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United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

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July 30, 2012

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
301 7th Street NW
Washington, D.C. 20528

Dear Secretary Napolitano:

On April 25, 2012, when you testified before the Judiciary Committee I raised concerns regarding the Department of Homeland Security's Chemical Facility Anti-Terrorism Standards program ("CFATS"). CFATS was signed into law as part of the DHS Appropriations Act of 2007 and provided DHS the authority to determine risk factors for chemical facilities. Once those risk factors were determined, the Act gave DHS the power to mandate security plans for high-risk facilities and then allowed them to conduct inspections to validate the adequacy of and compliance with the plan.

Concerns regarding CFATS were initially raised by a December 21, 2011, article which quoted sections of an internal DHS report obtained by Fox News. The report said that the CFATS program was "beset by a series of deep-seated problems, including wasteful spending and a largely unqualified workforce that lacks 'professionalism.'" ¹ Further, the report stated that the problems within CFATS were so severe, that they posed a "measurable risk to the program." ²

Unfortunately, it appears that these concerns were only the tip of the iceberg. Since this report was made public, an internal whistleblower has contacted my office with further details of DHS's management of the CFATS program. According to this whistleblower, the details of the CFATS program's shortcomings go far beyond what has previously been reported. They include allegations that CFATS assigned employees to non-existent field offices. As a result, employees essentially worked from home while claiming, on paper, to be located in phantom CFATS field offices. One byproduct of this was that employees often lived in low locality pay areas while claiming duty stations in high locality pay areas. This led to employees receiving improper locality pay.

In addition, the whistleblower reported that CFATS routinely procured tactical and field equipment which it had no use for as a regulatory and inspection agency rather than a law

¹ Mike Levine, Fox News, EXCLUSIVE: Beset By Strife at Chemical Security Office, DHS Internal Report Claims Anti-Terrorism Program Now In Jeopardy, December 21, 2011.

² *Id.*

enforcement or first response agency. For example, CFATS purchased chemical HAZMAT suits and hundreds of Toughbook notebooks it could not use. In fact, CFATS procured so many items it had no use for that it had to ask for extra storage space. Finally, the whistleblower alleges that when a memo documenting and referring problems with the program to the Inspector General was submitted to DHS Undersecretary Rand Beers, he refused to report the information to the Inspector General.

The whistleblower's accusations, if true, show a systemic failure of the CFATS program that has placed Americans in danger and wasted close to \$500 million in taxpayer dollars.

Accordingly, please answer the following questions:

1. From the inception of the CFATS program to the present, how many chemical facility inspections has DHS performed?
2. Of the field offices the CFATS program was authorized to create, how many were established from the inception of the program to January 2012?
3. Where were they established?
4. Were DHS employees being transferred to phantom field offices which in fact did not exist?
 - a. When did Under Secretary of Homeland Security for National Protection and Programs Rand Beers become aware of this?
 - b. When did Deputy Assistant Secretary Susan Armstrong become aware of this?
5. Were DHS employees who were transferred to these phantom field offices receiving increased locality pay to work in these non-existent field offices?
 - a. If so, how many employees?
 - b. How much more money were these employees paid as a result of these locality pay adjustments?
 - c. Was any effort made by DHS to recoup these payments?
 - d. If so, how much was recouped?
 - e. If not, why not?
 - f. Were any employees terminated as a result of this increased locality pay scheme?

- g. Were any employees disciplined as a result of this increased locality pay scheme?
 - h. If so, what punishments did they receive?
- 6. How many chemical HAZMAT suits were procured through the CFATS program?
 - a. What was the total cost of purchasing chemical HAZMAT suits for the CFATS program?
 - b. Were any of these suits issued to employees?
 - c. Were any ever worn by employees? If so, when?
 - d. Is there any justifiable reason for an inspection-based program like CFATS to spend federal dollars on chemical HAZMAT suits?
 - e. Was Deputy Assistant Secretary Susan Armstrong aware of these procurement decisions?
- 7. How many Toughbook notebooks were procured through the CFATS program?
 - a. What was the total cost of purchasing Toughbook notebooks for the CFATS program?
 - b. Was Deputy Assistant Secretary Susan Armstrong aware of these procurement decisions?
- 8. Were any additional tools or equipment procured that have subsequently been deemed to be unnecessary?
- 9. In 2011, did the Director of the CFATS program request extra motor pool space for unauthorized take home vehicles?
 - a. How many vehicles did the CFATS program have in its motor pool?
- 10. When was Undersecretary Beers first aware of these allegations?
- 11. Did he at any time refuse to sign a report regarding these allegations?
- 12. DHS has promised a full accounting for the nearly \$500 million spent on the CFATS program since its inception. Is that accounting complete? If so, please provide it.

Thank you for your cooperation and attention in this matter. I would appreciate a response by August 13, 2012. If you have any questions, please do not hesitate to contact Chris Lucas for the Committee on the Judiciary at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Ranking Member
Committee on the Judiciary