



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

**James L. Oberstar**  
Chairman

Washington, DC 20515

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Ranking Republican Member

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September 9, 2009

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Committee on Appropriations  
U.S. House of Representatives  
H-218, The Capitol  
Washington, DC 20515

Ranking Member Jerry Lewis  
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U.S. House of Representatives  
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Chairman David E. Price  
Subcommittee on Homeland Security  
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Ranking Member Harold Rogers  
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Chairman Daniel K. Inouye  
Committee on Appropriations  
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Washington, DC 20510

Ranking Member Thad Cochran  
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Chairman Robert C. Byrd  
Subcommittee on Homeland Security  
Committee on Appropriations  
U.S. Senate  
Dirksen Senate Office Building 135  
Washington, DC 20510

Ranking Member George Voinovich  
Subcommittee on Homeland Security  
Committee on Appropriations  
U.S. Senate  
Dirksen Senate Office Building 135  
Washington, DC 20510

Dear Sirs:

As you go to conference on H.R. 2892, the fiscal year (FY) 2010 Department of Homeland Security appropriations bill, we write in strong support of a proposal in the Senate amendment related to the Federal Protective Service (FPS).

The Honorable Dave Obey  
The Honorable Jerry Lewis  
The Honorable David E. Price  
The Honorable Harold Rogers  
The Honorable Daniel K. Inouye  
The Honorable Thad Cochran  
The Honorable Robert C. Byrd  
The Honorable George V. Voinovich  
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Specifically, the provision beginning on page 27, line 16, of the Senate amendment provides for the operation of the FPS in FY 2010 through security fee collections. The inclusion of this provision in Title III of the Senate amendment effectively transfers the FPS from the U.S. Immigration and Customs Enforcement (ICE) agency to the National Protection and Programs Directorate (NPPD) of the Department of Homeland Security (DHS), as recommended in the President's FY 2010 Budget Request.

In contrast, H.R. 2892 as passed by the House includes the FPS provision in Title II, within the ICE budget, and prohibits any funds made available in the Act from being used to modify or restructure the bureaucratic organization of the Federal Protective Service as part of U.S. Immigration and Customs Enforcement.

For the reasons set forth below, we strongly support the transfer of FPS to the NPPD, and urge you to adopt the Senate position on this issue in conference. A recently released preliminary Government Accountability Office (GAO) report (GAO-09-859T) has reinforced our concern that FPS would be better able to meet its mission of protecting Federal buildings if it is not in the ICE agency.

The report cited efforts by GAO investigators to penetrate ten high security buildings with liquid bomb making equipment and to build actual bombs (with inert ingredients) inside the facilities. In each instance, the GAO investigator passed through security by security guards using x-ray machines and magnetometers at building entrances and then entered bathrooms and other areas where they were all able to assemble explosive devices.

This report follows a March 2008 GAO report (GAO-08-476T) requested by our Committee which found that, since the FPS' transfer from the General Services Administration (GSA) to ICE, security at Federal facilities has diminished and the risk of crime or terrorist attacks at many Federal facilities has increased. From FY 2004 to FY 2007, the FPS has cut the number of police officers by 40 percent (144 police officers) and inspectors by 10 percent (59 inspectors). As a result, FPS admitted that, "authorized fees and FTE [full-time equivalent] levels have not been sufficient to ensure that basic security services are available and provided to all facilities that the FPS is tasked to protect."

The Committee on Transportation and Infrastructure has been concerned with the placement of the FPS within the ICE division of DHS since its inception. In a June 14, 2005 letter to Department of Homeland Security Secretary Michael Chertoff, we wrote:

The placement of the FPS within the ICE division has raised concerns regarding not only its funding but also its ability to maximize its institutional security and law enforcement expertise.

The Honorable Dave Obey  
The Honorable Jerry Lewis  
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The Honorable Daniel K. Inouye  
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The Honorable George V. Voinovich  
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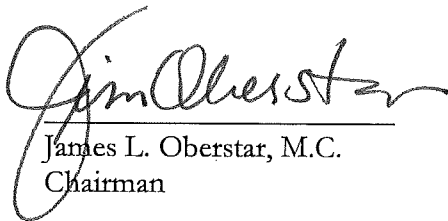
Organizationally, since FPS is not focused on immigration, customs or transportation missions, its capabilities could be diminished and certainly not optimized. The agency has a separate funding source, regional offices, command structure and mission. It appears none of these elements aligns well with ICE.

There is virtually no overlap between the missions of FPS and ICE: FPS has primary security responsibility for almost 9,000 Federal buildings; ICE is the chief enforcement agency for immigration and customs violations.

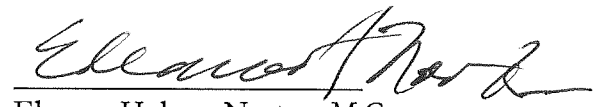
The GAO reports make very clear the need for major reform of FPS. We believe that moving FPS from ICE to the NPPD is a critical first step on the road to comprehensive reform of this important federal agency.

Thank you for your consideration.

Sincerely,



James L. Oberstar, M.C.  
Chairman



Eleanor Holmes Norton, M.C.  
Chairwoman  
Subcommittee on Economic  
Development, Public Buildings,  
and Emergency Management

cc: The Honorable John L. Mica, Ranking Member, Committee on Transportation and Infrastructure

The Honorable Mario Diaz-Balart, Ranking Member, Subcommittee on Economic Development, Public Buildings, and Emergency Management