United States Government Accountability Office
Washington, DC 20548

September 6, 2006

The Honorable Tom Coburn
Chairman, Subcommittee on Federal Financial Management, Government Information, and International Security
Committee on Homeland Security and Governmental Affairs
United States Senate

Subject: *Improper Payments: Posthearing Questions Related to Agencies Meeting the Requirements of the Improper Payments Information Act of 2002*

Dear Mr. Chairman:

On March 9, 2006, we testified[1] before your subcommittee at a hearing entitled, "Reporting Improper Payments: A Report Card on Agencies' Progress." At the hearing, we discussed our findings on federal agencies' challenges in meeting the requirements of the Improper Payments Information Act (IPIA) of 2002 based on our review of agencies' fiscal year 2005 performance and accountability reports (PAR) and annual reports. Our review focused on the extent to which agencies have performed the required assessments to identify programs and activities that were susceptible to significant improper payments, the annual amount estimated by the reporting agencies, and the amount of improper payments recouped through recovery audits.

This letter responds to your June 15, 2006, request that we provide answers to follow-up questions relating to our March 9, 2006, testimony. Your questions, along with our responses, follow.

1. *The Department of Homeland Security reported that it had assessed all programs and activities and found none to be susceptible to making significant improper payments. Their independent auditor reported that the Department did not institute a systematic method of reviewing all programs and*

[1]GAO, *Financial Management: Challenges Remain in Meeting Requirements of the Improper Payments Information Act*, GAO-06-482T (Washington, D.C.: Mar. 9, 2006).

identifying those it believed were susceptible to significant improper payments. This was the second year in a row that the auditor reported IPIA noncompliance for DHS. What concerns does GAO have regarding not only DHS' inability to comply with the Improper Payments Information Act; but on a greater scale with their overall financial management?

The Department of Homeland Security (DHS) continues to face challenges in meeting the requirements of IPIA as well as experience significant financial management weaknesses. For fiscal year 2005, DHS received a disclaimer of opinion[2] on its fiscal year 2005 balance sheet and fiscal year 2004 consolidated financial statements, primarily due to financial reporting problems.[3]

As context, DHS's auditors cited 10 material internal control weaknesses over areas such as financial management oversight; financial systems security; property, plant, and equipment; and accounts payable and disbursements. For example, agency auditors reported that DHS had not established sufficient controls to prevent duplicate payments to vendors related to prior year obligations or adopted policies to ensure receipt of goods and services prior to payment of invoices. In addition, DHS had not provided effective management and oversight to ensure corrective action plans were developed, implemented (with progress tracked), and successfully completed to support the elimination of material weaknesses and achieve consistent, timely, and reliable financial reporting departmentwide. Furthermore, the auditors found seven instances of noncompliance with applicable laws and regulations, one of those being noncompliance with IPIA. Specifically, for a second year in a row, its auditors found that DHS did not institute a systematic method of reviewing all programs and identifying those that are susceptible to significant erroneous payments.[4] The auditors also reported that DHS did not perform test work to evaluate improper payments for all material programs for fiscal year 2005. DHS's testing approach only included a review of its programs with total disbursements exceeding $100 million for each agency component. DHS reported that programs with fewer disbursements were assumed to be too small to exceed the Office of Management and Budget's (OMB) reporting threshold of $10 million in improper payments.

DHS, like other federal agencies, has a stewardship obligation to prevent fraud, waste, and abuse; to use tax dollars appropriately; and to ensure financial

[2]A disclaimer of opinion means that the auditor does not express an opinion on the financial statements. This type of opinion is appropriate when the audit scope is not sufficient to enable the auditor to express such an opinion or when there are material uncertainties involving scope limitations.

[3]DHS's auditors reported that they were engaged to audit the accompanying consolidated balance sheets of DHS as of September 30, 2005 and 2004, and the related consolidated statements of net cost, changes in net position, and financing; combined statement of budgetary resources; and statement of custodial activity for the year ended September 30, 2004. The auditors were not engaged to audit the accompanying consolidated statements of net cost, changes in net position, and financing; combined statement of budgetary resources; and statement of custodial activity for the year ended September 30, 2005.

[4]We consider the terms "erroneous payments" and "improper payments" to be synonymous.

accountability to the President, Congress, and the American people. Management must establish effective internal controls to safeguard assets, protect revenue, and make authorized payments. Based on our previous work, the basic or root causes of improper payments can typically be traced to a lack of or breakdown in internal control. While DHS did not identify any of its programs or activities susceptible to significant improper payments, several of its inherited weaknesses clearly suggest risk for improper payments. These inherited weaknesses included financial accounting system design and operation limitations; lack of adequate accounting systems and processes to ensure property, plant, and equipment were properly recorded; and lack of policies and procedures to monitor contractor costs and performance.

Our recent testimonies[5] on select DHS programs further validate our position. Specifically, from our review of DHS's Individuals and Households program related to Hurricanes Katrina and Rita disaster relief efforts, we estimated that between $600 million and $1.4 billion in improper and potentially fraudulent individual assistance payments had been made. Similarly, our recent testimony on DHS's purchase card program identified a weak control environment and ineffective internal control activities that allowed potentially fraudulent, improper, and abusive or questionable transactions to occur. DHS must continue to focus on resolving weaknesses and developing strong internal controls to overcome its financial management challenges.

2. *The following agencies reported in their fiscal year 2005 Performance and Accountability Report that they had no programs susceptible to significant improper payments:*
   - *The Department of Commerce (Commerce)*
   - *The General Services Administration (GSA)*
   - *The Department of Homeland Security (DHS)*
   - *The Department of the Interior (Interior)*
   - *The Department of Justice (Justice)*
   - *National Aeronautics and Space Administration (NASA)*
   - *The Nuclear Regulatory Commission (NRC)*
   - *The Securities and Exchange Commission (SEC)*

   Please comment on any of the above agencies with which GAO has concerns.

   While we provided data on the above agencies' implementation efforts to annually review all programs and activities as required under IPIA, we have not analyzed their methodologies for conducting risk assessments to identify those programs and activities susceptible to significant improper payments. That said, noncompliance issues related to IPIA and agencies' existing financial management

[5] GAO, *Hurricanes Katrina and Rita Disaster Relief: Improper and Potentially Fraudulent Individual Assistance Payments Estimated to Be Between $600 Million and $1.4 Billion*, GAO-06-844T (Washington, D.C.: June 14, 2006) and *Purchase Cards: Control Weaknesses Leave DHS Highly Vulnerable to Fraudulent, Improper, and Abusive Activity*, GAO-06-957T (Washington, D.C.: July 19, 2006).

challenges raise questions regarding these agencies' assertions that they had no programs susceptible to significant improper payments. As we testified at the March 9 hearing, auditors for DHS and Justice cited agency noncompliance with IPIA, primarily caused by inadequate risk assessments.

In addition, other agency auditors have reported major management challenges that can hinder effective internal control. For example, at Interior, its auditor reported major management challenges in the agency's Workers Compensation Program. Specifically, the auditors found that (1) Interior's inefficient and ineffective management led to increases in the program's annual costs; (2) the program was understaffed, employees lacked training, and there was no uniform process for ensuring that costs are accurate; and (3) there was an overwhelming lack of awareness that workers' compensation fraud existed. The auditors also reported that, at best, the program was managed inconsistently and, at worst, was subject to abuse by managers seeking an easy way to deal with problem employees.

Internal control serves as the first line of defense in safeguarding assets and preventing and detecting errors, fraud, waste, abuse, and mismanagement. Strong systems of internal control provide reasonable assurance that programs are operating as intended and are achieving expected outcomes. A lack of strong internal control was evident in at least three of the eight agencies listed above that reported no programs were susceptible to significant improper payments. DHS, GSA, and NASA reported they have no risk susceptible programs, yet each of these agencies received a disclaimer of opinion on their fiscal year 2005 financial statement audits due to significant financial reporting deficiencies. In addition, agency auditors identified a total of 47 reportable conditions[6] related to internal control weaknesses found during the eight agencies' financial statement audits.[7] Weaknesses identified during a financial statement audit could materially affect an agency's program operations and thus, significantly increase the risk of making improper payments.

For example, at NRC, agency auditors identified four reportable conditions during their examination of the effectiveness of NRC's internal control over financial reporting. One of these reportable conditions related to financial controls over disbursements. Specifically, auditors found that NRC lacked verification controls to review the propriety of edits made to vendor tables which house information such as the vendor name, address, tax identification number, and bank routing numbers. Verifying such edits helps to ensure the existence of the vendor prior to payment, decreasing the risk of improper payments to phantom vendors. The auditors also reported that NRC does not have controls in place for review and approval of high-value payments to nonfederal entities, ranging from amounts in

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[6]Reportable conditions are matters coming to an auditor's attention that, in their judgment, should be communicated because they represent significant deficiencies in the design or operation of internal control that could adversely affect the federal government's ability to meet the internal control objectives described in the audit report.

[7]The number of reportable conditions for each of the eight agencies ranged from 2 to 14.

excess of $250,000 to $300,000. Payments in the high-value category are not reviewed any differently than payments with lower dollar values. During their internal control testing, the auditors identified one improper payment in excess of $1 million, which had not been detected by NRC. The auditors made four recommendations to NRC to strengthen controls over its disbursements. Going forward, agency management at this agency and the other seven agencies listed above will need to ensure their risk assessment methodologies measure the potential or actual effect of major management challenges and internal control weaknesses identified from financial statement audits in order to assist in identifying programs and activities susceptible to significant improper payments.

3. *Should "unavoidable overpayment" statistics at the Social Security Administration be reported to the Office of Management and Budget? Why would this be important, and how could the Social Security Administration implement such a process?*

As we previously reported to your subcommittee,[8] OMB has allowed the Social Security Administration (SSA) to exclude from its estimate of improper payments those payments that it had to make following constitutional, statutory, or judicial requirements even though those payments are subsequently determined to be incorrect.[9] OMB deemed these types of payments to be "unavoidable" improper payments,[10] as there are no administrative changes SSA could implement that would eliminate the requirement to make such payments. Although the definition of improper payments does not use the terms "avoidable"[11] or "unavoidable," we agree with OMB that a payment that was made because of a legal requirement to make the payment, subject to subsequent determinations that the payment is not due, should not be included in an agency's estimate of its improper payments because it does not meet the definition of an improper payment under the act.

Currently, SSA does not track or publicly report on these types of payments. In addition, OMB has reported that it is not aware of other agencies that are similarly legislatively mandated to make these types of payments nor does OMB require governmentwide reporting of these types of payments. Because agencies are not currently required to track, monitor, and report these types of payments on a governmentwide basis, the magnitude of this issue is unknown.

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[8]GAO, *Post-Hearing Questions Related to Agency Implementation of the Improper Payments Information Act*, GAO-05-1029R (Washington, D.C.: Sept. 16, 2005).

[9]IPIA defines an improper payment as a payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements, and includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, any payment for services not received, and any payment that does not account for credit for applicable discounts.

[10]OMB defines "unavoidable" payments as payments resulting from legal or policy requirements.

[11]OMB defines "avoidable" payments as payments that could be reduced through changes in administrative actions.

4. *As you know, the Subcommittee is committed to rigorously overseeing USAID and some of its programs. In a written question to Linda Combs following last July's improper payments hearing, I asked whether or not OMB supported USAID's internal assessment that none of their programs were considered to be at risk for "significant" improper payments. Her response deemed USAID's documentation for fiscal year 2004 as acceptable, and stated their intentions to re-evaluate their risk assessments in the fiscal year 2005 Performance and Accountability Report to determine their acceptability. According to GAO's report, USAID was silent as to whether it had programs that are susceptible to making significant improper payments.*

   a) What concerns does GAO have with the Agency for International Development's (USAID) reporting on improper payments?

   As with other agencies, it is important for USAID to fulfill the requirements of IPIA and report the applicable improper payments information in its PAR. As stated in IPIA and OMB's implementing guidance, each agency shall annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments. For fiscal year 2005, USAID reported limited improper payment information in its PAR. From our review, we found no assertions from USAID that it had assessed all programs and activities for susceptibility to significant improper payments. A risk assessment is a key step in gaining assurance that programs are operating as intended and that they are achieving their expected outcomes. It entails a comprehensive review and analysis of program operations to determine where risks exist, what those risks are, and the potential or actual effect of those risks on program operations. The information developed during a risk assessment forms the foundation or basis upon which management can determine the nature and type of corrective actions needed. It also gives management baseline information for measuring progress in reducing improper payments. USAID only reported that it continues to monitor all its programs and payment activities. Because USAID's PAR lacks details about the monitoring activities it reportedly performed, we are uncertain as to whether this meets the above requirement to perform a risk assessment.

   In fact, there were five programs that did not provide sufficient reporting on improper payments in their fiscal year 2005 Performance and Accountability Report: USAID, the Export-Import Bank, the Pension Benefit Guarantee Corporation, the Postal Service, and the Smithsonian.

   b) Does GAO have any concerns with the rest of these agencies and their failure to report improper payment information?

   Any agencies' failure to report improper payment information as required by the act is of great concern. For example, the Postal Service's Office of Inspector General (OIG) reported that for fiscal year 2005 it had identified $75 million in questioned costs, $261 million in funds that could have been put to better use, and $11 million in unrecoverable costs. The OIG further reported fines, restitutions, and recoveries of $66 million. These OIG findings suggest that the agency may not be adequately assessing all of its programs and activities for significant improper payments. In meeting the requirements of the act, the Postal Service, as well as other agencies, should report on their risk assessment activities and explicitly state whether the results of the risk assessment identified programs and activities susceptible to significant improper payments.

Since fiscal year 2000, our work has demonstrated that improper payments are a long-standing, widespread, and significant problem in the federal government. Transparency in reporting improper payments is crucial at both the federal agency and governmentwide levels. Public reporting helps establish accountability as well as expectations for improvements. This includes holding agencies accountable for achieving target rates or otherwise implementing specifically planned actions. Annually identifying, estimating, and publicly reporting progress made to reduce improper payments enables agencies and others with oversight and monitoring responsibilities to measure this progress and determine whether further action is needed to minimize future improper payments.

5. *As you know, the improper payments made in the Earned Income Tax Credit makes up the second largest portion of government-wide improper payments for fiscal year 2005, estimating $9.6 to $11.4 billion dollars paid improperly.*

   In fiscal year 2004 EITC had an improper payment rate of 25 percent. For fiscal year 2005, it was 28 percent and this is on the low side, because it's just an estimate. This program does not just need help, it needs a complete overhaul, with an improper payment rate that high.

   I am familiar with the legislative proposals in the President's fiscal year 2007 Budget. OMB believes that if enacted, this proposal would save $232 million in the first year and $5 billion over ten years. That seems a bit under-ambitious when EITC is making at least $10 billion in improper payments every year. In other words, with improper payments of $100 billion over 10 years, why are you [OMB] projecting only to reduce that number by 5 percent? Mr. Williams, has GAO done any analysis of the President's proposals? If so, what is the GAO's assessment? Has GAO made any recommendations regarding the administration and financial controls in the EITC program?

   To date, we have not performed an analysis or an assessment of the President's legislative proposals as they relate to the Earned Income Tax Credit (EITC) program. Regarding any recommendations made, since fiscal year 2001, we have issued three reports that included seven recommendations related to the administration and financial controls in the EITC program. (See table 1.)

Table 1: GAO Recommendations since Fiscal Year 2001 Related to the EITC Program

GAO report number	GAO findings	GAO recommendations related to the EITC program	Status of recommendations
GAO-05-221[a]	Of the 12 federal means-tested programs reviewed, including the EITC program, we found that information on participants' eligibility and particular recipient groups can help program managers more effectively address issues related to program access. With regard to the EITC program, we found that the Internal Revenue Service (IRS) does not: (1) use rate information as a performance measure or (2) include rate information in its performance report or other key program reports.	As participation rate estimates are developed to use as program performance measures for the EITC program, we recommended that steps be taken to quantify errors that may result from estimating EITC participation rate estimates to help users better understand the accuracy of the data and ensure that estimates will be comparable over time.	The recommendation is open.
GAO-05-92[b]	We found that IRS's implementation of tests to address the leading sources of EITC errors was not well documented and the level and quality of some services provided to test participants were not measured.	We made four recommendations to (1) ensure the rationale for key decisions is documented, (2) obtain information on the quality and use of all types of taxpayer assistance, (3) clearly state limitations when disseminating results, and (4) complete development of detailed evaluation plans for the 2005 tests.	The first two recommendations are closed. The remaining two recommendations are open.
GAO-01-42[c]	While IRS has made improvements since we began auditing its financial statements in fiscal year 1992, serious internal control and financial and operational system weaknesses continued to affect the agency's ability to effectively manage its operations and produce reliable financial statement information during fiscal year 1999.	We made two recommendations to (1) determine why service centers have been ineffective in stopping refunds associated with questionable EITCs, and (2) develop reliable cost/benefit data, using the best available information from the screening and examination of EITC claims, to estimate the tax revenue collected by, and the amount of improper refunds returned to, IRS for each dollar spent pursuing these outstanding amounts.	The first recommendation is closed. The second recommendation is open.

Source: GAO.

[a]GAO, *Means-Tested Programs: Information on Program Access Can Be an Important Management Tool*, GAO-05-221 (Washington, D.C.: Mar. 11, 2005).

[b]GAO, *Earned Income Tax Credit: Implementation of Three New Tests Proceeded Smoothly, But Tests and Evaluation Plans Were Not Fully Documented*, GAO-05-92 (Washington, D.C.: Dec. 30, 2004).

[c]GAO, *Internal Revenue Service: Recommendations to Improve Financial and Operational Management*, GAO-01-42 (Washington, D.C.: Nov. 17, 2000).

6. *The Department of Labor has reduced improper payments in its Unemployment Insurance program by about $600 million between 2004 and 2005. OMB reports that this is more than a 15 percent decrease in the error rate for this program since last year's reporting. A 15 percent reduction is a significant accomplishment.*

   a) How can the Department of Labor's successes be carried over to other agencies? b) If the Department of Labor has had this much success in reporting and reducing improper payments, shouldn't other federal-state partnered programs like Temporary Assistance for Needy Families (TANF), Medicaid, *Foster Care, Child Care, State Children's Health Insurance Program (SCHIP), School Programs and Women, Infants and Children (WIC) be able to coordinate between the federal and state authorities to develop an improper payment estimate?*

In our April 2006 report,[12] we highlighted that federal and state coordination was needed to develop improper payment estimates for federal programs administered at the state level, including some of the programs included in your question. State-administered programs and other nonfederal entities receive over $400 billion annually in federal funds. Thus, federal agencies and states share a responsibility for the prudent use of these funds. One of the reasons the Department of Labor (Labor) has been able to report an improper payment estimate for its Unemployment Insurance (UI) program is because of a federal requirement[13] in place that mandates that Labor measure each state's payment accuracy rate. To address this requirement, Labor implemented the Benefit Accuracy Measurement (BAM) program, which is designed to determine the accuracy of paid and denied claims in the UI program. It does this by reconstructing the UI claims process from samples of weekly payments and denied claims using data verified by trained investigators. For claims that were overpaid, underpaid, or improperly denied, the BAM program determines the cause of and the party responsible for the error, the point in the UI claims process at which the error was detected, and actions taken by the agency and employers prior to the error. For erroneously paid claims, the BAM program determines the amount of benefits the claimants should have received, which becomes the basis for subsequent recovery efforts. In addition to the federal requirement[14] in place that states must adhere to for estimating improper payments, Labor has attributed its successes to the support and commitment from top management to facilitate successful implementation of IPIA and excellent working relationships with the states.

There are several key initiatives that federal agencies with state-administered programs should employ to fulfill the requirements of IPIA, such as establishing a culture of accountability, developing a system to collect program information at the state level for estimating improper payments, and monitoring program performance to determine if desired program outcomes have been achieved. These key initiatives are aligned with our *Standards of Internal Control*[15] and executive guide[16] on strategies to manage improper payments. Among the standards that are directly linked to the above key initiatives are the following:

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[12]GAO, *Improper Payments: Federal and State Coordination Needed to Report National Improper Payment Estimates on Federal Programs*, GAO-06-347 (Washington, D.C.: Apr. 14, 2006).

[13]Part 602 of Title 20, *U.S. Code of Federal Regulations*.

[14]We have previously reported that only the Food Stamps and Unemployment Insurance programs had federal requirements for all states to annually estimate improper payments. See GAO-06-347.

[15]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999).

[16]GAO, *Strategies to Manage Improper Payments: Learning From Public and Private Sector Organizations*, GAO-02-69G (Washington, D.C.: October 2001).

- Control environment—creating a culture of accountability by establishing a positive and supportive attitude toward improvement and the achievement of established program outcomes.

- Information and communication—using and sharing relevant, reliable, and timely financial and nonfinancial information in managing activities related to improper payments.

- Monitoring—tracking improvement initiatives over time, and identifying additional actions needed to further improve program efficiency and effectiveness.

As we previously reported,[17] measuring improper payments and designing and implementing actions to reduce or eliminate them are not easy tasks, particularly for grant programs that rely on high-quality administration efforts at the state, grantee, or subgrantee level. Given states' involvement in determining eligibility and distributing benefits, states are in a position to assist federal agencies in reporting on IPIA requirements. Communication, coordination, and cooperation among federal agencies and the states will be critical factors in estimating improper payment rates and meeting IPIA reporting requirements for state-administered programs.

7. *There is some confusion on whether or not the Community Development Block Grant Program (CDBG) is required to report improper payments. It was one of the original programs on the President's Management Agenda, so it's been required to report since 2001. It is also required to report under the Improper Payments Information Act, but is not reporting under [either] requirements. In other hearings held by this Subcommittee as well as in written responses to letters sent by me and Senator Carper, the Department of Housing and Urban Development (HUD) has denied that they are out of compliance with the Improper Payments Information Act. The CDBG program is required to report under IPIA. Is GAO concerned that CDBG's outlays are $5.4 billion, and not only are they not reporting, they have claimed that they are in compliance?*

   In its fiscal year 2005 PAR, HUD reported that based on completed testing of fiscal year 2003 payments, the CDBG program was below OMB's threshold for significant improper payments and, therefore, was removed from HUD's at-risk inventory. As such, HUD stated that this program was not subject to retesting unless there was a significant change in the nature of activity or internal control structure. We have several problems with HUD's position. First, CDBG was

[17]GAO-05-1029R.

subject to the previous OMB Circular No. A-11 requirements[18] and thus was required by OMB's guidance to continue to report improper payment information under IPIA, regardless of the agency-determined risk level. Second, during a June 2006 hearing before your subcommittee[19] on the CDBG program, HUD's OIG reported on numerous instances of fraudulent, improper, and abusive use of program funds identified over a 2-½ year period based on 35 audits. The HUD OIG reported that its office has recovered over $120 million in program funds, identified over $100 million in questioned costs, indicted 159 individuals, initiated administrative actions against 143 individuals, and took 5 civil actions and 39 personnel actions. As evident by the HUD OIG reviews, the CDBG program may be at risk of making improper payments.

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We are sending a copy of this report to the Director of OMB and other interested parties. This report is also available on GAO's home page at http://www.gao.gov. Should you have any questions on matters discussed in this report or need additional information, please contact me at (202) 512-9095 or at williamsm1@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report include Carla Lewis, Assistant Director; James Maziasz, and Donell Ries.

Sincerely yours,

McCoy Williams

McCoy Williams
Director, Financial Management and Assurance

(195093)

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[18]Prior to the governmentwide IPIA reporting requirements beginning with fiscal year 2004, former section 57 of OMB Circular No. A-11, required certain agencies to submit similar information, including estimated improper payment target rates, target rates for future reductions in these payments, the types and causes of these payments, and variances from targets and goals established. In addition, these agencies were to provide a description and assessment of the current methods for measuring the rate of improper payments and the quality of data resulting from these methods.

[19]June 29, 2006 hearing before the Senate Subcommittee on Federal Financial Management, Government Information, and International Security, Committee on Homeland Security and Governmental Affairs.

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