



United States Government Accountability Office
Washington, DC 20548

April 30, 2009

The Honorable Robert C. Byrd
Chairman
The Honorable Thad Cochran
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
United States Senate

The Honorable David E. Price
Chairman
The Honorable Harold Rogers
Ranking Member
Subcommittee on Homeland Security
Committee on Appropriations
House of Representatives

Subject: *U.S. Customs and Border Protection's Secure Border Initiative Fiscal Year 2009 Expenditure Plan*

This letter formally transmits the summary of an oral briefing we gave in response to a mandate in the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, and subsequent agency comments.¹ This mandate required the Department of Homeland Security (DHS) to prepare an expenditure plan that satisfied 12 specified conditions, and for the plan to be submitted to and approved by the House and Senate Appropriations Committees before the agency could obligate \$400 million of the approximately \$775 million appropriated for U.S. Customs and Border Protection (CBP) fencing, infrastructure, and technology.² In response to this requirement, DHS submitted a plan on March 4, 2009, titled "U.S. Customs and Border Protection: Secure Border Initiative Border Security, Fencing, Infrastructure and Technology (BSFIT) Fiscal Year 2009 Expenditure Plan." As required by the act, we reviewed the plan and on March 12 and March 13, 2009, briefed staff of the Senate and House Appropriations Subcommittees, respectively, on the analysis of whether the plan satisfied the 12 specified legislative conditions.

In summary, we found that the expenditure plan did not fully satisfy all of the conditions set out by law. Specifically, three of the conditions were satisfied and nine were partially satisfied. For

¹Pub. L. No. 110-329, 122 Stat. 3574, 3655-57 (2008).

²The act required that the expenditure plan be submitted within 90 days after enactment.

a more detailed summary of the results of our work, see slides 5, 6 and 7. Based on the results of our review, we are not making any recommendations for congressional consideration or agency action.

In commenting on a draft of this report, DHS stated that it disagreed with our assessment of partially satisfied for three legislative conditions. Specifically, DHS said that we had not considered additional information not included in the plan that it provided that would support an assessment of these legislative conditions as satisfied. Because the legislative requirement required that the *expenditure plan* (emphasis added) contain information to address the legislative conditions, we limited our assessment to the information in the expenditure plan. Nevertheless, the additional information program officials provided during the course of our review added context, but would not have changed our assessments of these legislative conditions. In response to DHS's comments, we clarified our definitions of satisfied, partially satisfied and not satisfied to make it clear that we relied only on the expenditure plan in making our assessments. DHS's comments are also discussed in enclosure I on slides 61 through 64 and are reprinted in enclosure II.

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We are sending copies of this report to the Chairmen and Ranking Members of other Senate and House committees that have authorization and oversight responsibilities for homeland security. We are also sending copies to the Secretary of the Department of Homeland Security, the Commissioner of U.S. Customs and Border Protection, and the Director of the Office of Management and Budget. This report will also be available at no charge on our Web site at <http://www.gao.gov>. Should you or your staffs have questions concerning this report, please contact me at (202) 512-8816 or stanar@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Susan Quinlan, Assistant Director, and Jeanette Espinola, Analyst-in-Charge, managed this assignment. Sylvia Bascope, Claudia Becker, Frances Cook, Deborah Davis, Katherine Davis, Robert Lowthian, Jeremy Rothgerber, Jamelyn Payan, Walter Russell, Erin Smith, and Meghan Squires made significant contributions to the work.



Richard M. Stana, Director
Homeland Security and Justice Issues

Enclosures (2)

Enclosure I: Briefing to the Subcommittees on Homeland Security, Senate and House Committees on Appropriations



Briefing on U.S. Customs and Border Protection's Secure Border Initiative Fiscal Year 2009 Expenditure Plan

Prepared for the
Subcommittees on Homeland Security,
Senate and House
Committees on Appropriations



Briefing Overview

- Objective, Scope, and Methodology
- Results in Brief
- Background
- Findings
- Concluding Observations
- Agency Comments and Our Evaluation
- Related GAO Products



Objective, Scope, and Methodology

Our objective was to determine whether U.S. Customs and Border Protection's (CBP) Secure Border Initiative (SBI)¹ fiscal year 2009 expenditure plan satisfies 12 legislative conditions as required by the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009.²

¹In November 2005, the Department of Homeland Security (DHS) announced the launch of SBI, a multiyear, multibillion-dollar program aimed at securing U.S. borders and reducing illegal immigration. Elements of SBI are carried out by several organizations within DHS.

²Pub. L. No. 110-329, 122 Stat. 3574, 3655-57 (2008). The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, required an expenditure plan that satisfies 12 specified conditions to be submitted to and approved by the House and Senate Appropriations Committees before the agency could obligate \$400 million of the approximately \$775 million appropriated for CBP fencing, infrastructure, and technology. In response to this requirement, DHS submitted a plan on March 4, 2009, titled "U.S. Customs and Border Protection: Secure Border Initiative Border Security, Fencing, Infrastructure and Technology (BSFIT) Fiscal Year 2009 Expenditure Plan." The act also required GAO to review the plan. For purposes of this briefing, we refer to this plan as the SBI expenditure plan.



Objective, Scope, and Methodology (continued)

To accomplish our objective, we analyzed the SBI expenditure plan. We also obtained relevant documentation, such as program schedules and status reports, and interviewed cognizant program officials at the DHS CBP headquarters in Washington, D.C. However, in making our determination regarding whether the SBI expenditure plan satisfied each legislative condition, we limited our assessment to the information in the expenditure plan because the legislative requirement required that the *expenditure plan* (emphasis added) contain information to address the legislative conditions. Nevertheless, the information we collected in addition to the expenditure plan provided additional context, but would not have changed our assessment. We determined that funding, staffing, and fencing mileage data provided by CBP were sufficiently reliable for purposes of this briefing. We based our decision on an assessment for each respective area by questioning cognizant DHS officials about the source of the data and policies and procedures to maintain the integrity of these data. We conducted this performance audit from October 2008 to March 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.



Results in Brief: Satisfaction of Legislative Conditions

The SBI expenditure plan satisfied 3 legislative conditions and partially satisfied 9 legislative conditions.³ The 12 legislative conditions and the level of satisfaction are summarized in table 1.

Table 1: GAO Assessment of Satisfaction of Legislative Conditions

Legislative conditions	Status
1. A detailed accounting of the program's implementation to date for all investments, including technology and tactical infrastructure, for funding already expended relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment, including life cycle costs, related to the SBI program or any successor program, and description of the methodology used to obtain these cost figures.	Partially satisfied
2. A description of how specific projects will further the objectives of SBI, as defined in the Department of Homeland Security Secure Border Plan, ^a and how the expenditure plan allocates funding to the highest priority border security needs.	Satisfied
3. An explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities.	Partially satisfied
4. An identification of staffing, including full-time equivalents, contractors, and detailees, by program office.	Satisfied
5. A description of how the plan addresses security needs at the Northern border and ports of entry, including infrastructure, technology, design and operations requirements, specific locations where funding would be used, and priorities for northern border activities.	Partially satisfied
6. A report on budget, obligations and expenditures, the activities completed, and the progress made by the program in terms of obtaining operational control ^b of the entire border of the United States.	Partially satisfied

^aDepartment of Homeland Security, *Secure Border Strategic Plan* (Washington, D.C.: Dec. 1, 2006).

^bDHS defines effective, or operational, control of U.S. borders as the ability to consistently (1) detect illegal entries into the United States, (2) identify and classify these entries to determine the level of threat involved, (3) efficiently and effectively respond to these entries, and (4) bring events to a satisfactory law enforcement resolution.

³**Satisfied** means that the plan either satisfied or provides for satisfying each requirement of the condition that we reviewed. **Partially satisfied** means that the plan either satisfied or provides for satisfying some, but not all, key aspects of the condition that we reviewed. For conditions 8, 9, and 10, **satisfied** means that all aspects of condition were certified and **partially satisfied** means all aspects of the condition were not certified or that it was conditionally or provisionally certified.



Results in Brief: Satisfaction of Legislative Conditions (continued)

Table 1: GAO Assessment of Satisfaction of Legislative Conditions (continued)

Legislative conditions	Status
7. A listing of all open GAO and Office of Inspector General (OIG) recommendations related to the program and the status of DHS actions to address the recommendations, including milestones to fully address them.	Partially satisfied
8. A certification by the Chief Procurement Officer (CPO) of the Department that the program (a) has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget (OMB), including as provided in Circular A-11, part 7; (b) that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with such actions, together with any plans for addressing these risks, and the status of the implementation of such actions; (c) that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the SBI Program Office has adequate staff and resources to effectively manage the Secure Border Initiative program, all contracts, including the exercise of technical oversight; and (d) the certifications required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certifications.	Partially satisfied
9. A certification by the Chief Information Officer (CIO) of the Department that: (a) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment together with the associated risks and corrective actions to address any such areas; (b) the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision-makers, as well as a listing of all the program's high risks and the status of efforts to address such risks; (c) an independent verification and validation agent is currently under contract for the projects funded under this heading; and (d) the certification required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certification.	Partially satisfied
10. A certification by the Chief Human Capital Officer (CHCO) of the Department that the human capital needs of the Secure Border Initiative program are being addressed so as to ensure adequate staff and resources to effectively manage the Secure Border Initiative, together with a description of SBI staffing priorities.	Partially satisfied



Results in Brief: Satisfaction of Legislative Conditions (continued)

Table 1: GAO Assessment of Satisfaction of Legislative Conditions (continued)

Legislative conditions	Status
11. An analysis by the Secretary for each segment, defined as not more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control, and such analysis should include cost, level of operational control, possible unintended effects on communities, and other factors critical to the decision making process.	Partially satisfied
12. Is reviewed by the GAO.	Satisfied

Source: GAO analysis of DHS data.

In commenting on a draft of this report, DHS stated that it disagreed with our assessment of partially satisfied for conditions 1, 3, and 11. Specifically, DHS said that we had not considered additional information not included in the SBI expenditure plan that it provided that would support an assessment of these legislative conditions as satisfied. Because the legislative requirement required that the *expenditure plan* (emphasis added) contain information to address the legislative conditions, we limited our assessment to the information in the expenditure plan. The additional information program officials provided during the course of our review added context, but would not have changed our assessments of these legislative conditions. In response to DHS's comments, we clarified our definitions of satisfied, partially satisfied and not satisfied to make it clear that we relied only on the expenditure plan in making our assessments. DHS's comments are also discussed on slides 61 through 64 and are reprinted in enclosure 2.



Background: SBI Program Operations

- In November 2005, DHS announced the launch of SBI, a multiyear, multibillion-dollar program aimed at securing U.S. borders and reducing illegal immigration. Elements of SBI will be carried out by several organizations within DHS.
- The current focus of the SBI program is on the southwest border areas between ports of entry⁴ that CBP has designated as having the highest need for enhanced border security because of serious vulnerabilities.
- CBP also has ongoing activities and initiatives to secure the northern border at and between ports of entry. For example, CBP is increasing U.S. Border Patrol personnel along the northern border and deploying additional technology at northern border ports of entry, such as radiation portal monitors to screen for nuclear materials.
- The U.S. Border Patrol has 20 sectors for which the Border Patrol is responsible for detecting, interdicting, and apprehending those who attempt illegal entry or to smuggle people, including terrorists, or contraband, including weapons of mass destruction, across U.S. borders between official ports of entry (see fig. 1).

⁴At a port of entry location, CBP officers secure the flow of people and cargo into and out of the country, while facilitating legitimate travel and trade.

Background: U.S. Border Patrol Sectors

Figure 1: U.S. Border Patrol Sectors



Sources: CBP and MapResource (map).



Background: SBI Program Operations (continued)

- The CBP SBI program office is responsible for developing a comprehensive border protection system that is intended to enable CBP officers and U.S. Border Patrol agents and officers to gain effective control of the U.S. borders.
 - The SBI program office includes
 - the *SBI*net office, which is responsible for technology projects (e.g., sensors, cameras, radars, communications systems, and mounted laptop computers for agent vehicles); and
 - the SBI Tactical Infrastructure (TI) office, which is responsible for pedestrian and vehicle fencing, lighting, and roads.
 - In September 2006, CBP awarded a prime contract to the Boeing Company for 3 years, with three additional 1-year options. As the prime contractor, Boeing is responsible for acquiring, deploying, and sustaining selected SBI technology and tactical infrastructure projects, and providing supply chain management for selected tactical infrastructure projects.
 - CBP is executing part of SBI's activities through a series of task orders to Boeing for individual projects. As of November 25, 2008, CBP had awarded Boeing 11 task orders. (See table 2.)
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Background: SBI Program Operations (continued)

Table 2: Task Orders Awarded to Boeing for SBI Projects as of November 25, 2008 (Dollars in Millions)

Task order description	Date awarded	Ceiling of funds ^a	Task order obligation
Program Management: The mission engineering, facilities and infrastructure, systems engineering, test and evaluation, and program management services to develop and deploy the SBI ^{net} system.	09/21/2006	\$147.2	\$147.2
Project 28: Boeing's pilot project and initial implementation of SBI ^{net} technology for 28 miles of the border in the Tucson sector.	10/20/2006	20.7	20.7
Barry M. Goldwater Range (BMGR): The construction of 32 miles of vehicle and pedestrian barriers on the southern border of the BMGR in the Yuma Sector.	01/12/2007	122.2	122.2
Fence Lab: The testing of potential pedestrian and vehicle fence and barrier solutions.	03/14/2007	0.7	0.7
Design: SBI ^{net} deployment design solution, including design, environmental-clearance support, and locations for the SBI ^{net} technology solution in the Yuma, Tucson, and El Paso sectors.	08/01/2007	84.0	84.0
Project 28 Contractor Maintenance and Logistics Support: Provides Project 28 with the required maintenance and logistics support to operate the system.	12/07/2007	10.6	10.6
Command, Control, Communications and Intelligence (C3I) and Common Operating Picture (COP): The development of the next version of the SBI ^{net} operating software to design, develop, and demonstrate a functional SBI ^{net} C3I/COP system.	12/07/2007	66.6	66.6
SBI^{net} System: A follow on to the program management task order, this task order specifies the program management and system-engineering activities required to achieve an integrated program across all task orders issues under the SBI contract.	04/15/2008	96.1	96.1
Supply and Supply Chain Management: The development and implementation of a supply and supply chain management system solution to execute tactical infrastructure projects.	01/07/2008	313.3	313.3
Arizona Deployment Task Order: Boeing's deployment of two projects of the SBI ^{net} system along approximately 53 miles of the southwest border in the Tucson sector.	06/25/2008	81.9	52.3
Integrated Logistics Support: Provides SBI ^{net} with the required maintenance and logistics support to operate the system.	08/16/2008	24.9	9.2
Total		\$968.2	\$922.9

Source: CBP.

^aThe ceiling of funds is the price or maximum value of the task order. For example, the Arizona Deployment Task Order has a "ceiling" of \$81.9 million; however, the funds are incrementally obligated to complete the work. The total funds obligated to a task order at a particular moment in time may be less than the total ceiling expected to be reached in the future.



Background: SBI Appropriations

More than \$3.6 billion has been appropriated for fiscal years 2005 through 2009 (see table 3).

Table 3: Funds Appropriated, Fiscal Years 2005 through 2009 (Dollars in Thousands)

Fiscal year	Appropriated funds
2005 ^a	\$38,480
2006 ^b	325,000
2007 ^c	1,187,565
2008 ^c	1,302,587 ^d
2009 ^c	775,000
Total	\$3,628,632

Source: CBP.

^aIn September 2006, the SBI program office obligated the "remaining" fiscal year 2005 2-year funds to the Boeing program management task order.

^bFunds are from the fiscal year 2006 supplemental.

^cFunds appropriated in fiscal years 2007, 2008, and 2009 are no-year dollars, meaning that they can be obligated at any time.

^dIncludes approximately \$77.6 million of reprogrammed funds from other DHS accounts.



Background: *SBlnet*

SBlnet is the program for acquiring, developing, integrating, and deploying an appropriate mix of the following:

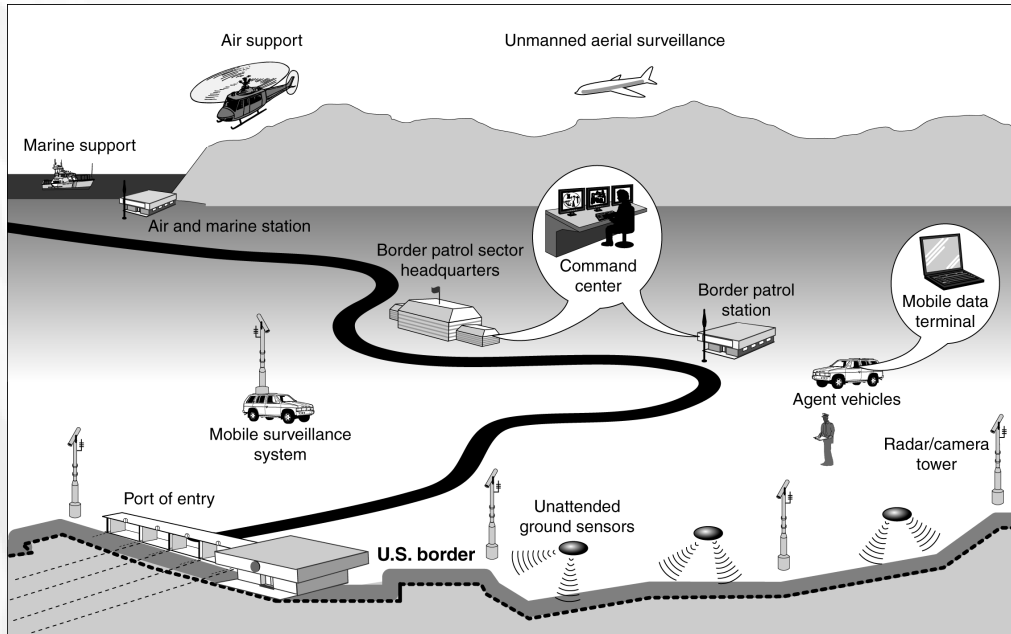
- (1) Surveillance technologies, such as sensors, cameras, and radars. Examples include
 - unattended ground sensors (UGS) are to be used to detect heat and vibrations associated with foot traffic and metal associated with vehicles;
 - radars mounted on fixed and mobile towers are to detect movement, and cameras on fixed and mobile towers are to be used to identify, classify, and track items of interest detected by the ground sensors and the radars; and
 - aerial assets (e.g., helicopters and unmanned aerial surveillance aircraft) are also to be used to provide video and infrared imaging to enhance tracking of targets.

- (2) Command, control, communications, and intelligence (C3I) technologies. The C3I technologies are to include software and hardware to produce a Common Operating Picture (COP)—a uniform presentation of activities within specific areas along the border. The sensors, radars, and cameras are to gather information along the border, and the system is to transmit this information to the COP terminals located in command centers and agent vehicles and assemble this information to provide CBP agents with border situational awareness.

Figure 2 provides a high-level, conceptual depiction of the long-term *SBlnet* systems solution.

Background: SBInet (continued)

Figure 2: High-Level, Conceptual Depiction of Long-Term SBInet Operations



Sources: GAO analysis of agency data, Art Explosion (clipart).



Background: SBInet (continued)

- The first SBInet capabilities were deployed under a pilot or prototype effort known as Project 28. Project 28 was accepted by the government for deployment in February 2008—8 months behind schedule. As we have previously reported, reasons for Project 28 performance shortfalls and delays included the following:
 - users (e.g., Border Patrol agents) were not involved in developing the requirements,
 - contractor oversight was limited, and
 - project scope and complexity were underestimated.⁵
- Project 28 is currently operating along 28 miles of the southwest border in the Tucson sector of Arizona. The SBI program office plans to incorporate lessons learned from Project 28 into future deployments.
- The SBI program office plans to deploy future SBInet capabilities in “blocks.” For example, Block 1 is described as the first phase of an effort to design, develop, integrate, test, and deploy a technology system of hardware, software, and communications. Each block is to also include a release or version of the COP. The SBI program office plans to deploy Block 1 technology capabilities and COP version 0.5 to the Tucson and Yuma sectors by 2011.

⁵GAO, *Secure Border Initiative: Observations on Selected Aspects of SBInet Program Implementation*, GAO-08-131T (Washington, D.C.: Oct. 24, 2007); and *Secure Border Initiative: Observations on the Importance of Applying Lessons Learned to Future Projects*, GAO-08-508T (Washington, D.C.: Feb. 27, 2008).



Background: SBI TI

- CBP, through the SBI program office, planned to have a total of 670 miles of fencing, including 370 miles of single-layer pedestrian fencing and 300 miles of vehicle fencing, completed, under construction, or under contract by December 31, 2008.⁶
- In January 2009, CBP reported that it plans to complete nearly all the planned fence projects by June 2009; however, meeting this schedule is contingent on the resolution of pending litigation to acquire the necessary property rights from landowners who have not agreed to sell these rights to the federal government.
- The SBI program office, through the SBI TI program, is using the U.S. Army Corps of Engineers to contract for the construction of fencing and supporting infrastructure (such as lights and roads), complete required environmental assessments, and acquire necessary real estate.⁷
- See figure 3 for examples of fencing.

⁶Under the fiscal year 2008 Consolidated Appropriations Act, DHS was to identify the 370 miles, or other mileage determined by the Secretary, along the southwest border where fencing would be most practical and effective in deterring illegal entrants and complete construction of reinforced fencing along these miles no later than December 31, 2008. The act also requires DHS to construct a total of 700 miles of reinforced fencing along the southwest border where fencing would be most practical and effective, but does not provide a deadline. Pub. L. No. 110-161, § 564(a)(2)(B), 121 Stat. 1844, 2090-91 (2007).

⁷The SBI program office also has a supply and supply chain management contract with Boeing to provide some construction materials, such as steel, for the fence construction projects. Boeing was previously contracted to construct 32 miles of fencing in BMGR in 2007.

Background: SBI TI (continued)

Figure 3: Examples of Fencing Styles along the Southwest Border



Sources: CBP and GAO.

Picket fence (upper left), post and rail with wire mesh (upper right), and bollard fence (lower left) are examples of pedestrian fencing; Normandy vehicle barrier (lower right), is an example of vehicle fencing.



Legislative Condition #1: CBP's SBI Program Progress (Partially Satisfied)

Legislative condition: Includes a detailed accounting of the program's implementation to date for all investments, including technology and tactical infrastructure, for funding already expended relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, program management capabilities, identification of the maximum investment, including life cycle costs, related to the SBI program or any successor program, and description of the methodology used to obtain these cost figures.

GAO analysis: The SBI expenditure plan *partially satisfied* this condition. Specifically, the plan included some required information, such as a description of program implementation to date and program management capabilities for *SBI*net and TI activities. However, it did not include a *detailed* (emphasis added) accounting of the program's progress to date relative to other aspects of the legislative condition, including milestones, or life cycle costs.⁸

⁸For guidance on estimating costs, see GAO, *Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs*, GAO-09-3SP (Washington, D.C.: March 2009).



Legislative Condition #1 (continued)

With regard to *SBI_{net}*, the SBI expenditure plan

- provided an accounting of program implementation to date, including
 - final acceptance of Project 28 and
 - acquisition and deployment of mobile surveillance systems (MSS)—surveillance technologies (i.e., radars and cameras) mounted on a trailer or truck chassis—and
- provided an overview of the program management capabilities, including development of a risk management program and adoption of a strategic human capital management plan.



Legislative Condition #1 (continued)

Additionally, with regard to *SBI_{net}*, the SBI expenditure plan

- did not describe system capabilities or services;⁹
- identified some milestones, such as the acceptance of Project 28, but did not include a detailed accounting of the milestones or activities completed to date; and
- identified *SBI_{net}* actual and anticipated investments for fiscal year 2007 through fiscal year 2014, but these did not represent maximum investment figures or a life cycle cost estimate.

⁹In September 2008, we reported that important aspects of *SBI_{net}* remain ambiguous and in a continued state of flux, making it uncertain and unclear what technology capabilities will be delivered, when and where they will be delivered, and how they will be delivered. For example, the scope and timing of planned *SBI_{net}* deployments and capabilities have continued to change since the program began and are unclear. See GAO, *Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment*, GAO-08-1086 (Washington, D.C.: Sept. 22, 2008).



Legislative Condition #1 (continued)

With regard to SBI TI, the SBI expenditure plan

- provided an accounting of TI program implementation to date relative to system capabilities and services, such as the completion of approximately 204 miles of pedestrian fencing and 154 miles of vehicle fencing as of September 30, 2008;
- outlined program management capabilities, such as the structure and role of SBI TI program office staff;
- identified fence performance standards, such as the requirement for pedestrian fencing to have the capability to disable a vehicle, and a design that will allow for expedient repair of damage or breaching; and
- included obligations and estimated completion costs for TI contracts.



Legislative Condition #1 (continued)

Additionally, with regard to SBI TI, the SBI expenditure plan

- included milestones for activities completed to date, such as the miles of fence completed, but did not include a detailed accounting of the planned versus the actual implementation dates; and
- included information about the life span of fencing and the cost of fencing maintenance for fiscal year 2009, and stated that CBP is currently working with an independent cost estimator to develop a life cycle cost estimate.



Legislative Condition #2: Describes How Activities Will Further the Objectives of SBI's Strategic Plan (Satisfied)

Legislative condition: Includes a description of how specific projects will further the objectives of SBI, as defined in the Department of Homeland Security Secure Border Plan, and how the expenditure plan allocates funding to the highest priority border security needs.

GAO analysis: The SBI expenditure plan *satisfied* the condition. The plan provided information on how *SBI*net technology and pedestrian and vehicle fencing further the specific goals established in the DHS Secure Border Strategic Plan and how SBI determines the highest priority border security needs and allocates funding accordingly.



Legislative Condition #2 (continued)

The SBI expenditure plan

- Described how projects align with and contribute directly to the achievement of the goal in the DHS Secure Border Strategic Plan “to develop and deploy the optimal mix of personnel, infrastructure, technology, and response capabilities to identify, classify, and interdict cross-border violators.” Examples of specific projects that align with this goal include
 - *SBI_{net}* technology, which provides CBP agents with an enhanced ability to identify illegal cross-border activity; and
 - pedestrian and vehicle fencing which persistently impedes (consistently slows, delays, and obstructs movement) to illegal cross-border traffic and facilitates patrol and interdiction efforts.
- Provided a description of how SBI allocates funding to those areas it deems to be of highest priority through the CBP Resource Allocation Plan, which is used to form the President’s budget request to Congress.
- Described how the U.S. Border Patrol’s planning and operational requirements process informs the allocation of funds for the deployment of the highest-priority *SBI_{net}* technology and SBI TI activities.



Legislative Condition #2 (continued)

In June 2008, we recommended that future expenditure plans include an explicit description of how activities will further the objectives of SBI and how the plan allocates funding to the highest priority border security needs.¹⁰ The fiscal year 2009 expenditure plan addressed and satisfied this recommendation.

¹⁰GAO, *Secure Border Initiative: Fiscal Year 2008 Expenditure Plan Shows Improvement, but Deficiencies Limit Congressional Oversight and DHS Accountability*, GAO-08-739R (Washington, D.C.: June 26, 2008).



Legislative Condition #3: Describes How Funds Are Obligated to Meet Future Program Commitments (Partially Satisfied)

Legislative condition: Includes an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities.

GAO analysis: The SBI expenditure plan *partially satisfied* this condition. Specifically, the plan included some information required by the condition, such as planned obligations for SBI *net* and SBI TI activities for fiscal year 2009 and program management capabilities. However, all of the information required to satisfy this condition was not provided, for example, the plan did not link planned fiscal year 2009 expenditures to the milestone-based delivery of mission benefits and outcomes.¹¹

¹¹OMB Circular A-11 states that outcomes describe the intended result of carrying out a program or activity. Outcomes define an event or condition that is external to the program or activity and that is of direct importance to the intended beneficiaries, the public, or both.



Legislative Condition #3 (continued)

For *SBI*net and TI, the SBI expenditure plan defined how funds are to be obligated in fiscal year 2009 to meet future program commitments. Table 4 provides a summary of these 2009 planned expenditures.

Table 4: Fiscal Year 2009 Planned Expenditures (Dollars in Millions)

	Tactical infrastructure	SBI<i>net</i> technology	Program management	Total
Deployment	\$110 ^a	\$385	N/A	\$495
Operations and maintenance	75	75	N/A	\$150
Program management and environmental	N/A	N/A	\$100	\$100
Border security demonstration project and communications	N/A	N/A	\$30	\$30
Total	\$185	\$460	\$130	\$775

Source: SBI.

Note: N/A = Not Applicable.

^aIncludes funds for fencing, lighting, and access roads.



Legislative Condition #3 (continued)

With regard to *SBI_{net}*, the SBI expenditure plan

- described planned obligations for *SBI_{net}* activities for fiscal year 2009, including, among other things, planned obligations for the design, deployment, and maintenance of Block 1 projects; and
- described the program management capabilities that will continue to be used in the future, such as the risk management process and strategic human capital management plan.



Legislative Condition #3 (continued)

Additionally, with regard to *SBI_{net}*, the SBI expenditure plan

- linked planned activities and expenditures to milestones, but did not provide specific start or end dates for many milestones—10 of the 15 milestones are described as continuing efforts;
- described the links between planned activities, expenditures, and outputs,¹² but did not link these to the outcome of operational control of the border (i.e., planned *SBI_{net}* activities were linked to outputs, such as completing designs for subsequent fiscal year 2010 station deployments and demonstrating Block 1 system performance in January 2009, but these outputs were not directly linked to improvements in operational control); and
- discussed planned *SBI_{net}* activities for fiscal year 2009, including the procurement of available systems and the development and deployment of technology to geographical areas in Block 1, but did not describe specific capabilities and services to be provided.

¹²OMB Circular A-11 states that outputs describe the level of activity that will be provided over a period of time, including a description of the characteristics (e.g., timeliness) established as standards for the activity. Outputs refer to the internal activities of a program (i.e., the products and services delivered).



Legislative Condition #3 (continued)

- When we discussed our findings with CBP officials, they said that they disagreed with our assessment that the expenditure plan did not describe system capabilities or services to be provided. They stated that they believed that information contained in the SBI expenditure plan covers capabilities and services, and added that other documentation, such as the *SBI*net Operational Capabilities Description (OCD) document, includes a more detailed description of *SBI*net capabilities and services.
- We reviewed the OCD, and while it provides more detail on *SBI*net capabilities and services, the document describes the proposed capabilities for the *SBI*net end state solution rather than articulating what is to be achieved during Block 1 and/or with fiscal year 2009 funds. Therefore, we maintain our position that while the SBI expenditure plan discusses planned *SBI*net activities, it does not describe the specific capabilities that will be delivered in fiscal year 2009 as required by the legislative condition.



Legislative Condition #3 (continued)

With regard to SBI TI, the SBI expenditure plan

- described planned obligations for SBI's TI activities for fiscal year 2009;
- described planned SBI TI activities for fiscal year 2009, including construction of pedestrian and vehicle fencing and real estate planning and acquisition to support fiscal year 2010 deployments; and
- described current program management capabilities that will continue to be used in the future, such as a strategic human capital management plan.



Legislative Condition #3 (continued)

Additionally, with regard to SBI TI, the SBI expenditure plan

- described fence performance standards—such as the ability of pedestrian and vehicle fencing to disable a vehicle—but did not link the number of fencing miles to be constructed with such capabilities to the planned expenditure of funds; and
- linked planned actions and expenditures to outputs, but did not link these to the outcome of operational control of the border (i.e., planned TI activities were linked to outputs, such as the construction of approximately 670 miles of fence along the southwest border, but these outputs were not linked to improvements in operational control).



Legislative Condition #4: Identifies Staffing Requirements by Activity (Satisfied)

Legislative condition: Identifies staffing, including full-time equivalents, contractors, and detailees, by program office.

GAO analysis: The SBI expenditure plan *satisfied* the condition because it identified staffing requirements by program office.



Legislative Condition #4 (continued)

- The SBI expenditure plan identified staffing requirements by program office. As of September 30, 2008, CBP's SBI program offices, including the Office of the Executive director, the Program Control Division, Budget and Finance, TI, and *SBI_{net}*, had 228 employees on board (see table 5).

Table 5: CBP SBI Employees, as of September 30, 2008, by Program Office

Program Office	Government employees	Contract employees	Detailees	Total
Office of the Executive Director	3	2	0	5
Program Control Division	17	10	1	28
Tactical Infrastructure	12	20	2	34
Budget and Finance	9	4	0	13
<i>SBI_{net}</i>	46	87	15	148
Total	87	123	18	228

Source: CBP.

- A new organizational structure is planned for 2009. The proposed structure includes 55 contractors and 181 full-time equivalent government employees.



Legislative Condition #5: Describes Security Needs at the Northern Border and Ports of Entry (Partially Satisfied)

Legislative condition: Includes a description of how the plan addresses security needs at the northern border and ports of entry, including infrastructure, technology, design and operations requirements, specific locations where funding would be used, and priorities for northern border activities.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. The plan provided a general description of northern border security initiatives; however, it did not describe specific locations where the \$40 million designated for northern border technology will be used, or provide information on the relative priorities of the initiatives.



Legislative Condition #5 (continued)

The SBI expenditure plan

- provided a general description of northern border security initiatives, such as (1) deploying additional border patrol agents from the southwest border to the northern border, (2) modernizing communications infrastructure, and (3) starting up Air and Marine operations at five locations, but did not specify the relative priority of the various initiatives;
- described how the \$20 million allocated to *SBI_{net}* activities in March 2007 will be used, but did not describe specific locations where the \$40 million allocated in October 2008 for northern border technology will be spent;
- described operational requirements for certain CBP Air and Marine efforts, but did not provide detailed information on operational requirements for other initiatives;
- described three broad primary threats along the northern border (terrorism, drug trafficking, and illegal immigration), but did not link planned activities to these threats; and
- stated that CBP officials are developing a northern border strategy and are participating in the development of a comprehensive DHS northern border strategy.



Legislative Condition #5 (continued)

In November 2008, we recommended that for future northern border reporting requirements, the Secretary of Homeland Security include more specific information on the actions, resources, and time frame needed to achieve security of the northern border along with any attendant uncertainties, and the basis used to prioritize action and resources for northern border security relative to other areas of national security.¹³ Because this recommendation is related to this condition but has not been fully addressed, we are not making new recommendations related to the northern border in this briefing.

¹³GAO, *Northern Border Security: DHS's Report Could Better Inform Congress by Identifying Actions, Resources, and Time Frames Needed to Address Vulnerabilities*, GAO-09-93 (Washington, D.C.: Nov. 25, 2008).



Legislative Condition #6: Reports on Budget, Activities Completed, and Progress (Partially Satisfied)

Legislative condition: Includes a report on budget, obligations and expenditures, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States.

GAO analysis: The SBI expenditure plan *partially satisfied* this condition. The plan reported the budget, obligations, and expenditure amounts from fiscal years 2007 through 2009, and discussed activities completed. However, the plan did not attribute changes in the level of operational border control to the *SBI_{net}* and TI programs because CBP does not measure the contribution each component of the SBI program makes to the overall assessment of effective control. Instead, the plan explained that effective control is not necessarily gained through the deployment of just one tool or resource.



Legislative Condition #6 (continued)

The SBI expenditure plan

- reported the appropriations, obligations, and expenditures¹⁴ for fiscal years 2007 through 2009; and
- discussed completed activities, including
 - completion of 357 miles of fencing as of September 30, 2008;
 - acceptance of Project 28; and
 - deployment of MSS along the southwest border.

¹⁴An Independent Auditor's Report on DHS's Fiscal Year 2008 Financial Statements found that CBP did not enforce its policies and procedures to monitor and deobligate or close-out its obligations in a timely manner, but noted that CBP had initiated a review of open obligations and, as a result, had deobligated funds. We did not assess the extent to which this audit finding is material to the obligation and expenditure data provided by CBP in its SBI expenditure plan.



Legislative Condition #6 (continued)

The SBI expenditure plan included a breakdown of border miles under effective control for the entire U.S. border for fiscal years 2005 through 2008 (see table 6), and stated that CBP officials make the final assessment of effective control.

Table 6: Miles Considered under Effective Control by U.S. Border Patrol, as of September 30, 2008

Area of the border	FY2005	FY2006	FY2007	FY2008
Southwest border miles	241	345	486	625
Northern border miles	12	12	12	31
Coastal miles	35	92	101	101

Source: SBI.

The SBI expenditure plan stated that “while technology, TI, and other resources will continue to contribute to enhancing effective control of the Nation’s borders, it is important to emphasize that effective control of a specific segment is not necessarily gained through the deployment of just one tool or resource.” Therefore, the expenditure plan did not delineate between improvements in operational control that are directly attributable to the *SBI_{net}* and TI programs and those that are caused by a combination of concurrent government actions, such as hiring of additional Border Patrol agents and coordination of efforts between DHS and local authorities.



Legislative Condition #7: Lists All Open GAO and OIG Recommendations (Partially Satisfied)

Legislative condition: Include a listing of all open GAO and OIG recommendations related to the program and the status of DHS actions to address the recommendations, including milestones to fully address them.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. The plan listed the recommendations and provided the status and actions taken to address each one. For the GAO recommendations which resulted from previous expenditure plan reviews, the plan stated that closure of the recommendations depends on the results of our review of the plan. However, the SBI expenditure plan did not include milestones to fully address the remaining GAO or the DHS OIG recommendations.



Legislative Condition #7 (continued)

The SBI expenditure plan listed four open OIG recommendations, but the plan did not provide milestones to fully address them. CBP reported that it is taking corrective actions to address these recommendations. By December 31, 2008, CBP was required to provide documentation to DHS that ensures that the risks associated with planned *SBI_{net}* acquisition, development, testing and deployment activities are assessed, and, the results including proposed courses of action for mitigating risk.

The SBI expenditure plan listed 10 open GAO recommendations.

- In February 2007, we recommended that “future expenditure plans include explicit and measurable commitments relative to the capabilities, schedule, costs, and benefits associated with individual *SBI_{net}* program activities.”¹⁵ The SBI expenditure plan stated that the status of the recommendation depends on GAO’s review. Based on our review, the fiscal year 2009 SBI expenditure plan is more detailed than the fiscal year 2007 and 2008 plans, but it did not fully address our February 2007 recommendation because it did not include explicit and measurable commitments relative to the capabilities, schedule, costs, and benefits for individual *SBI_{net}* program activities. For example, the 2009 SBI expenditure plan did not include a life cycle cost estimate for the *SBI_{net}* or TI programs.

¹⁵GAO, *Secure Border Initiative: SBI_{net} Expenditure Plan Needs to Better Support Oversight and Accountability*, GAO-07-309 (Washington, D.C.: Feb. 15, 2007).



Legislative Condition #7 (continued)

- In June 2008, we recommended that future expenditure plans include an explicit description of how activities will further the objectives of SBI, as defined in the DHS Secure Border Strategic Plan, and how the plan allocates funding to the highest priority border security needs to provide Congress with information it needs to oversee the program.¹⁶ The SBI expenditure plan stated that the status of the recommendation depends on our review of the fiscal year 2009 SBI expenditure plan. Based on our review, we determined that the fiscal year 2009 SBI expenditure plan addressed our June 2008 recommendation. We plan to close this recommendation.
- In September 2008, we made eight recommendations related to improving DHS's efforts to acquire and implement *SBI_{net}*.¹⁷ The SBI expenditure plan stated that by December 31, 2008, CBP was required to provide documentation to DHS that ensures that the risks associated with planned *SBI_{net}* acquisition, development, testing and deployment activities are assessed, and the results, including proposed courses of action for mitigating risk. However, the SBI expenditure plan did not provide milestones to fully address these recommendations. We have ongoing work to assess actions taken by DHS to address the eight recommendations.

¹⁶GAO-08-739R.

¹⁷GAO, *Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment*, GAO-08-1086 (Washington, D.C.: Sept. 22, 2008).



Legislative Condition #8: Certification by the DHS CPO (Partially Satisfied)

Legislative condition: Includes a certification by the CPO of the Department that the program: (a) has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the OMB, including as provided in Circular A-11, part 7; (b) that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with such actions, together with any plans for addressing these risks, and the status of the implementation of such actions; (c) that procedures to prevent conflicts of interest between the prime integrator and major subcontractors are established and that the SBI Program Office has adequate staff and resources to effectively manage the SBI program, all contracts, including the exercise of technical oversight; and (d) the certifications required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certifications.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. The DHS CPO certified that the program met the condition's requirements. However, this certification did not address all aspects of the condition. For example, the assessment did not specifically determine whether the program has adequate staff and resources to effectively manage the program.



Legislative Condition #8 (continued)

On December 11, 2008, the DHS CPO certified that the SBI program was reviewed in accordance with capital planning and investment control procedures, per OMB Circular A-11, Part 7, and DHS's Investment Review Board (IRB) issued an Acquisition Decision Memorandum on September 8, 2008. The September 2008 memo authorized aspects of the program and required specific actions. These actions include an update or completion of documentation, such as the Life Cycle Cost Estimate and a Test and Evaluation Master Plan. However, the DHS CPO certification letter and supporting documentation did not indicate whether the program fulfilled all the requirements under OMB Circular A-11.



Legislative Condition #8 (continued)

The DHS CPO also certified that the program complied with federal acquisition rules, requirements, guidelines, and practices. Specifically, DHS CPO officials conducted a baseline review of the SBI Acquisition Office for compliance with the federal acquisition rules.

The DHS CPO also certified that the SBI *net* prime contractor has established procedures to prevent conflicts of interest between the prime integrator and major subcontractors and that the program has increased staff and resources to manage SBI activities.

- The SBI Acquisition Office provided the DHS CPO documentation and guidance to mitigate organizational conflicts of interest. The prime contractor's Organizational Conflict of Interest Mitigation Plan delineates responsibilities, rules, and procedures for avoiding, identifying, evaluating, and resolving organizational conflicts of interest.



Legislative Condition #8 (continued)

- The DHS CPO's assessment did not specifically determine whether the program has adequate staff and resources to effectively manage the program. The DHS CPO stated that staffing challenges remain, but that there has been an increase in the acquisition staff and certification of personnel. Further review of the supporting documentation provided by the SBI Acquisition Office shows additional areas of improvement. As of November 21, 2008, the SBI Acquisitions Office reported that 55 percent of the contracting professionals required to have a level III certification¹⁸ had obtained the certification, while the other 45 percent had submitted the required documentation to obtain such a certification, but the DHS certification had not yet been granted. In addition, of these contracting professionals, 36 percent, or 5 of the 14 program managers and deputy program managers, have obtained the required level III certification.

The documentation used in determining the DHS CPO's assessment was included as a separate attachment to the SBI expenditure plan.

¹⁸DHS directive MD-0782 establishes policies and procedures for certification for DHS acquisition program and project managers. A level III certification is the highest level possible.



Legislative Condition #9: Certification by the DHS CIO (Partially Satisfied)

Legislative condition: Includes a certification by the Chief Information Officer of the Department that: (a) the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were or were not assessed in making the alignment determination, the date of the alignment determination, and any known areas of misalignment together with the associated risks and corrective actions to address any such areas; (b) the program has a risk management process that regularly and proactively identifies, evaluates, mitigates, and monitors risks throughout the system life cycle and communicates high-risk conditions to U.S. Customs and Border Protection and Department of Homeland Security investment decision-makers, as well as a listing of all the program's high risks and the status of efforts to address such risks; (c) an independent verification and validation agent is currently under contract for the projects funded under this heading; and (d) the certification required under this paragraph should be accompanied by all documents or memoranda, as well as documentation and a description of the investment review processes used to obtain such certification.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. The DHS CIO certified that the program met the condition's requirements. However, this certification did not address all aspects of the condition because it did not address the associated risks of three areas that had been previously identified as misaligned to DHS's enterprise architecture.



Legislative Condition #9 (continued)

On January 5, 2009, the DHS CIO certified that the systems architecture of the *SBI*net program was sufficiently aligned with DHS's information systems enterprise architecture. As part of the DHS CIO certification, the documentation described aspects of the enterprise architecture that were and were not assessed.

To ensure continued compliance, the DHS CIO indicated that the *SBI*net program office must take several actions, such as having the Enterprise Architecture Board (EAB)¹⁹ review the findings of the next version of the COP.

The EAB cited eight issues (i.e., areas of misalignment) in September 2007. As of December 2008, three issues remain open. This certification did not address the associated risks of these misaligned areas, as required by the condition.

¹⁹The EAB evaluates and approves information technology investments for enterprise architecture alignment and ensures that the enterprise architecture is updated and maintained.



Legislative Condition #9 (continued)

On January 5, 2009, the DHS CIO also certified that the *SBI*net program has a risk management process in place. According to the DHS CIO, the risk management process regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicated high risk conditions to DHS investment decision makers.

To ensure continued compliance, the DHS CIO indicated that by March 31, 2009, the *SBI*net program office should conduct a risk assessment to ensure that the office contains the correct mix of staff. The assessment should identify

- the number of staff (federal and contractor) and the areas they support (i.e., information technology, acquisitions, etc.);
- the skill set and qualifications of each federal and contractor staff member (skills, experience, abilities, and capacity), including certifications; and
- a mitigation strategy to ensure a “robust” staff is in place that will continue to assess and successfully mitigate identified moderate- to high-level risks (e.g., cost overruns and schedule slippage).



Legislative Condition #9 (continued)

On January 5, 2009, the DHS CIO also certified that the *SBI*net program has an independent verification and validation agent currently under contract. To ensure continued compliance, the CIO directed the *SBI*net program office to

- submit the following documents by March 31, 2009:
 - Communications Plan;
 - Monthly Activity Reports;
 - Software Verification and Validation Plan;
 - Software Verification and Validation Report;
 - Independent Government Cost Estimate; and
 - high-risk communications documents with DHS stakeholders, and

- include the contractor in all phases of the testing to be conducted for the first two projects of Block 1. In addition, all documentation, reports and test results from the contractor's work in both the program and testing tasks should be submitted to the DHS EAB for review within 30 days of completion.

The documentation used in determining the DHS CIO's assessment was included as a separate attachment to the SBI expenditure plan.



Legislative Condition #10: Certification by the DHS CHCO (Partially Satisfied)

Legislative condition: Includes a certification by the Chief Human Capital Officer (CHCO) of the Department that the human capital needs of the SBI program are being addressed so as to ensure adequate staff and resources to effectively manage the Secure Border Initiative, together with a description of SBI staffing priorities.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. The DHS CHCO provisionally certified that the fiscal year 2009 SBI human capital needs were being strategically and proactively managed, but noted that the SBI program office may face challenges in implementing its human capital plan.



Legislative Condition #10 (continued)

On December 8, 2008, the DHS CHCO provisionally certified that the fiscal year 2009 SBI human capital needs were being strategically and proactively managed, and that the current human capital capabilities were sufficient to execute the plans discussed in the SBI expenditure plan.

The DHS CHCO noted that the SBI human capital plan provided specific initiatives to address hiring, development, and retention of employees, and described metrics to measure progress and results of these initiatives. However, the DHS CHCO also noted that human capital management challenges remain.

The DHS CHCO will continue to work closely with the SBI program staff and will meet again in May 2009 to discuss updates and review changes to the planning documents.



Legislative Condition #11: Analysis of Alternatives (Partially Satisfied)

Legislative condition: Includes an analysis by the Secretary for each segment, defined as not more than 15 miles, of fencing or tactical infrastructure, of the selected approach compared to other, alternative means of achieving operational control, and such analysis should include cost, level of operational control, possible unintended effects on communities, and other factors critical to the decision making process.

GAO analysis: The SBI expenditure plan *partially satisfied* the condition. Specifically, the plan includes some required information for each fencing segment, such as an alternative means of achieving operational control, including cost and level of operational control. However, the possible unintended effects on communities were not provided for each fencing segment.



Legislative Condition #11 (continued)

The SBI expenditure plan provided an analysis of alternatives for 50 fencing segments²⁰ and the analysis included

- lengths of each fencing segment;
- level of operational control for each fencing segment;
- alternatives to gain effective control of the southwest border, including pedestrian and vehicle fencing, personnel, technology, and additional infrastructure construction (i.e., dam construction);
- an analysis of the selected approach compared to other alternative means of achieving operational control; and
- costs associated with the different alternatives.

²⁰An attachment to the SBI expenditure plan provided an analysis of alternatives for the 50 fencing segments that will be completed, under construction, or under contract using fiscal year 2009 funds.



Legislative Condition #11 (continued)

However, the plan did not include information for all fencing segments related to the possible unintended effects on communities as required by the legislative condition. Specifically, for the 50 fencing segments reviewed, 24 did not include detailed information on the possible unintended effects on communities in proximity to where the fencing segments are being constructed.

In addition, 16 of the 26 fencing segments that mentioned possible unintended effects on communities used the following pro forma language: “The community relations cost of such a deployment is a perception by the local residents and businesses that we have become an “occupation army,” standing shoulder to shoulder along the border.”

When we discussed our findings with CBP officials, they said that consideration was given to community impacts throughout the development of the analyses of alternatives, and that the unintended effects on communities were addressed in the assessments for each segment. The officials also said that although some fencing segment analyses did not include a narrative discussing this issue, concerns regarding the unintended effect on communities were addressed in the assessments.

While CBP may have included such analyses in their assessments, the SBI expenditure plan did not clearly show that such assessments were made for each fencing segment as required by the legislative condition.



Legislative Condition #12: Is Reviewed by GAO (Satisfied)

Legislative condition: Is reviewed by the GAO.

GAO analysis: Our review of the SBI expenditure plan *satisfied* the condition.

- The SBI program office provided draft versions of the SBI expenditure plan and supporting documentation.
- We also reviewed the final version of the plan submitted to Congress on March 4, 2009.
- We conducted our review from October 2008 to March 2009.



Concluding Observations

The legislatively mandated SBI expenditure plan requirement for the program is a congressional oversight mechanism aimed at ensuring that planned expenditures are justified, performance against plans is measured, and accountability for results is established. SBI's fiscal year 2007, 2008, and 2009 expenditure plans have consistently improved from year to year; each plan has generally provided more detail and higher quality information than the year before.

Despite this general improvement, the fiscal year 2009 plan did not fully satisfy all of the conditions set out by law. Specifically, three of the conditions were satisfied and nine were partially satisfied. Until the plan comes closer to satisfying all the conditions, Congress does not have the information it requested in the expenditure plan to oversee the program and hold DHS accountable for program results. Satisfying the conditions is also important to minimize the program's exposure to cost, schedule, and performance risks.



Concluding Observations (continued)

The plan satisfied our June 2008 recommendation that future expenditure plans include an explicit description of how activities will further the objectives of SBI, as defined in the DHS Secure Border Strategic Plan, and how the plan allocates funding to the highest priority border security needs to provide Congress with information it requested to oversee the program.²¹ Implementation of this recommendation is an important step for the program in terms of providing needed information regarding how funds are allocated to the highest priority needs.

However, the plan did not satisfy our February 2007 recommendation that the plan include explicit and measurable commitments relative to the capabilities, schedule, costs, and benefits associated with individual *SBI* program activities because, among other things, it does not provide complete information about the SBI schedule and capabilities.²² As investment in the SBI program continues, implementing this recommendation will continue to be important to ensure accountability and transparency.

²¹GAO-08-739R.

²²GAO-07-309.



Concluding Observations (continued)

Furthermore, the plan partially satisfied the three conditions where certifications were required from the DHS CPO, CIO, and CHCO. In addition, the limitations cited by the DHS CPO, CIO, and CHCO in their certification letters reflect the department's overall concerns about the SBI program. Given the magnitude of the program and that this is the third expenditure plan required by Congress, it is important that the program meets the various program management criteria contained in these conditions.



Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. On April 14, 2009, DHS provided written comments on a draft of this report which are reprinted in enclosure 2.

DHS disagreed with our assessment of partially satisfied for legislative conditions 1, 3, and 11. Specifically, DHS said that we had not considered additional information it provided that would support an assessment of these legislative conditions as satisfied. Because the legislative requirement required that the *expenditure plan* (emphasis added) contain information to address the legislative conditions, we limited our assessment to the information in the expenditure plan. In response to DHS's comments, we clarified our definitions of satisfied, partially satisfied and not satisfied to make it clear that we relied only on the expenditure plan in making our assessments. Nevertheless, the additional information program officials provided during the course of our review added context, but would not have changed our assessments of these legislative conditions, as described below.

In commenting on legislative conditions 1 and 3, DHS disagreed with our assessment that the plan did not provide sufficient information in three areas related to *SBI*net: (1) capabilities and services, (2) milestones, and (3) maximum investment or life cycle costs. With respect to the first area, *SBI*net capabilities and services, DHS said that the additional information provided, such as the Acquisition Program Baseline and supporting documentation, sufficiently addressed this area. Because several of these documents were received near the end or after our review, we were unable to fully assess them. We are continuing to



Agency Comments and Our Evaluation (continued)

review these documents in connection with our effort to follow up on the recommendations we made in our September 2008 report on SBInet.²³

With respect to the second area, milestones, DHS also said that additional information they provided to us during briefings should have been sufficient to satisfy the legislative condition. We reviewed the additional information, such as briefing materials containing updated deployment schedules. These documents, such as the Block 1 Program Schedule, depict current schedule information, but do not provide a detailed accounting of planned versus actual implementation dates for all investments. Thus, we continue to believe that DHS did not provide the level of detail required by the legislative requirements.

With respect to the third area, life cycle costs, DHS noted that because SBInet is an evolutionary acquisition program with spiral developments, CBP cannot provide “full” life cycle costs (i.e., the life cycle cost for the completed SBInet program) until future SBInet block configurations and program plans are identified. We recognize that calculating the full life cycle cost could be challenging. Nevertheless, our Cost Estimating and Assessment Guide notes that a best practice under spiral development programs includes that program costs be estimated, including all life cycle costs, and provides guidance on developing such cost estimates.²⁴ Thus, we maintain our position that neither the SBI expenditure plan nor the

²³GAO-08-1086.

²⁴GAO-09-3SP, p. 45.



Agency Comments and Our Evaluation (continued)

supporting documentation provide sufficient information on a maximum investment or life cycle cost estimate required by legislative conditions 1 and 3.

DHS did not comment on other factors that supported our assessments that conditions 1 and 3 were partially satisfied. For example, for condition 1, planned versus actual implementation dates for TI activities were absent as was a life cycle cost estimate. For condition 3, among other things, mission benefits and outcomes were not linked to either the *SBI*net or TI investments. Therefore, even if the additional information DHS provided regarding *SBI*net capabilities and services, milestones, and a maximum investment or life cycle cost estimate were sufficient to change our assessments in these areas, the conditions would remain partially satisfied due to the other factors we assessed within these conditions.

In commenting on legislative condition 11, DHS disagreed with our assessment that the possible unintended effects on communities were not provided for each fencing segment. DHS stated that if there were no issues regarding community impact, no documentation was included in the plan. Yet, the legislative condition called for this information to be included. DHS noted that its methodology for conducting its assessments contained a requirement to obtain input from stakeholders, including landowners, and told us that all Sector Chiefs complied with this requirement. We agree that the methodology required that such input be obtained, but DHS's documentation did not substantiate that all Sector Chiefs complied for



Agency Comments and Our Evaluation (continued)

each fencing segment. Thus, we maintain our position that legislative condition 11 was partially satisfied. In its comments, DHS stated that officials will ensure that future expenditure plans capture all unintended effects on communities.



Related GAO Products

Secure Border Initiative Fence Construction Costs. GAO-09-244R. Washington, D.C.: January 29, 2009.

Northern Border Security: DHS's Report Could Better Inform Congress by Identifying Actions, Resources, and Time Frames Needed to Address Vulnerabilities. GAO-09-93. Washington, D.C.: November 25, 2008.

Department of Homeland Security: Billions Invested in Major Programs Lack Appropriate Oversight. GAO-09-29. Washington, D.C.: November 18, 2008.

Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment. GAO-08-1086. Washington, D.C.: September 22, 2008.

Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment. GAO-08-1148T. Washington, D.C.: September 10, 2008.

Secure Border Initiative: Observations on Deployment Challenges. GAO-08-1141T. Washington, D.C.: September 10, 2008.



Related GAO Products (continued)

Secure Border Initiative: Fiscal Year 2008 Expenditure Plan Shows Improvement, but Deficiencies Limit Congressional Oversight and DHS Accountability. GAO-08-739R. Washington, D.C.: June 26, 2008.

Department of Homeland Security: Better Planning and Assessment Needed to Improve Outcomes for Complex Service Acquisitions. GAO-08-263. Washington, D.C.: April 22, 2008.

Secure Border Initiative: Observations on the Importance of Applying Lessons Learned to Future Projects. GAO-08-508T. Washington, D.C.: February 27, 2008.

Secure Border Initiative: Observations on Selected Aspects of SBInet Program Implementation. GAO-08-131T. Washington, D.C.: October 24, 2007.

Secure Border Initiative: SBInet Planning and Management Improvements Needed to Control Risks. GAO-07-504T. Washington, D.C.: February 27, 2007.

Secure Border Initiative: SBInet Expenditure Plan Needs to Better Support Oversight and Accountability. GAO-07-309. Washington, D.C.: February 15, 2007.

Enclosure II: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

April 14, 2009

Mr. Richard Stana
Director, Homeland Security and Justice Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Stana:

RE: GAO-09-274R, U.S. Customs and Border Protection's Secure Border Initiative Fiscal Year 2009 Expenditure Plan (GAO Job Code 440776)

The Department of Homeland Security (DHS) appreciates the opportunity to review and comment on the U.S. Government Accountability Office (GAO) report referenced above. A mandate in the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, requires the DHS to prepare an expenditure plan for the Secure Border Initiative (SBI) for fiscal year 2009 that satisfies 12 specified conditions, and for the plan to be submitted to and approved by the House and Senate Appropriations Committees before the agency could obligate \$400 million of the approximately \$775 million appropriated for U.S. Customs and Border Protection (CBP) fencing, infrastructure, and technology. In response to this requirement, DHS submitted a plan on March 4, 2009.

As required by the Act, GAO reviewed the plan and analyzed whether it satisfied 12 legislative conditions. GAO concluded that the expenditure plan satisfied 3 legislative conditions (conditions 2, 4, and 12) and partially satisfied 9 (conditions 1, 3, 5, 6, 7, 8, 9, 10 and 11). The report does not include any recommendations for congressional consideration or agency action.

GAO appropriately recognizes the significant progress the program has made over the past two years to address congressional concerns. However, CBP strongly disagrees with GAO's assessment of "partially satisfied" regarding legislative conditions 1, 3, and 11. Officials commented at the March 9, 2009, exit conference that GAO did not take into account other factors that supported a satisfactory rating on these legislative conditions. The following comments are offered in response to the report:

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Legislative Condition # 1: GAO analysis highlights an inadequate description of overall system capabilities or services, an inadequate accounting of milestones or activities completed to date, and an absence of a “maximum investment” or life cycle cost estimate.

CBP disagrees with GAO’s assessment. The SBI Program Office reviewed the *SBI* Block 1 Operational Requirements and System Functional Requirements with GAO, and believes this information provides substantial details for the *SBI* Block 1 system capabilities and services to be provided to CBP operational users. More importantly, CBP operational users have acknowledged and approved of these Block 1 system capabilities and services, currently undergoing formal qualification testing and preparation for initial deployment to Arizona.

Similarly, the SBI Program Office provided GAO with a detailed accounting of *SBI* Block 1 program milestones, accomplishments to date relative to the plan, and the comprehensive Block 1 cost estimates for construction, deployment, operations and sustainment. Because *SBI* is an evolutionary acquisition program with spiral development, future *SBI* Block configurations and program plans are not yet identified, and therefore SBI officials cannot provide “full” life cycle costs for the yet to be defined program. From October 2008 to February 2009, GAO was briefed on *SBI*’s evolutionary and spiral strategy, and the Block 1 program plan. The Acquisition Program Plan and Block 1 were approved by the Department’s Acquisition Review Board in February 2009. Additionally, the Department of Defense’s Cost Analysis Improvement Group (CAIG), which has demonstrated methods for estimating spiral development programs, will be conducting, on DHS’s behalf, an independent cost estimate for the program to confirm our understanding of the resources required to successfully and completely execute this initiative.

Legislative Condition #3: GAO analysis highlights inadequate linkage of planned 2009 expenditures to the milestone-based delivery of mission benefits and outcomes, also citing the absence of detailed program schedules and descriptions of planned system capabilities and services.

CBP acknowledges the need for improved definition of mission benefits and outcomes for the *SBI* investment, and has structured internal planning activities to develop more specific mission-based measures for technology-based investments. However, CBP disagrees with GAO’s characterization that detailed schedules and system capability descriptions are lacking. The SBI Program Office provided GAO with a series of briefings from October 2008 to February 2009 on the program’s development and planned delivery of programmatic documentation to the Department that provided DHS with a comprehensive assessment of risks associated with planned *SBI* acquisition, development, testing and deployment activities, and proposed alternatives for mitigating program risk. The Department’s Acquisition Review Board approved the Block 1 Program direction in February 2009. Subsequently, in March 2009, GAO was provided copies of the approved *SBI* Acquisition Program Baseline and supporting documentation that included Block 1 operational and system functional requirements (approved by the CBP operational end-users), a detailed Block 1 program plan, a Block 1

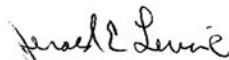
program schedule (Roadmap), and the complete Block 1 program cost estimate and supporting documentation. Additionally, in March 2009, SBI provided GAO with a briefing on the SBI^{net} Integrated Master Plan and Integrated Master Schedule approach.

Legislative Condition #11: GAO analysis concluded that the expenditure plan provided some required information for each fencing segment, but possible unintended effects on communities were not provided for each fencing segment.

Non-responses or non-issues with respect to possible unintended effects on communities were not reported in the Alternative of Analysis (AoAs). However, all possible unintended effects that had an impact were solicited from stakeholders through outreach efforts conducted by CBP and considered and scored in every AoA alternative matrix score sheet as one of several measures of effectiveness. GAO was provided the AoA framework document which was distributed to the Sector Chiefs that outlined the fundamental requirements to be considered when completing each AoA. The requirements included: “(1) the initial Border Patrol operational assessment; (2) input from stakeholders, including landowners; (3) environmental assessments; and (4) engineering assessments to include the cost to construct.” All Sector Chiefs complied with these requirements. CBP officials believe the AoAs satisfied the analysis criteria required by the legislative condition. Nevertheless, officials will ensure that future AoAs capture all unintended effects on communities, as well as document non-issues as stated by community representatives.

The 2009 expenditure plan does not include any new border fencing. However, the plan does include gates and bridges and CBP officials will continue to complete AoA for all tactical infrastructure projects and to document all requirements and issues as part of their efforts to ensure sound management decisions.

Sincerely,



Jerald E. Levine
Director
Departmental GAO/OIG Liaison Office