in office was less than stellar, Ali Mayorkas approaches everything he does without entitlement or self-interest, but rather with humility and obligation to give back to the Nation he loves.

In summary, I am a great admirer of Alejandro Mayorkas, and I believe firmly that he will serve with great distinction should he be confirmed as Deputy Secretary of the Department of Homeland Security.

Yours very truly,

A handwritten signature in dark ink, appearing to read "ABC Culvahouse", written over the typed name.

Arthur B. Culvahouse, Jr.
O'MELVENY & MYERS LLP

ABC:jjn

OMM_US:71632593.1

July 10, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper and Ranking Member Coburn:

I am writing in support of the confirmation of Alejandro Mayorkas to the position of Deputy Secretary of the Department of Homeland Security.

I have known and consider Ali Mayorkas a trusted friend and colleague for the past 15 years. I met Ali while I was assigned as the Federal Bureau of Investigation's Assistant Director in Charge of the Los Angeles Field Office. During my tenure as Assistant Director of the Los Angeles Field Office, I had regular contact with the United States Attorney's Office for the Central District of California. I regularly met with Ali on issues that were of importance to successful federal law enforcement in Los Angeles. During his tenure as United States Attorney, Ali ensured that the priorities of the United States Attorney's Office and the FBI were aligned to provide the most efficient and effective utilization of resources in addressing crime problems resulting in the fair and successful prosecution of cases. In that regard, Ali was a true partner in meeting and addressing issues of mutual concern. This was not only the case with the FBI Office but was true of his relationship with all federal law enforcement agencies. He established regular monthly meetings with federal law enforcement agency leaders to ensure that priorities and objectives were shared and effectively communicated.

Ali and I continue to enjoy a personal relationship as a result of the working partnership we built while serving together in Los Angeles.

Ali clearly understood and recognized the serious violent crime problem in the Central District and in response developed innovative approaches targeting criminals in possession of firearms. His office aggressively prosecuted street gangs by applying federal racketeering statutes. He also recognized the need for a balanced approach with active involvement at the U.S. Attorney's Office in the federal Weed & Seed Program providing resources to after-school and neighborhood programs for at-risk youth. He also created a Civil Rights Section in the U.S. Attorney's Office in order to more effectively respond to hate crimes and other acts of intolerance and discrimination.

The Honorable Thomas R. Carper, Chairman
The Honorable Tom A. Coburn, M.D., Ranking Member

Page 2

Ali Mayorkas has throughout his career, both in and out of Government, served with professionalism, honesty and integrity. He has brought leadership and value to both the Government and private sector. I believe that he will bring that same leadership and his exceptional legal and management skills to the position of Deputy Secretary of the Department of Homeland Security.

It was an honor to have served with Ali in the government and I believe he will continue to be an asset to our Country in this important leadership position.

Sincerely,

James V. DeSarno, Jr.
Assistant Director, Federal Bureau of Investigation (Ret.)

The Honorable Thomas R. Carper, Chairman U.S. Senate Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member U.S. Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

July 12, 2013

Dear Chairman Carper and Ranking Member Coburn:

I am writing to you regarding the President's nomination of Mr. Alejandro Mayorkas as the Deputy Secretary of the Department of Homeland Security (DHS). I was the DHS Under Secretary for Management when Mr. Mayorkas was confirmed as the Director, United States Immigration and Citizenship Services in August 2009. I continued to work closely with Mr. Mayorkas until my retirement from federal service in April 2010. I was very impressed with his perseverance and passion in effectively delivering our country's homeland security priorities.

Mr. Mayorkas is a dedicated public official. He is committed to working collaboratively, yet decisively, to meet the homeland security mission. Mr. Mayorkas has demonstrated he has the leadership skills necessary to be the Deputy Secretary of a complex enterprise such as DHS. I am certain if confirmed he will continue to drive both the operations and management of the Department to maturity. He will work effectively to unite the homeland security enterprise and accomplish key national priorities. DHS would benefit greatly from Mr. Mayorkas' leadership and dedication to public service.

I look forward to your Committee's consideration of Mr. Mayorkas' nomination and subsequent confirmation. I would be pleased to provide any additional information that may assist you in your deliberations. You, your Committee members, or staff may contact me at Elaine@edukeassociates.com or (703)402-4432.

Sincerely,

Elaine C Duke



**NATIONAL
FRATERNAL ORDER OF POLICE®**

326 MASSACHUSETTS AVE., N.E.
WASHINGTON, DC 20002
PHONE: 202-547-8189 · FAX 202-547-8180

CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

18 July 2013

Thomas R. Carper
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20150

Thomas A. Coburn, MD
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20150

Dear Chairman Carper and Ranking Member Coburn,

I am writing on behalf of the members of the Fraternal Order of Police to express our strong support for the confirmation of Alejandro Mayorkas as Deputy Secretary at the U.S. Department of Homeland Security. In the last several years, the scope and mission of the Department of Homeland Security has expanded and Mr. Mayorkas has the requisite ability and experience to be a leader in this growing Department.

As Director of U.S. Citizenship and Immigrations Services (USCIS), Mr. Mayorkas is responsible for the largest and most complex immigration system in the world, as well as a \$3 billion annual budget and an 18,000 member workforce with offices throughout the world. In this role, he has realigned the agency's organizational structure, creating several directorates which have not only improved USCIS but also our national security. He has enhanced and streamlined many of the programs at USCIS including the Electronic Immigration System (ELIS) and the Unauthorized Practice of Immigration Law (UPLI) initiative, as well as many others. Mr. Mayorkas has worked to improve the agency's fiscal responsibility with cost saving measures and stringent budget reviews.

His time as a U.S. Attorney in California and the time he spent in private practice prepared him for his role at USCIS and to serve a Deputy Secretary. His professionalism, leadership skills and integrity make him an ideal candidate for this post at the U.S. Department of Homeland Security.

On behalf of the more than 330,000 members of the Fraternal Order of Police, I urge the committee to expeditiously consider and favorably report the nomination of Alejandro Mayorkas to be the Deputy Secretary at the U.S. Department of Homeland Security. If I can be of any assistance, please do not hesitate to contact me or Executive Director Jim Pasco in my Washington office.

Sincerely,


Chuck Canterbury
National President

— BUILDING ON A PROUD TRADITION —

10-00000-0



GEORGE GASCÓN
DISTRICT ATTORNEY
CITY AND COUNTY OF SAN FRANCISCO

July 18, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Carper,

I write this letter in support of Mr. Alejandro Mayorkas' nomination for the position of Deputy Secretary of the Department of Homeland Security.

Years ago, as a member of the Los Angeles Police Department, I had the opportunity to observe the work of Mr. Alejandro Mayorkas. Mr. Mayorkas was a career Federal prosecutor with substantial experience prosecuting major cases. Later he became the US Attorney for the Central District of California. In his various roles, Mr. Mayorkas was a highly respected member of the law enforcement community in Southern California. Alejandro's strong legal background coupled with unwavering commitment to ethical public service made him a trusted partner and a valuable member of our public safety community.

Later in my roles as Chief of Police of Mesa Arizona, San Francisco, and more recently as the elected District Attorney for the City and County of San Francisco, I have gained additional respect for Mr. Mayorka's multidimensional approach to dealing with complex sensitive issues. Alejandro is a consensus builder and problem solver. He is able to work with very diverse groups to achieve meaningful tangible results.

Prior to his appointment as the Director for the US Citizenship and Immigration Services (USCIS), Mr. Mayorkas was a partner in the law firm of O'Melveny & Myers. During this period Alejandro's leadership abilities were quickly recognized. He became member of the firm's worldwide governing Policy Committee and in 2008 the National Law Journal recognized him as one of the "50 Most Influential Minority Lawyers in America".

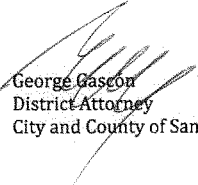
In his current role, Mr. Mayorkas has been able to achieve the trust and respect of his workforce while enhancing UCIS service delivery capacity. Mr. Mayorkas' entrepreneurial spirit and customer service attitude has helped improve USCIS business practices, increasing efficiencies, and the quality of public service.

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE DISTRICT ATTORNEY

In my opinion, Mr. Alejandro Mayorkas is uniquely qualified. He is an accomplished public servant with a deep understanding of how government functions and how to deal with sensitive confidential issues. In addition, he has years of successful work experience in the private sector. For these reasons I strongly endorse Mr. Alejandro Mayorkas' nomination for the position of Deputy Secretary of the Department of Homeland Security.

Sincerely,



George Gascon
District Attorney
City and County of San Francisco

**National Board**

Anthony Chapa
Assistant Director (Ret.)
 United States Secret Service
Executive Director

Paul J. Chapa
Chief of Police
 Trinity University Police Department
President

Xavier Morales
Deputy Special Agent in Charge
 United States Secret Service
1st Vice President

Don Tijerina
Lieutenant
 Bexar County Sheriff's Office
2nd Vice President

Mari Nash
Supervisory Special Agent
 Naval Criminal Investigative Service
3rd Vice President

Tina Nieto
Captain III
 Los Angeles Police Department
4th Vice President

Steve Reyna
Sergeant
 Bexar County Sheriff's Office
Sergeant at Arms

Oscar Hernandez
Supervisor
 Department of Homeland Security
Treasurer

Rolando I. Belmares
Detective
 Texas State University
 Police Department
Secretary

Yvonne Vann
Sergeant
 Bexar County Sheriff's Office
Parliamentarian/Historian

Joaquin Herran
Commander (Ret.)
 Los Angeles County Sheriff's
 Department
Immediate Past President

John Torres
Deputy Assistant Director (Ret.)
 Bureau of Alcohol, Tobacco, Firearms
Director at Large

July 17, 2013

The Honorable Thomas R. Carper
 Chairman
 US Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable Tom A. Coburn, MD
 Ranking Member
 US Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

It is with great pride that the Hispanic American Police Command Officers Association (HAPCOA) offers its support and endorsement of Director Alejandro Mayorkas for the position of Deputy Secretary of the Department of Homeland Security.

HAPCOA is the oldest and largest law enforcement organization, formed 40 years ago, to support, prepare, promote and mentor Hispanic law enforcement command staff nationwide. As a law enforcement organization concerned with issues affecting our nations growing Hispanic communities, we are indeed encouraged by the nomination of Director Mayorkas for this position of trust.

HAPCOA promises to continue supporting DHS initiatives, projects and programs designed to protect and serve our Nation. With Director Mayorkas, serving as the Deputy Secretary, we know that we will be invited to continue serving in a supporting role where we can share and participate with DHS in addressing the issues and concerns critical to our law enforcement community.

The many members of HAPCOA would be proud to welcome and applaud a fellow professional in law enforcement to the position of Deputy Secretary of DHS.

Sincerely,

Anthony Chapa
 Executive Director

**John Hensley
2563 Avocado Street
Fullerton, CA 92835**

July 10, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn;

I am writing you today in support of the nomination of Alejandro Mayorkas for the position of Deputy Secretary, U.S. Department of Homeland Security. I am a career law enforcement officer, with the bulk of my career being spent in the U.S. Customs Service in various positions and ultimately as the Assistant Commissioner for Enforcement and Operations. During the late 1980's I was the Special Agent in Charge of the Southern California Division and it was at that time that I met an outstanding Assistant U.S. Attorney named Ali Mayorkas. Mr. Mayorkas passionately pursued and prosecuted numerous cases for our agency but also those cases presented by other federal agencies. He was (and is) held in extremely high regard by all of the agents who came in contact with him.

Later, I had the pleasure of working with Mr. Mayorkas after he was nominated and confirmed as the United States Attorney for the Southern District of California. In that position Mr. Mayorkas was tireless in pursuing all the cases brought to him by all of the federal agencies in his district. He was known to be a "non-political" U.S. Attorney who pursued cases on their merits-----he was a prosecutor's prosecutor.

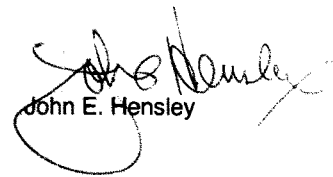
I have gotten to know Mr. Mayorkas on a personal basis over the years and have found him to be a deeply devoted family man, a man of high moral conviction and a person who always seeks to do the right thing. In his work he is a consummate professional.

I have watched him from afar as he has tirelessly worked to lead the U.S.C.I.S. as its Director. I think it is a testament to his leadership and managerial integrity that with all of the problems endured by many federal agencies these days, his agency has not been touched by scandal or mismanagement issues even though it is at the heart of one of the most sensitive issues of our day---immigration.

As a career law enforcement officer, I am very cautious in giving endorsements. In this case however, I am very proud to give my enthusiastic endorsement of Alejandro Mayorkas for the position of Deputy Secretary, USDHS. I believe his confirmation will be good for the Department and good for our country

If I can be of further assistance to your committee or answer any questions, please feel free to contact me at any time. I may be reached at 310-678-9604.

Sincerely,



John E. Hensley

Ronald L. Iden
c/o The Walt Disney Company
500 S. Buena Vista St.
Burbank, CA 91521

July 11, 2013

VIA U.S. MAIL & FACSIMILE (202) 228-3792

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

It is my pleasure and honor to support the nomination of Mr. Alejandro Mayorkas to the position of Deputy Secretary of the Department of Homeland Security.

I have known Mr. Mayorkas since 1998, when he was appointed United States Attorney for the Central District of California, and I served as the Special Agent in Charge and subsequently as the Assistant Director in Charge of the Los Angeles Office of the Federal Bureau of Investigation. We developed a professional relationship during his tenure as United States Attorney and have maintained that relationship since my retirement from the FBI in 2004 and during my service for the past nine years as the Chief Security Officer for the Walt Disney Company.

Mr. Mayorkas is the consummate public servant and leader. He is a man of impeccable integrity, intelligence and sound judgment. As United States Attorney, he was always available, supportive, helpful in his direction and fair in his decisions. The people of the Central District of California were very well served during his tenure. As the Director of U.S. Citizenship and Immigration Services for the Department of Homeland Security, Mr. Mayorkas has continued to display his deep commitment and dedication to all who are blessed to call the United States of America home.

We are all very fortunate that Mr. Mayorkas has devoted his life to public service. It is my hope that we will continue to benefit from his service as Deputy Secretary of the Department of Homeland Security.

Respectfully,



Ronald L. Iden

2020 Perry Ave., Unit B
Redondo Beach, CA 90278
July 16, 2013

The Honorable Thomas R. Carper
Chairman, U.S Senate Committee on Homeland Security and Government Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D.
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

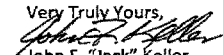
I have known Alejandro "Ali" Mayorkas as a federal prosecutor, private attorney and friend since we worked together in the early 1990s when he was an Assistant U.S. Attorney with the U.S. Attorney's Office in Los Angeles and I was an FBI Agent in the Los Angeles Field Office investigating white collar crime cases. Our professional and friendly relationship continued after he became the United States Attorney for the Central District of California and later a partner with the law firm of O'Melveny & Myers.

I retired as a Special Agent with the FBI in 1997 after 28 years of service. I am now a licensed private investigator specializing in business and civil litigation related investigations, primarily for law firms and business entities. I am an Air Force veteran and a member of the California Bar.

Ali Mayorkas has all the necessary and exceptional qualities that his appointment as the Deputy Secretary of the Department of Homeland Security would require and demand given that agency's vital role and mission in the security and protection of the American public.

Ali was a very competent, decisive, articulate and fair-minded prosecutor with the highest degree of personal and professional ethics, integrity and standards. He has outstanding people skills that enable him to interact and communicate with others in a personal and professional manner under any and all circumstances. He is a devoted family man, loyal friend, fine gentleman, dedicated public servant and patriotic American.

I am confident that Alejandro Mayorkas has the requisite wisdom, knowledge, experience, character and leadership qualities to carry out the duties and responsibilities of Deputy Secretary of the Department of Homeland Security in a highly honorable, professional and effective manner.

Very Truly Yours,

John F. "Jack" Keller



U.S. Department of Justice
Drug Enforcement Administration

Office of the Administrator

Springfield, Va 22152

July 22, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Carper and Ranking Member Coburn:

I am writing to express my full support for the nomination of Mr. Alejandro Mayorkas as the Deputy Secretary of Homeland Security. I have known Mr. Mayorkas for 15 years and I have worked with him in both my capacity as the Special Agent in Charge of the Drug Enforcement Administration's (DEA) Los Angeles Division and as DEA Administrator.

Mr. Mayorkas has a broad base of experience that provides him with a unique perspective on threats to national security. Prior to leading the United States Citizenship and Immigration Services (USCIS) as Director since 2009, Mr. Mayorkas served as the United States Attorney for the Central District of California, the largest federal judicial district in the nation. In that role, he was instrumental in broadening collaboration between law enforcement agencies to address violent crime and expanded cooperation with other nations to address the growing threat of transnational crime. This background, along with experience in varied aspects of law enforcement including the prosecution of white collar crime, public corruption, computer related crime and international money laundering will prove invaluable as Deputy Secretary of Homeland Security.

Director Mayorkas' extensive experience has provided him with a thorough understanding and keen appreciation of the crucial role all facets of law enforcement, including state, local, and federal agencies, play in securing the homeland. I heartily recommend him for the position of Deputy Secretary of Homeland Security and urge his confirmation as soon as possible.

Sincerely,


Michele M. Leonhart
Administrator

JANE HOLL LUTE
4404 33RD ROAD NORTH
ARLINGTON, VA 22207
JHLUTE@GMAIL.COM

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

VIA FACSIMILE: 202 228-3792
c/o EMAIL: Deirdre_Armstrong@hsgac.senate.gov

10 July 2013

Dear Chairman Carper and Ranking Member Coburn:

I write to endorse in the strongest terms, the nomination of Alejandro N. Mayorkas for the position of deputy secretary in the Department of Homeland Security (DHS). I have known Ali since he was unanimously confirmed by the Senate to serve as director, United States Citizenship and Immigration Services (USCIS) in April 2009 and worked with him extensively over the course of my own tenure as Homeland Security deputy secretary from 2009 to 2013. As the longest serving deputy of Homeland Security since its inception, I understand the issues, challenges, and opportunities that the Nation faces in securing the Homeland and believe myself well positioned to comment on Ali's qualifications to assume the responsibilities of this post.

Under the direction of the President and the Secretary, the deputy must be able to lead efforts across the range of obligations that the Federal government has to ensure the safety, security, and resilience of the Nation. These obligations include the imperatives to prevent terrorism, secure the Nation's borders, administer and enforce our immigration laws, build national resilience, and ensure the cybersecurity of the Country's critical systems and infrastructure.

To meet these challenges, the deputy must understand how to lead, how to manage, and how to partner to best effect across a 24-hour enterprise that operates in some of the most remote parts of the country, under some of the most intense public scrutiny, with some of the most vital interests of our Nation under its care. In addition, as chief operating officer of DHS, the deputy must know and understand the critical processes that support and sustain this complex, geographically dispersed, highly operational organization – namely, the administrative personnel, acquisition, communications, IT, cyber, logistics and other

processes that constitute the essential management functions necessary for any organization to execute its missions effectively. Moreover, and particularly in the current fiscal environment, this top operational manager of the Federal government's third largest department must ensure that every dollar is well and wisely spent and fully accounted for.

I dwell on the specifics of this demanding position to relate how well-qualified and well-prepared Ali is to assume its responsibilities. Over the past four years, Ali has led the world's largest immigration system, touching the lives of literally millions of this Nation's most precious resource – its citizens – as well as the lives of millions of people around the world who seek to come live and work in this country. Ali worked tirelessly to modernize the systems of immigration benefits processing, strengthen the competencies and professionalism of its workforce, and achieve greater value for the dollars spent in administering the Nation's immigration services. The management challenges in CIS are considerable – with a workforce of over 18,000 employees deployed to over 200 locations worldwide and an annual budget of approximately \$3 billion. Ali made it his personal mission to raise the level of performance of CIS while driving down costs wherever possible. He overhauled the management structure of CIS to better manage crucial financial, acquisition, IT and other administrative processes and championed initiatives to improve services to the public while reducing fraud and putting in place processes and checks to expose and limit the potential for abuse.


In addition to this operational and management experience, Ali possesses considerable policy expertise and has served as a key member of the Administration's senior policy team on issues related to immigration and other high priority issues associated with securing the Homeland. In every setting, he brought a keen eye for detail, deeply perceptive insight, and wise judgment. In my experience, Ali made every conversation more thoughtful, every policy more effective, and every operation more responsive. Not least, he has a delightful sense of humor that always served to remind us of what a genuine human being he is.

As I have come to know Ali, I can tell you that he asks no more of others than he does of himself, and, in leading by example, sets a standard of excellence for all who consider themselves committed to public service. In my view, Homeland Security could be in no better hands.

I urge his rapid confirmation.

As I close, please let me thank you again for the support that you both gave to me during my tenure at Homeland Security, and please accept my deepest respect, admiration, and thanks for the work that you do on behalf of the American people.

Sincerely,



Jane Holl Lute



MAJOR CITIES CHIEFS ASSOCIATION

Albuquerque
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Atlanta
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Baltimore Co.
Boston
Buffalo
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San Jose
Seattle
St. Louis
Suffolk Co.
Tampa
Toronto
Tucson
Tulsa
Vancouver
Virginia Beach
Washington
Winnipeg

July 18, 2013

The Honorable Tom Carper
Committee on Homeland Security and Governmental Affairs
U.S. Senate
340 Dirksen Senate Office Building
Washington, D.C. 20500

Dear Senator Carper:

On behalf of the Major Cities Chiefs Association, representing the 66 largest local metropolitan areas in the Nation, I am writing to support the nomination of Alejandro Mayorkas as Deputy Secretary of the Department of Homeland Security.

We commend Mr. Mayorkas for his distinguished career in public service, including United States Attorney, Central District of California, and Director of United States Citizenship and Immigration Services at the Department of Homeland Security. He has managed investigation and prosecution of crimes that threaten the public each day, and he has helped to reshape our Nation's immigration priorities.

As the local officials responsible for public safety in the Nation's urban centers, we seek strength and stability at the Department of Homeland Security. Mr. Mayorkas brings to this challenge the requisite experience and knowledge that will ensure his success.

We look forward to continuing the close partnership between the Department of Homeland Security under Mr. Mayorkas and the communities we are sworn to serve.

Sincerely,

Commissioner Charles H. Ramsey
Philadelphia Police Department
President
Major Cities Chiefs Association


U.S. Department of Justice

Federal Bureau of Investigation

Los Angeles Field Office

 One World Trade Center, Suite 1500
 Long Beach, California 90831

July 15, 2013

The Honorable Thomas R. Carper, Chairman
 U.S. Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
 U.S. Senate Committee on Homeland Security and Governmental Affairs
 340 Dirksen Senate Office Building
 Washington, DC 20510

SENT VIA: U.S. Mail, E-mail, and Facsimile

Dear Chairman Carper and Ranking Member Coburn:

It gives me great pleasure to write to you regarding Alejandro Mayorkas, who has been nominated to be the Deputy Secretary of the Department of Homeland Security.

I have been an FBI Special Agent for over 21 years and am currently assigned to the Los Angeles Field Office. During the last 10 years I have specialized in the investigation of Crimes Against Children and prior to this assignment, I investigated various white collar crimes, to include Health Care Fraud. Over a five year period, from 1993-1998, I had the pleasure to work with Alejandro on a substantial health care and insurance fraud investigation. This was part of a nationwide effort by the FBI to crack down on insurance fraud which stemmed from fraudulent automobile accidents and insurance claims. The results of this multi-agency investigation yielded over 20 indictments, 17 Federal Complaints, 16 arrests and over one million dollars in fines and forfeitures. Our investigation in Los Angeles was considered the "Flagship" case in this nationwide effort.

I attribute much of this case's success to the dedicated and conscientious effort of Alejandro. He is a tireless worker and an excellent listener, one who readily collaborated with both Federal and State agents in order to produce the best investigative results possible. Throughout this investigation and beyond, I've grown to respect and appreciate Alejandro's sense of fairness, not only to the many victims and witnesses he encountered but also in dealing with the subjects of these cases. I've also observed how well respected Alejandro was with his co-workers while at the U.S. Attorney's Office, so much so that he was promoted to be the Chief of the General Crimes Unit and given the critical responsibility of training all the new Federal Prosecutors.

Alejandro has always maintained nothing but the highest level of integrity and professionalism. In my association with Alejandro, I found him to be an aggressive and enthusiastic prosecutor who had an excellent and comprehensive understanding of criminal law. On an interpersonal level, Alejandro has always treated everyone he meets with respect and warmth and, in conversation, he speaks with frankness but always with sincerity and empathy.

I believe Alejandro Mayorkas is truly an exceptional choice for the position of Deputy Secretary of the Department of Homeland Security and I highly recommend him without reservations.

Sincerely,

Steven Mayeda
 Special Agent, FBI



July 17, 2013

The Honorable Tom Carper
Chairman
The Honorable Tom Coburn
Ranking Member
Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

On behalf of the National Fusion Center Association (NFCA) I am writing to urge your support for the nomination of Alejandro Mayorkas to be Deputy Secretary of the Department of Homeland Security (DHS).

Throughout his career Mr. Mayorkas has demonstrated a commitment to collaboration across federal, state, and local communities to address major law enforcement and homeland security challenges. This collaboration is essential as the National Network of Fusion Centers works with DHS to advance the mission of threat analysis and information sharing to protect our communities.

Mr. Mayorkas has experience leading U.S. Citizenship and Immigration Services that will serve him well as he helps manage the numerous challenges the department will face during his tenure. His background in law enforcement gives him a good perspective on the need for effective information sharing across federal, state, and local law enforcement entities.

We look forward to working with Mr. Mayorkas in the months and years ahead to continually strengthen collaboration between fusion centers and our federal partners including DHS. We hope you will support his confirmation.

Sincerely,

Mike Sena
President

July 17, 2013

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20520

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20520

Dear Chairman Carper and Ranking Member Coburn:

My name is James M. Sheehan and I am writing this letter of recommendation in support of Alejandro (Ali) Mayorkas to become the next Deputy Secretary of the Department of Homeland Security.

It has been my pleasure to know Ali for more than twenty years as a professional colleague and personal friend. I first met Ali when he was an Assistant United States Attorney (AUSA) for the Central District of California (CDCA) in Los Angeles, and I was the Health Care Fraud Squad supervisor for the Los Angeles Field Office of the Federal Bureau of Investigation (FBI). At that time the FBI had elevated health care fraud to its top priority in the White Collar Crime Investigative Program and we had launched a significant undercover operation (UCO) to address a serious health care fraud crime problem. The case demanded an experienced and aggressive AUSA, and it was our good fortune that Ali got the assignment.

During the course of the UCO, which ran for more than two years, we received nothing less than superb support from Ali who provided timely, sage advice and counsel in every aspect of this lengthy investigation. Because the case was a joint federal/state/local investigative endeavor, it required investigative and prosecutive personnel to work cooperatively. Again, we were fortunate to have Ali on our team, what with his keen sense of diplomacy and his astute ability to know how best to charge the criminal subjects and in which jurisdiction. He led the prosecution of all subjects and was relentless in ensuring that each paid the price for his crimes; at the same time he was dutiful to the fair, ethical and impartial administration of justice, while maintaining uncompromising integrity.

Ali was rewarded for his years of exemplary performance as an AUSA and for his commitment to public service by being appointed the United States Attorney for the CDCA. He continued to serve the people as a dedicated public servant in this capacity by leading one of the largest United States Attorney's Offices in the nation. He led with a firm hand, with incomparable enthusiasm and a passion for the mission of the United States Attorney. His respect for the laws of the land, as well as for his colleagues and adversaries earned him the admiration of those with whom he interacted, including citizens of the seven-county CDCA, and members of the law enforcement community, the courts and the corrections system.

The United States Government and the American people have been served well by Ali's dedication to, and pursuit of excellence in, public service, and would continue to benefit from his intellect, energy, vision and leadership were he to be appointed the next Deputy Secretary of the Department of Homeland Security.

In view of the foregoing, and without qualification, I heartily endorse Alejandro Mayorkas for Deputy Secretary of the Department of Homeland Security.

Sincerely,

James M. Sheehan

Special Agent in Charge (retired)
Los Angeles Field Office
Federal Bureau of Investigation

James M Sheehan
8240 Tuscany Avenue
Playa del Rey, CA 90293

Email address: jmsheehan.irish@ca.rr.com
Mobile phone: 310-261-7523

July 14, 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

I am writing to you to express my support of President Obama's nomination of the Honorable Alejandro Mayorkas as U.S. Deputy Secretary of Homeland Security. The Deputy Secretary serves as the chief operating officer for the Department of Homeland Security and has the important role of managing its day-to-day operations. I believe Mr. Mayorkas has an in-depth understanding of DHS' critical programs and operations and the leadership skills necessary to successfully meet the many management challenges facing the Department today.

Since the beginning of his tenure as the Director of the U.S. Citizen and Immigration Services in August 2009, Mr. Mayorkas not only strived to enhance the integrity of the world's largest immigration system, he did so with the understanding that improvements must be accomplished in an efficient, effective, and economic manner. From day one, Mr. Mayorkas worked tirelessly to establish a positive and productive relationship with the Office of Inspector General, seeking counsel on a myriad of initiatives to improve citizenship and immigration services and strengthen CIS' management support functions. He understood the value of obtaining an independent, objective perspective about CIS' programs, policies, procedures, and processes.

During my tenure as Inspector General, Mr. Mayorkas demonstrated that he possessed the intellectual wherewithal to make objective and oftentimes very tough decisions on complex, multifaceted issues, and, a genuine commitment to the mission, vision, and core values of the U.S. Department of Homeland Security. He is a strong leader who will be able to bring together diverse interests in collaborative efforts. I urge you to support his nomination as the next Deputy Secretary of the Department of Homeland Security.

Sincerely,

/s/

Richard L. Skinner
DHS Inspector General, Retired

C A D W A L A D E R

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New York London Charlotte Washington
Houston Beijing Hong Kong Brussels

July 17, 2013

BY FAX (202-228-3792), EMAIL AND REGULAR MAIL

The Honorable Thomas R. Carper, Chairman
U.S. Senate Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D., Ranking Member
U.S. Senate Committee on Homeland Security and
Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Re: Alejandro Mayorkas

Dear Chairman Carper and Ranking Member Coburn:

I write this letter in strong support of the nomination of Alejandro Mayorkas for the position of Deputy Secretary of the Department of Homeland Security (DHS).

I spent several years working closely with DHS from my positions at the Justice Department and ultimately at the White House. During that time, I saw how crucial it is that the Deputy Secretary have strong leadership and management abilities as well as a deep substantive understanding of the Department's mission, its broad range of responsibilities and its important role in the inter-agency process.

Ali Mayorkas is uniquely suited to meet those demanding job requirements. Throughout his career as a federal prosecutor, United States Attorney, law firm partner and USCIS Director, Ali has consistently shown an exceptional ability to mobilize, manage and lead people and organizations. In his practice at the law firm – in which I was also a partner – Ali commanded tremendous respect and served as both leader and mentor to partners and associates alike. In his role as USCIS Director, he has effectively led a large and complex organization during a time of continuing change and challenge. His marked success in that difficult role is a strong predictor of his performance in the Deputy Secretary position.

Kenneth L. Wainstein Tel +1 202 862 2474 Fax +1 202 862 2400 ken.wainstein@cw.com
USActive 28398785 1

C A D W A L A D E R

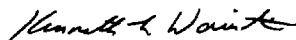
Chairman Carper and Ranking Member Coburn
July 17, 2013

In addition to his work accomplishments, Ali would bring a number of important personal qualities to the job. First, he is a man of utmost integrity who appreciates the need to always operate with total candor and honor, and particularly when acting and speaking on behalf of the U.S. Government. Second, he is a true team player, someone who has excelled throughout his career through teamwork and collaboration. Lastly, like the best of public servants, he approaches his work apolitically, and makes decisions based on what is best for the security and welfare of the United States and its citizens and not based on where political advantage might lie.

In short, Ali is a true public servant who has proven throughout his career that he is worthy of being entrusted with the government's most important national security responsibilities. I know he will continue to earn that trust in his service as Deputy Secretary of the Department of Homeland Security.

It is an honor to write to you on behalf of Ali's nomination, and I would be more than happy to provide any other information that may be useful to you and your colleagues as you consider his nomination.

Very truly yours,



Kenneth L. Wainstein

THE WHITE HOUSE
WASHINGTON

July 24, 2013

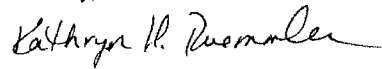
The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Carper:

I understand that in connection with the Committee's consideration of U.S. Citizenship and Immigration Services Director Alejandro Mayorkas to be Deputy Secretary of Homeland Security concerns have been raised about an investigation being conducted by the Office of Inspector General at the Department of Homeland Security. As you know, Executive Branch nominees undergo a thorough FBI background investigation prior to nomination, the results of which are shared, upon request, with the Chairman and Ranking Member of the Committee. Further, Executive Branch nominees are vetted by the White House for suitability for service prior to nomination. These standard practices were followed with respect to the nomination of Director Mayorkas, and we have no concerns about his suitability for this important position.

We urge the Committee and the full Senate to act swiftly to consider this nomination and confirm Director Mayorkas as the Deputy Secretary of Homeland Security.

Sincerely,



Kathryn H. Ruemmler
Counsel to the President

cc: The Honorable Tom A. Coburn
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

JORIN W. ORR
Post Office Box 30481
Knoxville, Tennessee 37930
E-mail: Ironmanvol@aol.com

August 27, 2013

The Honorable Thomas R. Carper,
Chairman U.S. Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom A. Coburn, M.D.,
Ranking Member U.S. Senate Committee on Homeland Security and Governmental
Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

Via U.S. Mail
Via facsimile transmission: (FAX) (202) 228-3792;
Via e-mail: Deirdre_Armstrong@hsgac.senate.gov

Re: Confirmation of Alejandro Mayorkas

Dear Chairman Carper and Ranking Member Coburn:

I have spent most of my adult life in the service of our great country. Following my discharge from active duty in the United States Navy, I was sworn in as a Special Agent with the Federal Bureau of Investigation (FBI) in January 1971. I was assigned to San Francisco, Los Angeles, and finally Knoxville, Tennessee. Since my retirement from the FBI in 2002, I have worked on contract as an FBI Special Investigator conducting background investigations.

I spent 28 years of my FBI career as a Special Agent in Los Angeles. I worked with many excellent prosecutors during those years. The Los Angeles United States Attorney's Office was replete with the best attorneys in southern California, if not the entire United States. Of all the prosecutors with whom I worked in Los Angeles, Alejandro "Ali" Mayorkas left the greatest impression on me. I was fortunate enough to work several cases with Ali when he was Assistant United States Attorney (AUSA), and after he became United States Attorney, I had a few occasions to deal with him in that position as well. I have never worked with an attorney with greater integrity than Ali Mayorkas. He was diligent, dedicated, and a true seeker of justice. He was well

respected by every FBI Agent that worked with him, and to my knowledge, he was equally respected by every District Judge in Los Angeles.

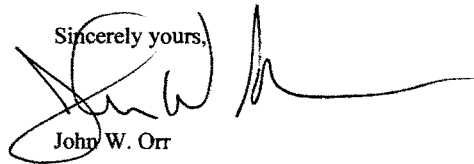
I came to know Ali quite well after spending many months with him on a daily basis in preparation for a particularly high-profile multi-count trial, followed by a number of weeks spent with him at the prosecution table during the trial itself. The trial was contentious to say the least, but Ali Mayorkas held his head high in the face of the heavy artillery that was a strong defense team of high-powered attorneys, and after a number of long exhausting weeks of testimony, the trial ended with a guilty verdict. Throughout the trial, Ali never faltered in his quest for justice.

Since my days in college, I have maintained a journal containing various "profound" quotes from individuals which I thought defined those people, or at least left a lasting impression on me. Some are from famous people, while many were made by my personal friends and associates. One of Ali's quotes is on my list. It came during a discussion between the two of us about finding the truth in an investigation. Ali emphatically told me, "I will never endeavor to have a lie prevail. I will not do it!" I believe that statement truly defines Ali Mayorkas.

I have read about some of the allegations against Ali that have surfaced during his confirmation hearings, and admittedly, I know very little about them. However, I can state without any hesitation, and with absolute confidence, that Ali Mayorkas does not have a dishonest bone in his body, and his integrity and compassion are beyond reproach. He was the hardest working prosecutor I ever worked with, and his devotion to duty was unparalleled.

I urge you to confirm Alejandro Mayorkas as Deputy Secretary of the Department of Homeland Security.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John W. Orr", with a long horizontal flourish extending to the right.

John W. Orr

BAKER DONELSON
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August 19, 2013

The Honorable Tom Carper
Chairman, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Coburn
Ranking Minority Member, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

I write in personal support of the nomination of Alejandro Mayorkas for Deputy Secretary of Homeland Security.

I have a good idea of what a DHS DepSec needs to do as the COO of a key department. As former Chief Counsel and Acting Director of USCIS, I met regularly with Admiral James Loy and with Michael Jackson during the Bush Administration in which I served. When I put myself in their shoes, I was more than impressed with their ability to spend thirty minutes to an hour hearing about the arcaneries of some emergency or major issue arising in the world of my particular agency—among so many in the DHS portfolio—and in the process to focus in on the essential problem and options for solution, balancing the many interests of national security, institutional integrity, commercial efficiency, consistency and equity. It is not a role for someone who just accepts scripts from “yes men.” It requires independent and incisive thinking, probing, and sound judgment under pressure by someone well grounded.

From what I have seen of Alejandro Mayorkas in his role as Director of USCIS, I think he can fulfill this role well. Of course he has run some significant institutions including the largest U.S. Attorney’s office and USCIS, and that matters. But what I find more meaningful are his probing intellectual curiosity, his incisive sparring among proponents of divergent views, his respect for rigorous process, and his willingness to put the right people in charge. Not many people have that kind of ability and drive, sorely needed in the DepSec role.

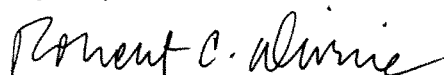
Committee on Homeland Security and Governmental Affairs
Monday, August 19, 2013
Page 2

In USCIS, a place I know pretty well from 27 years of interacting with it as a lawyer, Director Mayorkas has done some impressive things. For instance, he did something bold that I wish I had done: in an age when few regulations are promulgated to resolve interpretations, he instituted a process to publish proposed interpretative policy memoranda and even templates used by officers for “requests for information” for thirty days to receive public comment before implementing them (where appropriate). As a result, USCIS has been able to use the public comments to avoid pitfalls the government leaders would not have thought of on their own. It just makes sense. He has led efforts to review USICS interpretational policy on a broad array of issues, seeking consistency of interpretation across the agency and transparency to the public. He has empowered the directorate in USCIS designed to detect fraud and protect national security, including on-site visits and background data analysis. Apparently he has been effective at keeping costs and fees down at the same time.

Director Mayorkas has paid particular attention to the “EB-5” Immigrant Investor Program, which awards permanent residence to foreign investors whose enterprises create ten new jobs for American workers. He saw the potential for continued growth of the under-used job creation program, and he saw that interpretational and operational difficulties were impeding the full use of the program by U.S. developers and foreign investors for the benefit of U.S. workers. He has made deep policy dives into the program, staging widely attended stakeholder gatherings and engaging directly and pointedly with developers and attorneys to understand the challenges and develop balanced solutions. He personally managed a recently published revised policy guide for adjudicators resolving some thorny issues. Recently Director Mayorkas appointed an extraordinarily talented career executive to manage the program through a critical transition with more highly trained adjudicators and a soon-to-be implemented electronic processing system that will reduce repetitive filings and support inter-departmental scrutiny of projects and investors. The result, at last, has been a very recent “clearing the decks” of longstanding regional center and project applications after careful interactive review, and I believe speedier adjudication of well-vetted investor petitions is imminent. EB-5 is a very small part of the USCIS portfolio of “product lines,” but Director Mayorkas’ willingness and ability to engage personally in something so complex has been impressive. Of course, whenever a leader takes decisive action, some people disagree, and I am not surprised that some in the agency might be unhappy with him and want to embarrass him. That comes with the territory of leadership, and complaints need to be viewed in full context.

Managing and coordinating the operations and policy of the Department of Homeland Security is a monstrous role. Not many people are equipped to do it well. I believe that Alejandro Mayorkas is one of those people. I hope these comments are helpful to you in your consideration.

Respectfully,



Robert C. Divine

EDUARDO AGUIRRE, JR.
U. S. AMBASSADOR TO SPAIN AND ANDORRA (RET.)
13611 STILL BAY COURT
HOUSTON, TEXAS 77077-3423
281-556-0753
eaguirre@atlanticpartners.us

August 23rd, 2013

The Honorable Tom Carper
Chairman, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Coburn
Ranking Minority Member, Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Carper and Ranking Member Coburn:

It has come to my attention that Alejandro "Ali" Mayorkas is being considered by your Committee for confirmation as Deputy Secretary of the Department of Homeland Security (DHS). It is my pleasure to add my voice of support and recommendation to your process.

For the past four years, Director Mayorkas has most ably led and managed the US Citizenship and Immigration Services (USCIS), a complex, large, and critical component of DHS; as well as, the cornerstone of our country's immigration system. His accomplishments are well documented and are self-evident; thus, I will refrain from repeating that which is obvious. As the former first Director of USCIS (2003 – 2005) I have followed closely Director Mayorkas' efforts and accomplishments. Knowing firsthand the many challenges that he accepted to tackle and conquer at USCIS, Director Mayorkas has earned my professional respect and personal admiration.

As one of the original Under Secretaries of DHS, I served under the leadership of Secretary Tom Ridge, and briefly under the leadership of Secretary Michael Chertoff; during that time, I enjoyed reporting directly to Deputy Secretaries Gordon England, ADM Jim Loy, and Michael Jackson. Thus, I feel somewhat qualified to evaluate the necessary blend of leadership skills, knowledge, wisdom, integrity, interpersonal skills, and common sense that are essential to the job. In my opinion, Director Mayorkas meets and exceeds the job requirements of this highly important post. As a private citizen, I would sleep better knowing that Ali is "on the job".

I retired to private life in 2009, after serving almost eight years of service in President George W. Bush's Administration; having been appointed to three, Senate-confirmed, senior-level executive positions. My service to my adopted country followed a 34-year banking career, retiring as President of a global division of Bank of America. These and other life experiences have allowed me to develop and hone the skills and perceptions necessary to judge people's character and mettle. Ali Mayorkas impresses me as a man of fine character, high honor, and an impeccable sense of duty. In short... trust his word!

Thank you for the opportunity to express my support for the Senate Confirmation of Alejandro Mayorkas.

Respectfully,

