

tion 599B of Title 28, Judiciary and Judicial Procedure, by Pub. L. 109-162, title XI, §1187(b), (c)(2), Jan. 5, 2006, 119 Stat. 3127, 3128.

## SUBCHAPTER XII—TRANSITION

### PART A—REORGANIZATION PLAN

#### § 541. Definitions

For purposes of this subchapter:

- (1) The term “agency” includes any entity, organizational unit, program, or function.
- (2) The term “transition period” means the 12-month period beginning on the effective date of this chapter.

(Pub. L. 107-296, title XV, § 1501, Nov. 25, 2002, 116 Stat. 2307.)

#### REFERENCES IN TEXT

The effective date of this chapter, referred to in par. (2), is 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of this title.

#### § 542. Reorganization plan

##### (a) Submission of plan

Not later than 60 days after November 25, 2002, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

- (1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this chapter.
- (2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this chapter.

##### (b) Plan elements

The plan transmitted under subsection (a) shall contain, consistent with this chapter, such elements as the President deems appropriate, including the following:

- (1) Identification of any functions of agencies transferred to the Department pursuant to this chapter that will not be transferred to the Department under the plan.
- (2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.
- (3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.
- (4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.
- (5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.
- (6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

##### (c) Modification of plan

The President may, on the basis of consultations with the appropriate congressional com-

mittees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

##### (d) Effective date

###### (1) In general

The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

- (A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or
- (B) the end of the transition period.

###### (2) Statutory construction

Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

###### (3) Supersedes existing law

Paragraph (1) shall apply notwithstanding section 905(b) of title 5.

(Pub. L. 107-296, title XV, § 1502, Nov. 25, 2002, 116 Stat. 2308.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this Act”, meaning Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

#### DEPARTMENT OF HOMELAND SECURITY

##### REORGANIZATION PLAN

November 25, 2002

H. Doc. No. 108-16, 108th Congress, 1st Session, provided:

#### INTRODUCTION

This Reorganization Plan is submitted pursuant to Section 1502 of the Department [sic] of Homeland Security Act of 2002 [6 U.S.C. 542] (“the Act”), which requires submission, not later than 60 days after enactment [Nov. 25, 2002], of a reorganization plan regarding two categories of information concerning plans for the Department of Homeland Security (“the Department” or “DHS”):

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act [Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135].

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act. Section 1502(a).

Section 1502(b) of the Act identifies six elements, together with other elements “as the President deems appropriate,” as among those for discussion in the plan. Each of the elements set out in the statute is identified *verbatim* below, followed by a discussion of current plans with respect to that element.

This plan is subject to modification pursuant to Section 1502(d) of the Act, which provides that on the basis of consultations with appropriate congressional committees the President may modify or revise any part of the plan until that part of the plan becomes effective. Additional details concerning the process for establishing the Department will become available in the com-

ing weeks and months, and the President will work closely with Congress to modify this plan consistent with the Act.

#### PLAN ELEMENTS

**(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.**

Except as otherwise directed in the Act, all functions of agencies that are to be transferred to the Department pursuant to the Act will be transferred to the Department under the plan. The functions of agencies being transferred to the Department which the Act directs are not to be transferred are the following:

- Pursuant to Section 201(g)(1) of the Act [6 U.S.C. 121(g)(1)], the Computer Investigations and Operations Section (“CIOS”) of the National Infrastructure Protection Center (“NIPC”) of the Federal Bureau of Investigation (“FBI”) will not transfer to the Department with the rest of NIPC. CIOS is the FBI headquarters entity responsible for managing all FBI computer intrusion field office cases (whether law enforcement or national security related).

- Pursuant to Sections 421(c) & (d) of the Act [6 U.S.C. 231(c), (d)], the regulatory responsibilities and quarantine activities relating to agricultural import and entry inspection activities of the United States Department of Agriculture (“the USDA”) Animal and Plant Health Inspection Service (“APHIS”) will remain with the USDA, as will the Secretary of Agriculture’s authority to issue regulations, policies, and procedures regarding the functions transferred pursuant to Sections 421(a) & (b) of the Act.

- Pursuant to Subtitle B of Title IV of the Act [6 U.S.C. 211 et seq.], the authorities of the Secretary of the Treasury related to Customs revenue functions, as defined in the statute, will not transfer to the Department.

- Functions under the immigration laws of the United States with respect to the care of unaccompanied alien children will not transfer from the Department of Justice to DHS, but will instead transfer to the Department of Health and Human Services pursuant to Section 462 of the Act [6 U.S.C. 279].

**(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.**

A. *Steps to be taken by the Secretary to organize the Department.* The President intends that the Secretary will carry out the following actions on the dates specified. All of the following transfers shall be deemed to be made to DHS, and all offices and positions to be established and all officers and officials to be appointed or named shall be deemed to be established, appointed, or named within DHS.

*January 24, 2003 (effective date of the Act pursuant to Section 4 [6 U.S.C. 101 note]):*

- Establish the Office of the Secretary.

- Begin to appoint, upon confirmation by the Senate, or transfer pursuant to the transfer provisions of the Act, as many of the following officers as may be possible:

- (1) Deputy Secretary of Homeland Security
- (2) Under Secretary for Information Analysis and Infrastructure Protection
- (3) Under Secretary for Science and Technology
- (4) Under Secretary for Border and Transportation Security
- (5) Under Secretary for Emergency Preparedness and Response
- (6) Director of the Bureau of Citizenship and Immigration Services

- (7) Under Secretary for Management

- (8) Not more than 12 Assistant Secretaries

- (9) General Counsel

- (10) Inspector General

- (11) Commissioner of Customs

- Name, as soon as may be possible, officers to fill the following offices created by the Act:

- (1) Assistant Secretary for Information Analysis

- (2) Assistant Secretary for Infrastructure Protection

- (3) Privacy Officer

- (4) Director of the Secret Service

- (5) Chief Information Officer

- (6) Chief Human Capital Officer

- (7) Chief Financial Officer

- (8) Officer for Civil Rights and Civil Liberties

- (9) Director of Shared Services

- (10) Citizenship and Immigration Ombudsman

- (11) Director of the Homeland Security Advanced

Research Projects Agency

- Establish, within the Office of the Secretary, the Office for State and Local Government Coordination, the Office of International Affairs, and the Office of National Capital Region Coordination.

- Establish the Homeland Security Advanced Research Projects Agency and the Acceleration Fund for Research and Development of Homeland Security Technologies.

- Establish within the Directorate of Science and Technology the Office for National Laboratories.

- Establish the Bureau of Border Security [now Bureau of Immigration and Customs Enforcement], the Bureau of Citizenship and Immigration Services, and the Director of Shared Services.

- Establish the Transportation Security Oversight Board with the Secretary of Homeland Security as its Chair.

*March 1, 2003:*

- Transfer the Critical Infrastructure Assurance Office (“CIAO”) of the Department of Commerce, the National Communications System (“the NCS”), the NIPC of the FBI (other than the CIOS), the National Infrastructure Simulation and Analysis Center (“NISAC”), the Energy Assurance Office (“EAO”) of the Department of Energy, and the Federal Computer Incident Response Center of the General Services Administration (“FedCIRC”).

- Transfer the Coast Guard.

- Transfer the Customs Service, the Transportation Security Administration (“the TSA”), functions of the Immigration and Naturalization Service (“the INS”), the Federal Protective Service (“the FPS”), the Office of Domestic Preparedness (“the ODP”), and the Federal Law Enforcement Training Center (“the FLETC”).

- Transfer the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in Section 421(b) of the Act [6 U.S.C. 231(b)] from the Animal and Plant Health Inspection Service.

- Transfer the United States Secret Service.

- Transfer the following programs and activities to the Directorate of Science and Technology:

- The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program of the Department of Energy.

- The life sciences activities related to microbial pathogens of the Biological and Environmental Research Program of the Department of Energy.

- The National Bio-Weapons Defense Analysis Center of the Department of Defense.

- The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program of the Department of Energy.

- The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program of the Department of Energy

and the advanced scientific computing research program and activities at Lawrence Livermore National Laboratory of the Department of Energy.

- The Environmental Measurements Laboratory of the Department of Energy.
- Transfer the Federal Emergency Management Agency (“FEMA”).
- Transfer the Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed “FIRESTAT.”
- Transfer the National Domestic Preparedness Office of the FBI, including the functions of the Attorney General relating thereto.
- Transfer the Domestic Emergency Support Team of the Department of Justice, including the functions of the Attorney General relating thereto.
- Transfer the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and Assistant Secretary for Public Health Emergency Preparedness relating thereto.
- Transfer the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and Assistant Secretary for Public Health Emergency Preparedness relating thereto.
- Transfer the Office of Emergency Preparedness and the Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and Assistant Secretary for Public Health Emergency Preparedness relating thereto.
- Transfer to the Secretary the authority (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States) to direct the Nuclear Incident Response Team of the Department of Energy to operate as an organizational unit.

*June 1, 2003:*

- Transfer the Plum Island Animal Disease Center of USDA.
- Establish the Homeland Security Science and Technology Advisory Committee.

*By September 30, 2003:*

- Complete any incidental transfers, pursuant to Section 1516 of the Act [6 U.S.C. 556], of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by the Act.

*B. Delegation or Assignment Among Officers of Functions Transferred to the Department.* The President intends that the Secretary will delegate or assign transferred functions within the Department as follows:

**1. Information Analysis and Infrastructure Protection**

a. *Under Secretary for Information Analysis and Infrastructure Protection (“IA and IP”):* Will be responsible for oversight of functions of NIPC, NCS, CIAO, NISAC, EAO, and FedCIRC transferred by the Act, the management of the Directorate’s Information Analysis and Infrastructure Protection duties, and the administration of the Homeland Security Advisory System.

b. *Assistant Secretary for Information Analysis:* Will oversee the following Information Analysis functions:

- Identify and assess the nature and scope of terrorist threats to the homeland; detect and identify threats of terrorism against the United States; and, understand such threats in light of actual and potential vulnerabilities of the homeland.
- In coordination with the Assistant Secretary for Infrastructure Protection, integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities

for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

- Ensure the timely and efficient access by the Department to all information necessary to discharge the responsibilities under Section 201 of the Act [6 U.S.C. 121], including obtaining such information from other agencies of the Federal Government.

- Review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

- Disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

- Consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

- Consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

- Ensure that—
  1. Any material received pursuant to the Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

2. Any intelligence information under the Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. Section 401, et seq.) [now 50 U.S.C. 3001 et seq.] and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

- Request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

- Establish and utilize, in conjunction with the Chief Information Officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of statutory responsibilities, and to disseminate information acquired and analyzed by the Department, as appropriate.

- Ensure, in conjunction with the Chief Information Officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

1. Are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

2. Treat information in such databases in a manner that complies with applicable Federal law on privacy.

- Coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

- Coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

- Provide intelligence and information analysis and support to other elements of the Department.

*c. Assistant Secretary for Infrastructure Protection:* Will oversee the following Infrastructure Protection functions:

- Carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

- In coordination with the Assistant Secretary for Information Analysis, integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

- Develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

- Recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

- In coordination with the Under Secretary for Emergency Preparedness and Response, provide to State and local government entities, and upon request to private entities that own or operate critical information systems, crisis management support in response to threats to, or attacks on, critical information systems.

- Provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

- Coordinate with other agencies of the Federal Government to provide specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

## 2. Science and Technology

*Under Secretary for Science and Technology:* Will be responsible for performing the functions set forth

in Section 302 of the Act [6 U.S.C. 182], including the following:

- Advise the Secretary regarding research and development efforts and priorities in support of the Department's missions.

- Develop, in consultation with other appropriate executive agencies, a national policy and strategic plan for identifying priorities, goals, objectives, and policies for, and coordinating the Federal Government's civilian efforts with respect to, identifying and developing countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts.

- Support the Under Secretary for Information Analysis and Infrastructure Protection by assessing and testing homeland security vulnerabilities and possible threats.

- Conduct basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities.

- Establish priorities for directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

1. preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

2. detecting, preventing, protecting against, and responding to terrorist attacks.

- Establish a system for transferring homeland security developments or technologies to Federal, State, and local governments, and to private sector entities.

- Enter into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities.

- Collaborate with the Secretary of Agriculture and the Attorney General as provided in Section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. § 8401), as amended by Section 1709(b) of the Act.

- Collaborate with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as "select agents" in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to Section 351A of the Public Health Service Act (42 U.S.C. § 262a).

- Support United States leadership in science and technology.

- Establish and administer the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department.

- Coordinate and integrate all research, development, demonstration, testing, and evaluation activities of the Department.

- Coordinate with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs.

- Develop and oversee the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

## 3. Border and Transportation Security

The Directorate of Border and Transportation Security (“BTS”) will include the following: the Bureau of Border Security [now Bureau of Immigration and Customs Enforcement]; the Office for Domestic Preparedness; the Customs Service [now Bureau of Customs and Border Protection]; the Transportation Security Administration; FLETC; and FPS.

The BTS Directorate will also have in place the key leaders of the new Directorate to include:

a. *Under Secretary for BTS*: Will be responsible for oversight of all responsibilities set forth in Section 402 of the Act [6 U.S.C. 202], including the following:

- Prevent the entry of terrorists and the instruments of terrorism into the United States.

- Secure the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

- Establish and administer rules, in accordance with Section 428 of the Act [6 U.S.C. 236], governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

- Establish national immigration enforcement policies and priorities.

- Administer the customs laws of the United States, except as otherwise provided in the Act.

- Conduct the inspection and related administrative functions of the USDA transferred to the Secretary of Homeland Security under Section 421 of the Act [6 U.S.C. 231].

- In carrying out the foregoing responsibilities, ensure the speedy, orderly, and efficient flow of lawful traffic and commerce.

- Carry out the immigration enforcement functions specified under Section 441 of the Act [6 U.S.C. 251] that were vested by statute in, or performed by, the Commissioner of the INS (or any officer, employee, or component of the INS) immediately before the date on which the transfer of functions takes place.

b. *Assistant Secretary for Border Security*: Will report directly to the Under Secretary for Border and Transportation Security, and whose responsibilities will include the following:

- Establish and oversee the administration of the policies for performing such functions as are—

1. transferred to the Under Secretary for Border and Transportation Security by Section 441 of the Act and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

2. otherwise vested in the Assistant Secretary by law.

- Advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security [now Bureau of Immigration and Customs Enforcement] that may affect the Bureau of Citizenship and Immigration.

c. *Director of the Office for Domestic Preparedness*—Will report directly to the Under Secretary for Border and Transportation Security and will have the primary responsibility within the Executive Branch of the Federal Government for the preparedness of the United States for acts of terrorism, including the following responsibilities:

- Coordinate preparedness efforts at the Federal level, and work with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support.

- Coordinate or, as appropriate, consolidate communications and systems of communications relating to homeland security at all levels of government.

- Direct and supervise terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers.

- Incorporate homeland security priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness.

- Provide agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies, and international entities.

- As the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperate closely with the FEMA, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States.

- Assist and support the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate.

- Supervise those elements of the Office of National Preparedness of FEMA that relate to terrorism, which shall be consolidated within the Department in the ODP established pursuant to Section 430 of the Act [6 U.S.C. 238].

#### 4. Emergency Preparedness and Response

The Emergency Preparedness and Response Directorate will be headed by the Under Secretary for Emergency Preparedness and Response.

*Under Secretary for EP&R*: Will be responsible for all of those functions included within Section 502 [now 504] of the Act [6 U.S.C. 314], including:

- Helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies.

- With respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to the Act):

1. Establishing standards and certifying when those standards have been met;

2. Conducting joint and other exercises and training and evaluating performance; and,

3. Providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment.

- Providing the Federal Government’s response to terrorist attacks and major disasters, including:

1. Managing such response;

2. Directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to the Act) the Nuclear Incident Response Team;

3. Overseeing the Metropolitan Medical Response System; and

4. Coordinating other Federal response resources in the event of a terrorist attack or major disaster.

- Aiding the recovery from terrorist attacks and major disasters;

- Building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters.

- Consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and
- Developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

#### 5. Other Officers and Functions

a. *Director of the Bureau of Citizenship and Immigration Services*: Will report directly to the Deputy Secretary; and will be responsible for the following:

- Establishing the policies for performing such functions as are transferred to the Director by Section 451 of the Act [6 U.S.C. 271] or otherwise vested in the Director by law.
- Oversight of the administration of such policies.
- Advising the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security [now Bureau of Immigration and Customs Enforcement] of the Department, including potentially conflicting policies or operations.
- Establishing national immigration services policies and priorities.
- Meeting regularly with the Ombudsman described in Section 452 of the Act [6 U.S.C. 272] to correct serious service problems identified by the Ombudsman.
- Establishing procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to Congress within three months after its submission to Congress.

b. *Citizenship and Immigration Services Ombudsman*: Will report directly to the Deputy Secretary; and will be responsible for the following:

- Assisting individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;
- Identifying areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and
- Proposing changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate identified problems.

#### (3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

- The attached tables [not set out in the Code] provide estimates of the funds available to the agencies and entities that will be transferred to the Department by operation of the Act. The two tables include total funding (mandatory and discretionary including fees) and discretionary funding net of fees. The tables provide the enacted levels for 2002 and 2002 supplementals, and the President's requested levels for 2003.

Because of the current state of the 2003 budget process, information concerning the funds that will be available to each transferring agency on the date of the proposed transfers is not currently available and will not likely be available during the time period in which the President is to submit this Reorganization Plan. As additional information becomes available, it will be provided as may be required in accordance with the procedures under the Act for modification of this Plan or other applicable law.

#### (4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

- The attached tables [not set out in the Code] provide estimates of the unobligated balances as of September 30, 2002, for the agencies and programs that will be transferred to the Department. The first table provides estimates of unobligated balances for the accounts that are moving to the Department in whole. The second table provides estimates of the unobli-

gated balances in the accounts of which only a portion will be transferring to the new Department. These latter estimates, however, are of the unobligated balances for the full account, only a portion of which are associated with the activities that will be transferred to the Department. In addition, these unobligated balances are based on the Department of Treasury's estimates as of September 30, 2002, which are the latest available figures. Since October 1, 2002, Departments and agencies (except the Department of Defense) have been operating under continuing resolutions, and, as such, have been spending these balances to maintain current operations.

Authority to reallocate unexpended funds of agencies transferred under this Plan is found in H.J. Res. 124 [Pub. L. 107-294, Nov. 23, 2002, 116 Stat. 2062], the continuing resolution in effect currently and until January 11, 2003. The resolution provides authority for the Office of Management and Budget to transfer an amount not to exceed \$140,000,000 from unobligated balances of appropriations enacted before October 1, 2002 "for organizations and entities that will be transferred to the new Department and for salaries and expenses associated with the initiation of the Department." Such authority may be exercised upon providing 15 days' notice to the Appropriations Committees. We anticipate that it may be necessary to provide funding through such transfers both for transferring entities and for salaries and expenses associated with the initiation of the Department, including, for example, those associated with establishing the Office of the Secretary and other new offices provided for in the Act. Any plan to use such funding will follow the procedures required under the continuing resolution, including the provision of at least 15 days' notice to the Appropriations Committees.

#### (5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

- There is no intention to dispose of property, facility, contracts, records, and other assets and obligations of agencies transferred under the plan. All of such assets and obligations will transfer with each agency pursuant to Section 1511(d)(1) of the Act [6 U.S.C. 551(d)(1)].
- Prior to and during the transition period (as defined by Section 1501(a)(2) of the Act [6 U.S.C. 541(a)(2)]), the Department may identify property, facilities, contracts, records, and other assets and obligations of agencies transferred that would be candidates for disposition due to duplication, non-use, obsolescence, and the like. If and when any such proposed dispositions are identified, we will follow provisions of the Act relating to modification of this plan or further notification of Congress.

#### (6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

- As agencies and subdivisions are transferred into the Department, any functions of those entities that are not directly related to securing the homeland will continue to be allocated to the agencies and subdivisions in which they are currently incorporated.

[Bureau of Border Security renamed Bureau of Immigration and Customs Enforcement, and Customs Service renamed Bureau of Customs and Border Protection, by Reorganization Plan Modification for the Department of Homeland Security, H. Doc. No. 108-32, 108th Congress, 1st Session, set out below.]

[For transfer of functions of Strategic National Stockpile to Secretary of Health and Human Services, with certain exceptions, see section 3(c)(1), (2) of Pub. L. 108-276, set out as a note under section 247d-6b of Title 42, The Public Health and Welfare.]

#### MESSAGE OF THE PRESIDENT

38 Weekly Compilation of Presidential Documents 2095, Dec. 2, 2002; H. Doc. No. 108-16, provided:

THE WHITE HOUSE, Washington, November 25, 2002.

Dear Mr. Speaker: (Dear Mr. President:)<sup>1</sup>

Pursuant to section 1502 of the Homeland Security Act of 2002 [6 U.S.C. 542], I submit herewith the enclosed Reorganization Plan for the Department of Homeland Security. The Reorganization Plan provides information concerning the elements identified in section 1502(b), and is subject to modification pursuant to section 1502(d) of the Act. In accordance with section 1502(a) of the Act, please transmit this Reorganization Plan to the appropriate congressional committees.

The details of this Plan are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Sincerely,

GEORGE W. BUSH.

<sup>1</sup> **Editorial note.** This is the text of identical letters addressed to the Speaker of the House of Representatives and the President of the Senate.

Enclosure.

#### REORGANIZATION PLAN MODIFICATION FOR THE DEPARTMENT OF HOMELAND SECURITY

January 30, 2003

H. Doc. No. 108-32, 108th Congress, 1st Session, provided:

##### INTRODUCTION

This Reorganization Plan Modification is submitted pursuant to the Homeland Security Act (“the Act”) of 2002 [Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2135]. All elements of the Department of Homeland Security Reorganization Plan of November 25, 2002 (“the Plan”) [set out above] remain as submitted except for those modifications addressed herein.

##### PURPOSE OF MODIFICATION

This modification of the Plan is to establish and specify organizational units within the Border and Transportation Security Directorate. This modification presents a structural change, but does not consolidate, discontinue, or diminish transferred agencies’ current operations in the field.

##### PLAN MODIFICATIONS

(a) *Rename the “Bureau of Border Security” the “Bureau of Immigration and Customs Enforcement.”* As required by the Act, this Bureau will be headed by an Assistant Secretary who will report directly to the Undersecretary for Border and Transportation Security.

This Bureau will comprise Immigration Naturalization Service (INS) interior enforcement functions, including the detention and removal program, the intelligence program, and the investigations program. At the same time, pursuant to this modification, the interior enforcement resources and missions of the Customs Service and the Federal Protective Service will be added to this Bureau. The mission of the Bureau is:

1. To enforce the full range of immigration and customs laws within the interior of the United States; and,
2. To protect specified federal buildings.

The Assistant Secretary will:

1. Establish and oversee the administration of the policies for performing the detention and removal program, the intelligence program, and the investigation program functions as are—

(a) transferred to the Under Secretary for Border and Transportation Security by Section 441 of the Act [6 U.S.C. 251] and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(b) otherwise vested in the Assistant Secretary by law.

2. Advise the Under Secretary for Border and Transportation Security with respect to any policy or oper-

ation of the Bureau that may affect the Bureau of Citizenship and Immigration Services established under subtitle E of the Act [probably means subtitle E of title IV of the Act, 6 U.S.C. 271 et seq.], including potentially conflicting policies and operations.

(b) *Rename the “Customs Service” the “Bureau of Customs and Border Protection.”* This Bureau will be headed by the Commissioner of Customs and will report to the Under Secretary for Border and Transportation Security.

The Bureau will contain the resources and missions relating to borders and ports of entry of the Customs Service, the INS, including the Border Patrol and the inspections program, and the agricultural inspections function of the Agricultural Quarantine Inspection program.

The Commissioner will:

1. Establish and oversee the administration of the policies for performing the Border Patrol and inspections program functions as are—

(a) transferred to the Under Secretary for Border and Transportation Security by Section 441 of the Act [6 U.S.C. 251] and delegated to the Commissioner by the Under Secretary for Border and Transportation Security; or

(b) otherwise vested in the Assistant Secretary [probably should be “Commissioner”] by law.

2. Advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau that may affect the Bureau of Citizenship and Immigration Services established under subtitle E of the Act [probably means subtitle E of title IV of the Act, 6 U.S.C. 271 et seq.], including potentially conflicting policies and operations.

##### IMPLEMENTATION DATE

March 1, 2003

##### ELEMENTS REQUIRED BY THE ACT TO BE SUBMITTED WITH MODIFIED PLAN

(1) *Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.*

None.

(2) *Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.*

See plan modifications above.

(3) *Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.*

The table attached at Tab A [not set out in the Code] provides estimates of the funds available to the agencies affected by this modification that will be transferred to the Department by operation of the Act. The table includes total funding (mandatory and discretionary including fees) and discretionary funding net of fees. The table provides the President’s requested levels for 2003.

Because of the current state of the 2003 budget process, information concerning the funds that will be available to each transferring agency on the date of the proposed transfers is not currently available. As additional information becomes available, it will be provided as may be required in accordance with the procedures under the Act for modification of this Plan or other applicable law.

(4) *Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.*

The table attached at Tab B [not set out in the Code] provides updated estimates of the unobligated balances as of September 30, 2002, for the agencies affected by this modification that will be transferred to the Department. Since October 1, 2002, these agencies have been operating under continuing resolutions, and, as such, have been spending these balances to maintain

current operations. As additional information becomes available, it will be provided as may be required in accordance with the procedures under the Act for modification of this Plan or other applicable law.

(5) *Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.*

There is no intention to dispose of property, facilities, contracts, records, and other assets and obligations of agencies transferred under this modification. All such assets and obligations will transfer with each agency pursuant to Section 1511(d)(1) of the Act [6 U.S.C. 551(d)(1)].

(6) *Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.*

The functions of the agencies affected by this modification that are not directly related to securing the homeland will continue to be performed by the bureaus formed by this planned reorganization.

#### MESSAGE OF THE PRESIDENT

39 Weekly Compilation of Presidential Documents 136, Feb. 3, 2003; H. Doc. No. 108-32, provided:

THE WHITE HOUSE, Washington, January 30, 2003.

Dear Mr. Speaker: (Dear Mr. President:)<sup>1</sup>

Pursuant to section 1502 of the Homeland Security Act of 2002 [6 U.S.C. 542] (Public Law 107-296) (the "Act"), I submit herewith the enclosed Reorganization Plan Modification for the Department of Homeland Security (DHS), which represents a modification of certain aspects of the DHS Reorganization Plan [set out above] I submitted to you on November 25, 2002. The modification involves organizational units within the DHS Border and Transportation Security Directorate. The enclosed Reorganization Plan Modification provides information concerning the elements identified in section 1502(b), and is itself subject to modification pursuant to section 1502(d) of the Act. In accordance with section 1502(a) of the Act, please transmit this Reorganization Plan Modification to the appropriate congressional committees.

Sincerely,

GEORGE W. BUSH.

<sup>1</sup> **Editorial note.** This is the text of identical letters addressed to the Speaker of the House of Representatives and the President of the Senate.

#### § 543. Review of congressional committee structures

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

(Pub. L. 107-296, title XV, § 1503, Nov. 25, 2002, 116 Stat. 2309.)

#### PART B—TRANSITIONAL PROVISIONS

#### § 551. Transitional authorities

##### (a) Provision of assistance by officials

Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this chapter shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

##### (b) Services and personnel

During the transition period, upon the request of the Secretary, the head of any executive

agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

##### (c) Acting officials

(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this chapter to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this chapter (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this chapter. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this chapter for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this chapter shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this chapter and whose duties following such transfer are germane to those performed before such transfer.

##### (d) Transfer of personnel, assets, obligations, and functions

Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this chapter or other law.

##### (e) Prohibition on use of transportation trust funds

###### (1) In general

Notwithstanding any other provision of this chapter, no funds derived from the Highway Trust Fund, Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

###### (2) Limitation

This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development, and to any funds provided to the Coast Guard from the Sport Fish Restoration and Boating Trust Fund for boating safety programs.

(Pub. L. 107-296, title XV, § 1511, Nov. 25, 2002, 116 Stat. 2309; Pub. L. 108-7, div. L, § 103(4), Feb. 20,