



Homeland  
Security

August 20, 2007

The Honorable John D. Dingell  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Dingell:

This responds to your letter of August 10, 2007 concerning the Department of Homeland Security (DHS) Domestic Nuclear Detection Office (DNDO) development of a new type of radiation portal monitor (RPM) known as Advanced Spectroscopic Portal (ASP) that has the potential to significantly harden our defenses against nuclear smuggling.

The ASP program has been the subject of a number of hearings, briefings, field visits, and requests for information, and over the last year at least two Government Accountability Office (GAO) reviews -- with the second GAO review nearing completion. The Department appreciates the need for rigorous review to ensure this critical program satisfies the goal of preventing the smuggling of nuclear materials through our borders. To this end, the Department has responded to requests for information. The Department is itself collecting information to assist the Secretary in determining whether he should certify that there will be a significant increase in operational effectiveness with the procurement of ASP systems -- a certification required by Congress. Part of that effort includes using the analysis of the results of tests conducted earlier this year and the results of field tests of Low Rate Initial Production ASP systems in realistic operational settings at domestic ports of entry of these new systems. DNDO will also use the test results to seek approval of the DHS Investment Review Board (IRB), of which I am the Vice Chair, prior to proceeding to full-scale production of ASP systems at ports of entry.

In addition, given the critical national importance of this effort, I thought it was important to have an independent review of the test procedures and test results to support the DHS decision-making process. I therefore recommended to the Secretary that we conduct an independent review. He agreed with my recommendation and directed me to assemble an appropriate team of technical and programmatic expertise to conduct such an analysis.

Based on your August 10 letter and the August 2 meeting with your staff, there appears to be several areas of misunderstanding related to this effort that I hope to clarify below.

**The DHS review is for the purpose of providing the Secretary with sufficient information to make the required certification and is not intended to be a substitute for the GAO review.**

The Secretary must collect information to inform his certification decision on this program. I made a recommendation to the Secretary to conduct an independent review, based on past experience where reviews such as this have assisted the decision-maker in making an informed decision. In my opinion, this independent review will provide valuable assistance to the Secretary and to me as the Department Acquisition Executive and Vice Chair of the DHS Investment Review Board as DHS considers the best way forward. The Department of Defense typically uses such review efforts to facilitate decision-making on major programs.

Your letter implies that DHS' effort to conduct an independent review of the ASP program is intended to undermine the pending GAO review. DHS' review of this system is not intended to substitute for GAO's review, nor is it a redundant effort. GAO is an agent of the Congress that appropriately provides information to Congress in support of its oversight function. GAO's efforts do not preclude DHS from conducting its own independent review to support DHS' decision-making process. It is entirely appropriate for DHS to leverage the resources of the executive branch to gather information to make an informed decision on a critical program. DHS may enlist whoever it deems appropriate for consultation in exercising its responsibilities for program execution.

**DHS does not question GAO's ability to conduct any review.**

The GAO has expertise in government program review and has access to relevant information within the Federal Government, and can amass the required expertise to review a program of interest. In the case of ASP, we understand that NIST is providing technical support for this program review. My recommendation for an independent review was based in part on the need for the Department to have the benefit of specialized technical expertise and a party other than Congress' oversight agent to provide input to support the Department's as we make decisions about this critical program.

**The review is not a DTRA review.**

Your letter regularly refers to our effort as a "DTRA review." This is not a DTRA-sponsored review. My intent was to leverage some DTRA resources by requesting an individual from DTRA to assemble an appropriate team of technical experts to perform this task. This assignment was to the individual personally, not to DTRA. We fully expected that the majority of members would be from outside of DTRA.

**The DHS review effort will be an honest effort to make an independent assessment of this program.**

Your August 10 letter implies that because of the participants and timing of the review it will be biased and the outcome of the assessment has been pre-determined. You stated “[u]nlike the new DTRA/DHS review, GAO has not pre-judged the outcome of its assessment....” This statement pre-judges our review efforts. As the Department’s Acquisition Executive and the Vice Chair of the Investment Review Board, I regularly must assess the validity of various departmental programs. I do not pre-judge the viability of a program until I know the facts. Similarly, I expect the participants in this review (who will be appropriately vetted for conflicts of interest) to conduct a rigorous review based on their technical expertise.

A detail response to your 12 questions is attached.

A copy of this letter is being sent to the ranking member of the Committee on Energy and Commerce, ranking member of the Subcommittee on Oversight and Investigations, the Chairman and ranking member of the Committee on Homeland Security, the Chairman and ranking member of the Subcommittee on Homeland Security Committee on Appropriations, Chairman and ranking member of the Senate Committee on Homeland Security and Governmental Affairs and the Director of the Domestic Nuclear Detection Office at the Department of Homeland Security.

Thank you for your continued support of the Department of Homeland Security and DNDO’s programs. If I can be of more assistance on this or other matters, please contact me or Mr. Jeffrey Readinger in the Office of Legislative Affairs at 202-447-5890.

Sincerely,



Paul A. Schneider  
Under Secretary for Management

Enclosures

cc: The Honorable Bart Stupak