

**Statement before the House Homeland Security Committee,
Subcommittee on Organization and Management Efficiency**

DHS Acquisition Practices: Improving Outcomes for Taxpayers Using Defense and Private Sector Lessons Learned

A Statement by

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Center for Strategic and International Studies (CSIS)

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Room 311, Cannon House Office Building

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Mr. Chairman, Congressman Barber and Members of the Subcommittee, I thank you for the opportunity to appear before you this afternoon as part of this distinguished panel to offer my views on the acquisition practices of the Department of Homeland Security (DHS) and on some of the lessons and best practices from the Defense Department (DoD) and the private sector that DHS could benefit from. My statement draws on a number of recent studies of the Center for Strategic and International Studies (CSIS), but both my written and oral statements are my own. They do not necessarily represent the views of CSIS.

I have been at CSIS for a dozen years, the past six as a full time program director, but I have been engaged in federal government acquisition and program management for a third of a century. I have worked on and studied the topic of today's hearing from inside the government, as a government contractor and consultant, as a professor in graduate courses, and with fact-based research at CSIS since before DHS was created.

Why Lessons Learned Matter

The Department of Homeland Security has been in existence just over ten years. I have followed with interest this subcommittee's series of hearings that look back at the department's first ten years and look forward to the future. Earlier this afternoon, this subcommittee heard from the DHS Under Secretary for Management and the representative of the Government Accountability Office (GAO) on the potential for improvement in DHS acquisition. The panel on which I am honored to sit will expand on their views by drawing from both our research and our own experience. As a new department, and DHS is still the newest federal cabinet agency we have, it is crucial that the leadership of the department learn the lessons of the successes (and the mistakes) of other federal agencies. It is equally crucial, though, that DHS not assume that what worked elsewhere will work the same way for DHS. This hearing is designed to help DHS move forward on both of those fronts: adopt and adapt good ideas from within the federal

government and from the private sector, but don't blindly assume that what worked somewhere else will work the same at DHS.

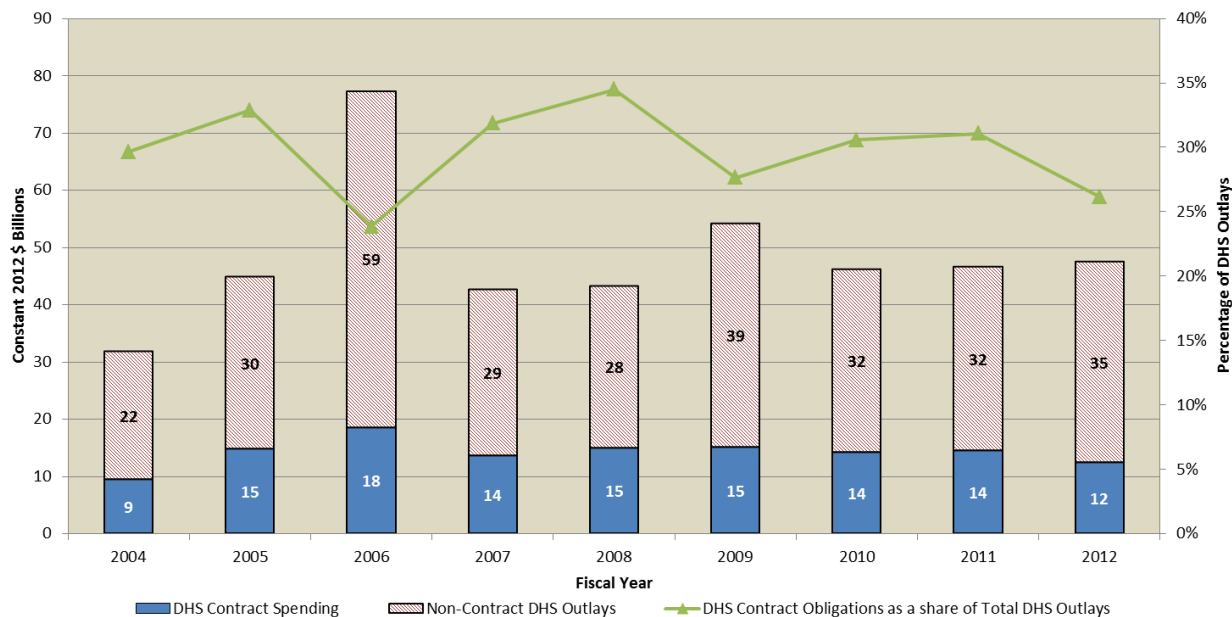
DHS Acquisition Performance

In conducting any review of lessons learned that should be applied to DHS, it is important to start with the current performance of the system. I would like to summarize the results of our research at CSIS. Our most recent published report on DHS procurement is the "U.S. Department of Homeland Security Contract Spending and the Supporting Industrial Base, 2004-2011". For this hearing, we updated our data and analysis to include 2012.¹ As is typical in our reports, this presentation will use constant dollars, in this case 2012 dollars. When 2013 data meet our reliability standards, likely early next year, we will update and issue a new report that will cover 2004 to 2013.

Here are some of the highlights. First, as you can see from Figure 1, in 2012 total DHS spending was up slightly compared to 2011, but contract spending was down significantly. After seven years in which DHS contract obligations were at least \$14 billion, spending dropped from \$14.5 billion in 2011 to \$12.4 billion in 2012, a one year decline of 14%.

Contract spending in 2012 for DHS was only slightly more than 25% of total spending, the smallest share of total spending since 2006 (a year in which total spending was driven up by Hurricanes Katrina and Rita).

Figure 1: Total DHS 2004-2012 Outlays and Contract Obligations

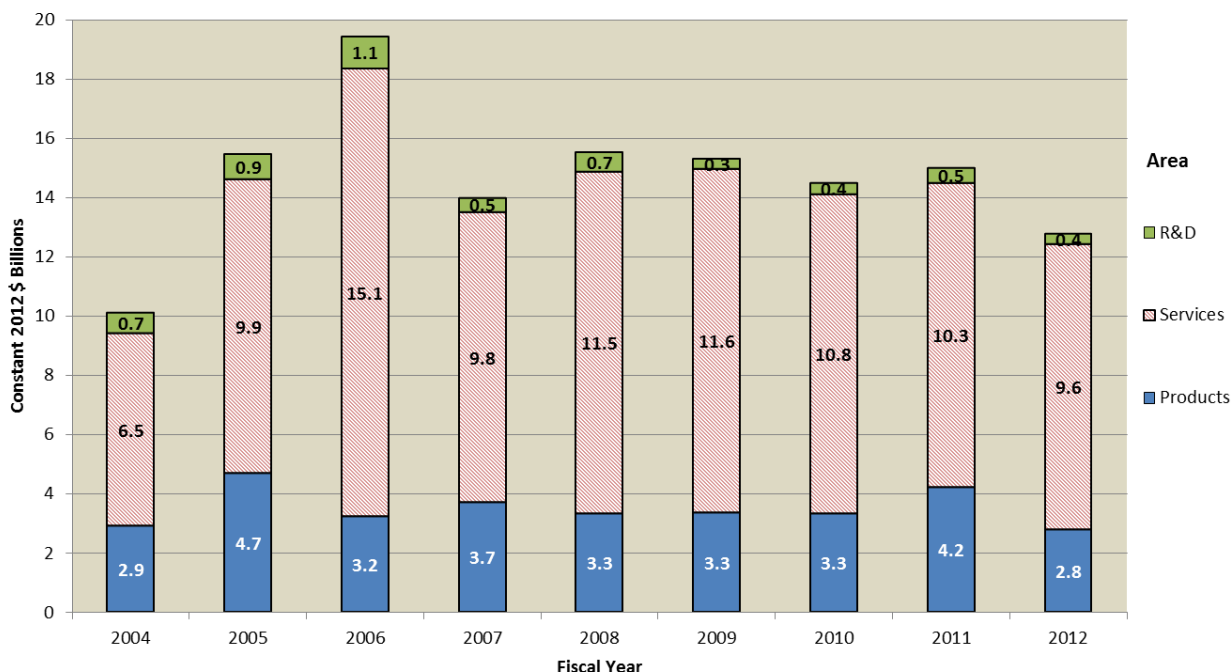


¹ CSIS uses for contract data the public information available in the Federal Procurement Data System, supplemented by direct examination of specific contract documents.

Overall spending in Figure 1 does reflect the first tranche of spending reductions from the Budget Control Act of 2011, but this figure does not show the impact of sequestration this past March. The biggest cause of changes in DHS overall spending is natural disasters, and this figure also does not reflect spending on Hurricane Sandy last October.

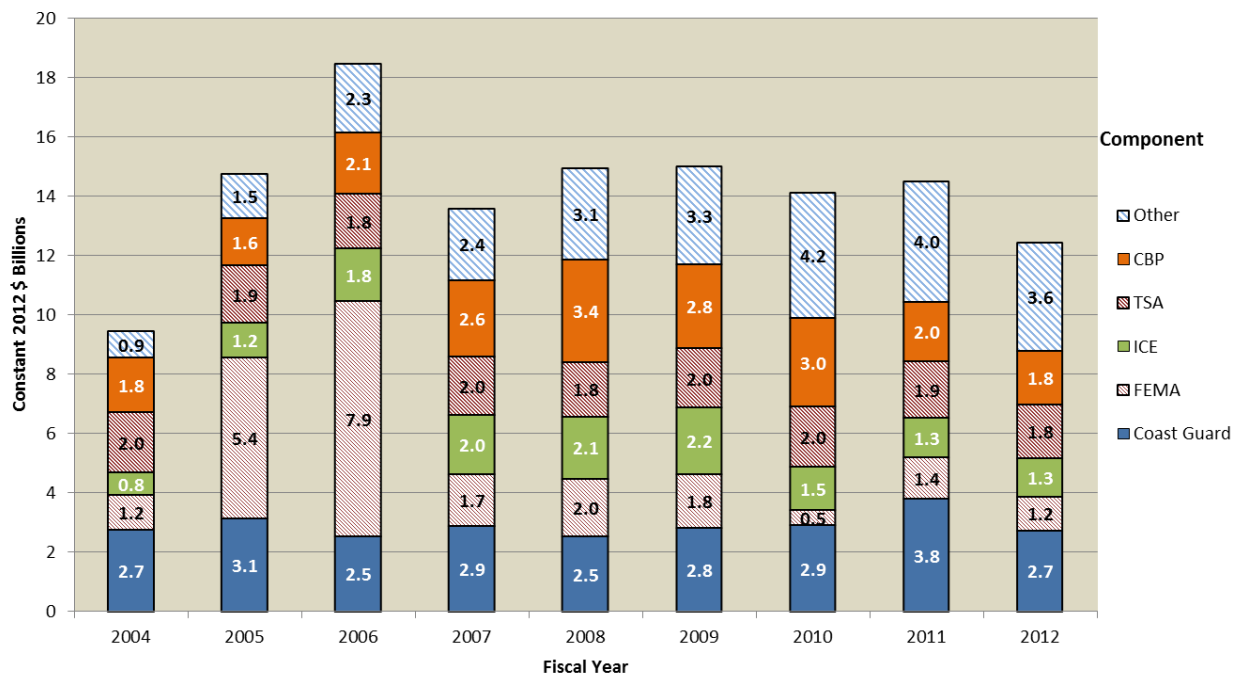
Figure 2 presents DHS contract obligations in terms of what is being obtained by the contracts. It shows contract spending in dollars (constant FY2012 billions) for the three categories of Products, Research & Development, and Services. The figure shows that from 2011 to 2012 spending on products is down 34%, on R&D is down 29%, and on services is down 6%.

Figure 2: DHS Contract Obligations 2004-2012 for Products, R&D, and Services



The two figures show contract spending for all of DHS combined. The next figure breaks down contract spending by the five major DHS components of the Coast Guard, the Federal Emergency Management Agency (FEMA), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), and Customs and Border Patrol (CBP), with the remainder of DHS combined under the domain of “Other”.

Figure 3: DHS Contract Obligations 2004-2012 by Component

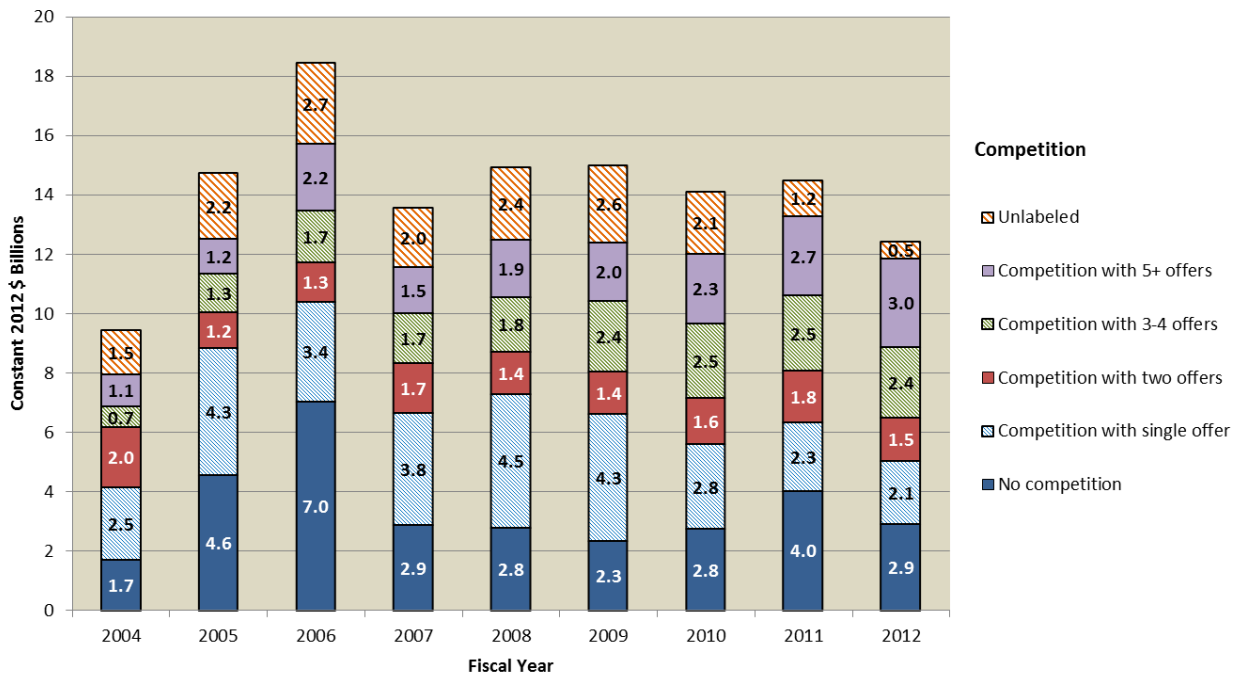


Contract obligations declined from 2011 to 2012 in every DHS component. The largest decline in both dollar and percentage terms was in the Coast Guard, where contract spending fell from \$3.8 billion to \$2.7 billion, or 28%. One reason for the large decline in Coast Guard contract spending was that the National Security Cutter was funded in 2011. As the figure shows, in 2012 the Coast Guard returned to their recent historical level. The “Other” category is almost entirely services contracts, and is primarily composed of IT services, professional services and facilities-related services at DHS-wide level or in smaller DHS components.

CSIS research analyzes and displays contract spending in many additional ways, including six separate categories of services contracts, as seen in our 2012 report referenced earlier. We are happy to provide this committee with any and all of our additional displays, should you find it useful.

DHS has focused considerable attention on increasing competition for contracts, but the results have been mixed. CSIS examines the number of bidders as well as whether the contract solicited competitive offers. Figure 4 below shows that DHS increased competitive contract obligations by 11% in competitions with five or more offers, from \$2.7 billion in 2011 to \$3.0 billion in 2012. These contracts now make up nearly one fourth of all DHS contract obligations in 2012, and the amount has increased every year for the past six years. Competitions with three or four bidders represent another 20% of total DHS contract obligations, and CSIS found that 55% of total 2012 DHS contract obligations were awarded after competition with two or more offers, up from 48% in 2011.

Figure 4: DHS Contract Obligations 2004-2012 by Competition and Number of Offers



CSIS also tracks contracts by a category that we call “Unlabeled”. The unlabeled category includes those entries where data fields are left blank, as well as those with obvious errors (such as a competitively awarded contract listed as receiving zero offers). Notably, DHS had made dramatic improvements in correcting the data entered into the Federal Procurement Data System (FPDS). Accuracy and completeness in data entry are essential to transparency and accountability. Although most agencies have reduced their totals of what CSIS calls “Unlabeled” contracts, DHS has made noteworthy progress in this regard, reducing problem entries by more than 80% since 2009.

CSIS also analyzes what we refer to as “Funding Mechanism” for contracts. In general, this characteristic tracks whether a contract is fixed price or cost reimbursable. Figure 5 below shows that DHS has obligated 63% of contract dollars in 2012 to fixed price contracts, down from 66% in 2011.

Figure 5: DHS Contract Obligations 2004-2012 by Contract Funding Mechanism

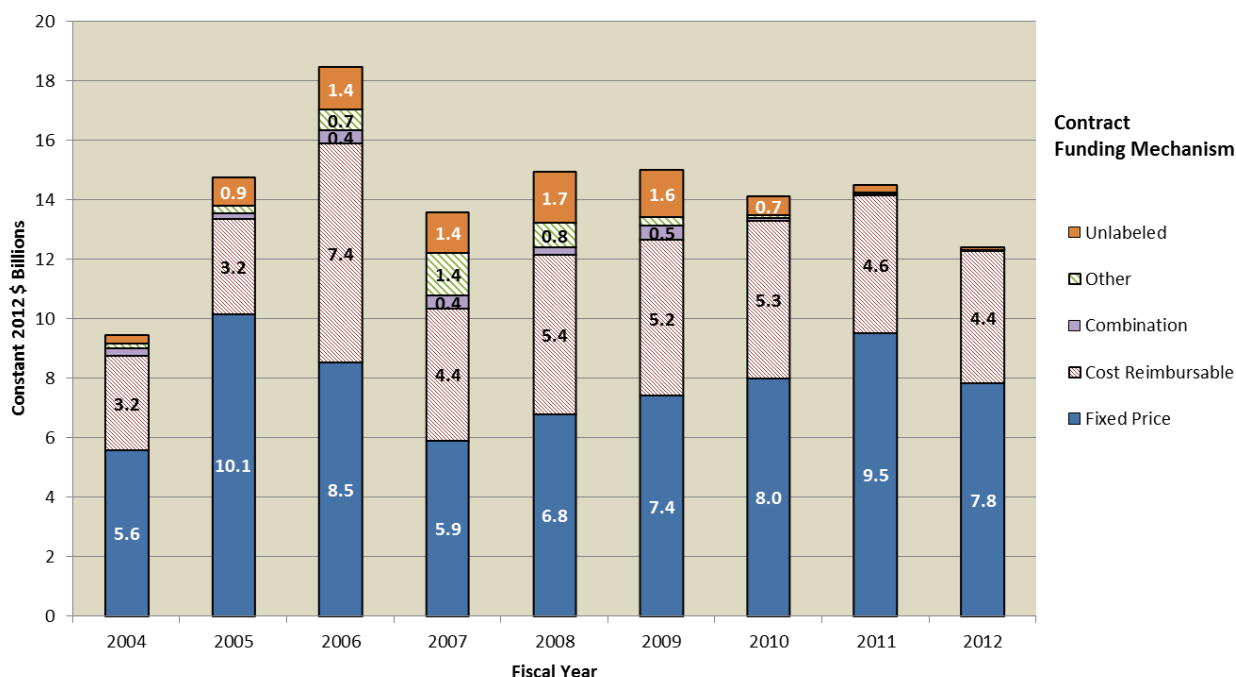
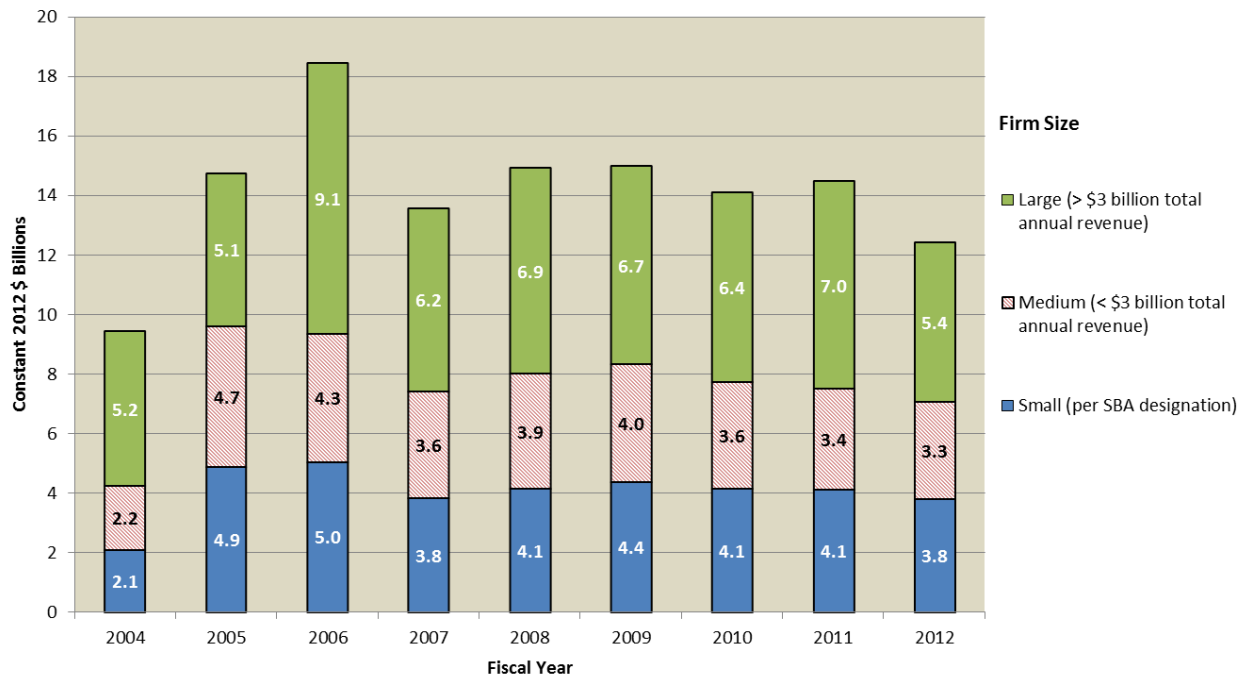


Figure 5 also shows that cost reimbursable contracts have gone from 35% of total obligations in 2009 to 36% in 2012. The reduction of contract spending entered as “unlabeled” or “combination” represents an increase in accuracy and accountability.

Finally, CSIS analyzes contract obligations in terms of the types of companies that win the contracts. Figure 6 shows that DHS is relying less on large firms in 2012 than in 2011. Small businesses were awarded 31% of contract spending in 2012, up from 28% in 2011. Mid-sized firms, with less than \$3 billion in total annual revenue, accounted for another 26% of 2012 contracts, up from 23% in 2011. Large firms, those with more than \$3 billion in total annual revenue, fell to 48% in 2012 from 43% in 2011.

Figure 6: DHS Contract Obligations 2004-2012 by Size of Firm



Overall, DHS contract data, for 2012 compared to 2011, show in constant 2012 dollars the following key trends:

- Overall spending on contracts is down 14%, with more than half of that reduction in the Coast Guard, tied to fewer ships
- The decline is seen most heavily in contract obligations for products, down 34%, while services contract obligations fell at just 6%. less than half the rate of the overall DHS decline
- 55% of DHS contract obligations are awarded after competition with two or more bids, up from 48 % in 2011
- Fixed price contracting remains the norm for DHS, accounting for 63% of contract obligations in 2012, down from 66% in 2011
- Increasing shares of DHS contract obligations are awarded to small and medium-sized firms

My team and I would be happy to provide additional information on any and all of this material to this committee or any of the members and staff.

Improving DHS Acquisition Outcomes

The previous section of my statement describes the current performance of the DHS acquisition system and the recent trends across a variety of measures for that performance. Let me turn now to the broader concern of this hearing, which is to consider steps that DHS can take to help improve its acquisition process and outcomes. This section takes a higher level view of challenges faced by DHS acquisition and possible improvements that could help address those challenges. As requested by the committee, I focus this section on lessons that DHS might learn from DoD and from the private sector.

Before listing some of those lessons, however, it is useful to step back to the creation of the Department of Homeland Security. At the very first hearing before the House Select Committee on Homeland Security on July 11, 2002, the administration witnesses stated unequivocally that joining 22 agencies and departments into the new Department of Homeland Security would engender such overhead efficiencies that total headquarters staffing and budgets could be reduced from the existing structures. Based on this belief, and without any publicly-available detailed assessment of requirements, DHS from its inception did not create a central mechanism for acquisition oversight. While some DHS leaders have provided senior focus on acquisition oversight, it has not up to now been institutionalized in DHS.

This is similar to the Defense Department in the decades prior to the Packard Commission's recommendations in 1986 and their subsequent enactment into law that same year. Congress created a statutory Under Secretary of Defense for Acquisition (now Acquisition, Technology, and Logistics) with primacy over all others in DoD save the Secretary and Deputy Secretary of Defense. While no similar position exists for DHS, it is important to note that DoD outspends DHS in total contract obligations by a factor of more than 30 to one. Still, the DHS roles of Chief Procurement Officer and Head of Contracting Activity warrant institutional support within the DHS organization structure.

Some DHS components have taken significant steps to correct past problems. As part of a study under an acquisition research grant from DoD's Naval Postgraduate School, CSIS is examining the governance structures for complex systems of systems. One of the systems we are investigating is the Coast Guard's Deepwater program, with a view to how changes over the past few years in response to Deepwater's challenges have made the overall acquisition process better. Based on our research to date, the Coast Guard seems to have made important strides toward integrating requirements, resources, and program milestone decisions in a way that will likely lead to better program outcomes. However, more time is needed to verify whether those outcomes meet expected needs.

Potential Lessons from the Department of Defense

There are three areas that, in my view, merit consideration as DHS looks to DoD for possible areas of acquisition improvement. I look at each of these areas in turn.

The first area is **organization and regulation**. At the time of the creation of DHS, there was a common theme that this was the largest reorganization in the federal government since the

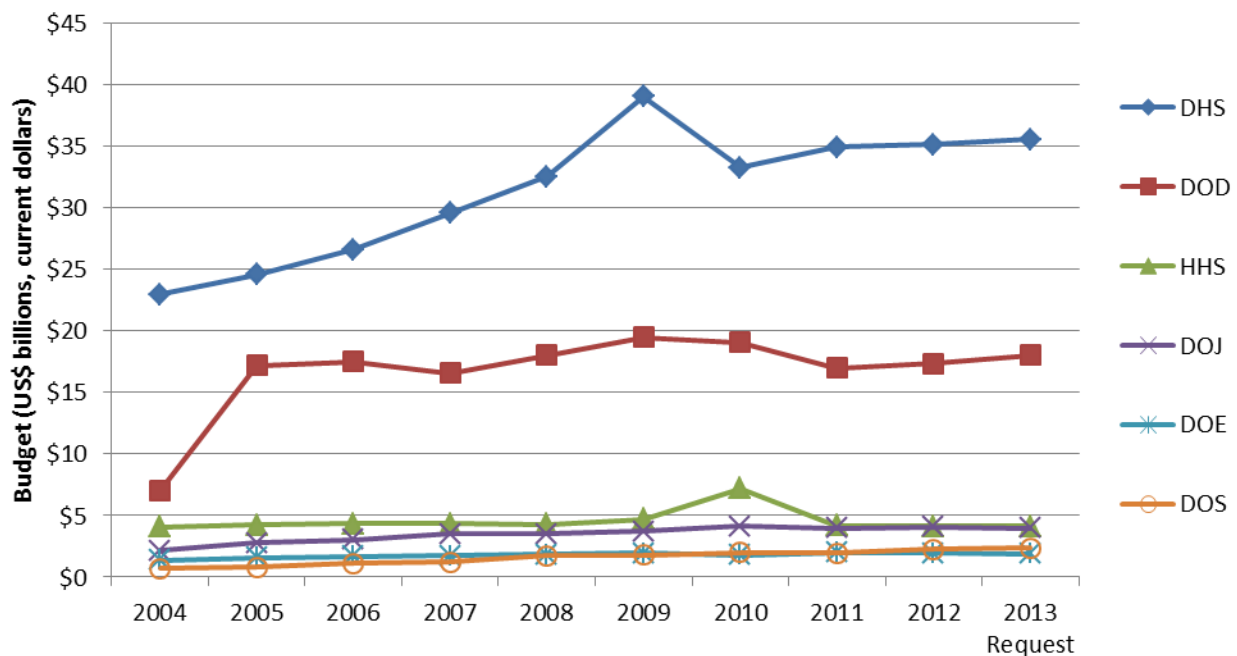
creation of the Defense Department in 1947. From a numbers point of view (both personnel and agencies), that statement is largely true. But it's important to remember how long it took DoD to evolve into a mature, functioning, relatively integrated cabinet agency. It took two years before the National Military Establishment set up under the 1947 Act even became a single department. It was 11 years before President Eisenhower's reforms, pushed through Congress over objections by the military, created what we now know as the Combatant Commands and began to take the Military Departments out of the chain of command for deployed forces. It took 14 years before the Planning, Programming, and Budgeting System was created to provide for an integrated DoD budget and long-range projection of the defense program. It was not until 1970, 23 years after the original Act, that Deputy Secretary of Defense David Packard penned the first DoD directive on the acquisition system that still exists, DoD Directive 5000.1; it was four pages long. And it was not until the Goldwater-Nichols Act of 1986, 37 years after the original Act, that the Chairman of the Joint Chiefs of Staff became the single principal military advisor to the Secretary of Defense and the President. Prior to that, requirements for consensus sometimes stymied the need for timely advice and decisions.

I note this history because we need to recognize that it takes a long time to create a new, unified, more efficient organization. It took 51 years for the executive branch and Congress to evolve today's process for the federal budget, from the initial creation of the Bureau of the Budget to the passage of the Budget Reform Act of 1974. Big changes take time.

Even so, it's not appropriate to say that what works for DoD will work for DHS. The organizations are not parallel or even similar. There is not, and likely never will be, the equivalent of DoD's Military Departments in DHS, focused on joint and common missions at home and around the globe. There is not, and likely never will be, the opportunity for single agencies to serve the entirety of DHS in the way that the Defense Logistics Agency or the Defense Contract Audit Agency does for DoD. In fact, that audit function supports agencies across the federal government, in a way that is unlikely for DHS in support missions.

Part of the reason for this difference is that DHS does not have the entire homeland security mission, either for the federal government or for the nation. As Figure 7 below depicts, only 54% of federal spending for homeland security missions is in the DHS budget. The rest resides in DoD, the Departments of State, Justice, Energy, and Health and Human Services, and numerous other federal agencies.

Figure 7: Federal Homeland Security Spending by Agency, 2004-2012



(Note: The figure above lists spending through 2012, the latest year for which CSIS has contract spending data. We plan to update this chart when we update our report this coming winter.)

The role of the federal government in homeland security is also dramatically different than it is for defense. In addition to non-DHS federal spending, significant responsibilities rest with state and local governments and in the private sector. There is no equivalent for DoD to this widespread distribution of responsibilities, which makes it more difficult to take DoD solutions and apply them to DHS.

As one example of that difficulty, look at **DoD's acquisition regulations**, which dwarf those of civilian agencies, including DHS. In addition to the government-wide Federal Acquisition Regulation (the FAR), there is a DoD-wide supplement to the FAR (the DFARS), and each DoD major component has its own supplement to the supplement (Army, Navy, Air Force, and the Defense Logistics Agency, among others). The four page DoD directive from David Packard has grown to hundreds of pages, much of which is the result of statutory and regulatory fixes to specific problems that have never been internally rationalized or reconciled. These layers of regulation often serve potentially useful purposes from the point of view of the covered component or the Congress, but they add unnecessary complexity to procurements and confusion to firms that need compliance systems that can accommodate all forms of acquisition regulation. In addition, with each passing year, the magnitude of these layers of acquisition grows larger. Congress needs to act to integrate and rationalize the overall set of acquisition statutory requirements for DoD before anyone tries to apply them to other agencies like DHS, and DHS should carefully consider whether DoD rules make sense for it. For example, in my view, the last thing DHS needs is to force the Coast Guard to consider and apply the 29,000 pages of

Naval Vessel Rules promulgated for ship construction and maintenance by the Naval Sea Systems Command.

The second area for consideration is the **structure of incentives and disincentives** that DoD has in place to reward proper contract management and oversight. Ultimately, DoD is its own customer for the programs it designs, procures, and operates and maintains. Thus, the feedback for successful program execution and acquisition performance is reflected in mission accomplishment by the troops in the field. While this is often the case for DHS, it is equally likely that the ultimate user of a DHS-procured system or program is in another federal agency or tied to first responders at the state or local level or even in the private sector. Mission success is harder to measure for the DHS acquisition community.

One of the most significant attempts to create better incentives for DoD acquisition system performance was the passage of the **Nunn-McCurdy Act** in 1982 as part of the FY 1983 National Defense Authorization Act. This statute was designed to force DoD to report on major cost and schedule overruns and performance underruns, and its namesake authors expected the requirements to lead to better acquisition performance in DoD. While CSIS has not explicitly assessed the efficacy of the Nunn-McCurdy Act, our work on cost and schedule overruns in major defense acquisition programs indicates that few programs have been cancelled as a direct result of major Nunn-McCurdy breeches. Instead, for 30 years, defense secretaries have rebaselined breach programs and certified those new baselines, in some cases only to see new breeches arise within just a few years. While some of these programs are eventually cancelled, it's not usually because of a Nunn-McCurdy breach report.

Still, there has been value in the Selected Acquisition Reports that DoD issues each year in compliance with Nunn-McCurdy requirements. These reports provide a standardized method of reporting to Congress and the interested public on the performance of major acquisition programs, with consistency over time and across the various DoD Military Departments and components. DHS would do well to consider, and Congress should consider requiring, a more standardized and universal mechanism for DHS to report to Congress on the cost and schedule baselines and performance for major acquisition programs, including IT programs. DHS provides Congress much information and material today, but it is not standardized, it is not reported equally to the interested committees, and it is often not available to the public. Congress and DHS should work together to find a useful way to standardize and publicize reporting.

The third area is the **recruitment, training, and retention of the acquisition workforce**. DoD used furloughs in FY 2013 to meet sequestration targets for cutting costs. The furlough process and its accompanying practice of forcing contracting officers and the acquisition workforce to “work to the rules” have produced anecdotes of reduced output, delayed contracts, and undermined morale in the workforce. It is difficult to analyze how widespread these anecdotes are, but it is clear from the monthly Treasury Department data that DoD spending is down in the fourth quarter to an extent greater than just that driven by sequestration. The long term effects of furloughs on the DoD workforce will need to be watched closely.

The lesson for the acquisition workforce of the last budget drawdown in DoD is that it is far easier to get rid of parts of the workforce than it is to rebuild it. DoD has been rebuilding the acquisition and technical workforce for 12 years now, with a renewed focus under Section 852 authority over the last five years, but DoD is still not back to the sustainable demographic and experience level that was present at the end of the Cold War in 1989. DHS needs to pay attention to DoD's experience as it works to train and retain its own acquisition workforce.

Potential Lessons from the Private Sector

There has been a long history of attempts to translate and apply commercial best practices to government operations. Many of these efforts have failed to produce measureable results, for reasons that range from the different legal structures in the government (such as requirements for using cost and pricing data instead of defining contract outcomes to obtain the best value) to the lack of equivalent management tools (such as no balance sheet, capital budget, or time value of money for investments). But one area where the federal government in general and DHS in particular can learn from the private sector is in taking better advantage of technology developed in the global commercial sector.

The DHS Science and Technology office has evolved to focus its spending more on the development and application of technology rather than investing in basic research. In this way, DHS may have the opportunity to match or exceed current DoD efforts to identify commercial technology with value for incorporating into government acquisition programs. This is not only true for information systems and technology but for a broad array of technologies that range from sensors to adaptive manufacturing (also called 3D printing). But DHS must find ways to reduce barriers to successful incorporation of commercially-developed technology, including the perception that the government does not adequately value or protect proprietary data and intellectual property, information that for commercial companies is their competitive advantage in a global marketplace.

Conclusion

Mr. Chairman, Congressman Barber, Members of the Subcommittee, there is much more to discuss and address on all of these issues. The information presented above provides the highlights of our work at CSIS over the past two years on these issues. We are happy to provide you with additional material on these and other related issues, should you desire. Thank you for the opportunity to appear today before the subcommittee, particularly along with the other panel members with me today. I welcome your comments and questions.