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# LEGISLATIVE PROCEDURES

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## I. Purpose

This Directive establishes Department of Homeland Security (DHS) policy and assigns responsibilities regarding Departmental review and coordination of the following documents and transmittals that express official legislative views of DHS: Draft Legislation, Legislative Reports, Legislative Comments, Legislative Programs, Questions for the Record, and Congressional Testimony.

## II. Scope

This Directive applies to all DHS Organizational Elements (as defined below), except the Office of Inspector General.

## III. Authorities

This Directive is governed by numerous Public Laws, Executive Orders, regulations, and circulars, such as:

- A. Section 5421 of the "Omnibus Trade and Competitiveness Act of 1988" (P.L. 100-418).
- B. Public Law 104-13, Paperwork Reduction Act of 1995, Public Law 104-106, Clinger Cohen Act, 5 CFR Part 1320, "Controlling Paperwork Burdens on the Public," revised May 10, 1988 (53 FR 16618) (see also 5 CFR Part 1320.10 and OMB annual bulletins concerning Information Collection Budgets).
- C. The Homeland Security Act of 2002, as amended (P.L. 107-296).
- D. Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," dated March 15, 1988 (53 FR 8859).
- E. Executive Order 12958, as amended ("Classified National Security Information").
- F. Executive Order 13132, "Federalism," dated August 4, 1999 (64 FR 43255).

- G. Office of Management and Budget (OMB) Circular A-19 (Revised), "Legislative Coordination and Clearance."
- H. DHS Management Directive 0010.1, "Management Directive System and DHS Announcements."
- I. DHS Management Directive 11045, "Protection of Classified National Security Information/Accountability, Control, and Storage."
- J. DHS Management Directive 11060, "DHS Operations Security Program."

## IV. Definitions

- A. **Congress**: Includes the Senate and the House of Representatives, and any member, committee, subcommittee, conference committee, or staff thereof.
- B. **Authorization Report**: Any Legislative Report intended for transmittal to the Congress, which is required by enacted authorizing legislation or requested in a related Congressional committee, chamber, or conference report and intended for transmittal to the Congress.
- C. **Appropriations Report**: Any Legislative Report intended for transmittal to the Congress, which is required by enacted appropriations legislation or requested in a related Congressional committee, chamber, or conference report and intended for transmittal to the Congress.
- D. **Congressional Testimony**: Any written expression of views, including supporting materials, prepared by a DHS Organizational Element, or prepared by another department or agency of the Federal Government on which legislative comment is requested of a DHS Organizational Element, and which is intended for submission to, or for oral presentation before, the Congress in connection with any hearing.
- E. **Designated DHS Official**: Senior DHS officials as designated by the Secretary, Deputy Secretary, or Under Secretaries with responsibility for drafting, reviewing, or commenting upon Draft Legislation, Legislative Comment, Congressional Testimony, Legislative Report, Pending Bills, or Legislative Programs.
- F. **DHS Organizational Element**: As used in this directive, DHS Organizational Element is as defined in DHS MD Number 0010.1, "Management Directive System and DHS Announcements."

G. **Draft Legislation**: Any of the following (including supporting documents) prepared by or for a DHS Organizational Element which is intended for transmittal to the Office of Management and Budget (OMB), any other department or agency of the Federal Government or the Congress, or otherwise intended to be made available outside the Department:

1. Draft bill or resolution, or amendment thereto;
2. Draft amendment to a pending bill; or
3. Recommendation or proposal for specific legislative action.

H. **Legislative Comments**: Any written or oral expression of views prepared by or for a DHS Organizational Element that is intended for transmittal to OMB or any department or agency of the Federal Government, or is otherwise to be made available outside the Department, concerning any Draft Legislation, Legislative Report, other Legislative Comment, or Congressional Testimony not prepared by a DHS Organizational Element.

I. **Legislative Program**: The annual list of specific legislative proposals prepared by the Department of Homeland Security pursuant to OMB Circular A-19.

J. **Report to Congress**: Any report required by enacted legislation or requested in a Congressional committee, chamber, or conference report and intended for transmittal to the Congress, including Authorization Reports and Appropriation Reports.

K. **Pending Bill**: Any bill, resolution, proposal, or amendment:

1. Introduced in the Congress;
2. Pending before or under consideration by the Congress, whether or not it has been introduced; or
3. That has passed both Houses of Congress, whether or not it has been presented to the President as an enrolled bill for signature.

L. **Question for the Record (QFR)**: A written question issued by a Congressional chamber, conference, committee, or member following the appearance of a Department official at a Congressional hearing and intended for inclusion in the official Congressional Record of such hearing.

## V. Responsibilities

A. **The Chief of Staff:** The Chief of Staff (COS), through the Office of the Chief of Staff, is the principal staff element of the Office of the Secretary in developing and managing DHS policy. On behalf of the Secretary, COS, assists the Secretary in approving DHS decisions regarding when and how to communicate with the Congress, including clearance of any Draft Legislation, Legislative Report, Legislative Comment, QFR, Legislative Program, Pending Bill, or Congressional Testimony. With the Secretary's approval, the COS's responsibilities under this MD may be exercised by another office (e.g., an Assistant Secretary for Policy).

B. **Assistant Secretary for Legislative Affairs:** The Assistant Secretary for Legislative Affairs, through the Office of Legislative Affairs (Legislative Affairs), performs the following tasks relating to the preparation and review of Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, Pending Bills, and Congressional Testimony which relate primarily to all issues other than appropriations:

1. Reviewing documents, including Draft Legislation, Legislative Reports, Legislative Comments, QFRs, and Congressional Testimony, with the assistance from DHS Organizational Elements;
2. Providing the Office of the General Counsel (OGC) with Congressional testimony cleared by the originating DHS Organizational Element (and any supervising DHS Organizational Element in which the originating DHS Organizational Element operates), and resolving any conflicting views raised during DHS clearance prior to providing revised testimony to OGC for coordination of any required Executive Branch review with OMB;
3. Preparing procedures and providing guidance to DHS officials in the drafting of Congressional Testimony and QFRs;
4. Managing and coordinating the QFR process in conjunction with OGC including assigning QFRs to the appropriate DHS Organizational Elements to answer, tracking the status of QFRs, preparing and compiling answers for clearance, resolving any conflicting views raised during DHS clearance prior to providing revised QFRs to OGC for coordination of any required Executive Branch review with OMB, and transmitting cleared responses to the Congress.
5. Obtain clearance from the Executive Secretary for all Legislative reports and draft legislation to be transmitted to the Congress that involve the signature of either the Secretary, Deputy Secretary or Chief of Staff, including legislative reports to be transmitted to OMB recommending that the President veto an enrolled bill.

C. **Under Secretary for Management:** The Under Secretary for Management, acting through the Chief Financial Officer (CFO), performs the following tasks relating to the preparation and review of Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, Pending Bills, and Congressional Testimony arising out of the appropriations process:

1. Drafting and reviewing documents, including Draft Legislation, Legislative Reports, Legislative Comments, QFRs, and Congressional Testimony, with the assistance from DHS Organizational Elements;
2. Obtaining all clearances and/or comments from DHS Organizational Elements, including legal review by OGC, resolving conflicting views, and coordinating any required Executive Branch review with OMB;
3. Obtaining clearance from the Executive Secretary for all Legislative Reports and Draft Legislation to be transmitted to the Congress which involve the signature of the Secretary, including Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill; and;
4. Preparing procedures and providing guidance to DHS officials in the drafting of Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony.

Managing and coordinating the completion and clearance of QFRs related to appropriations, including assigning QFRs to the appropriate DHS Organizational Elements to answer, tracking the status of QFRs, preparing and compiling answers for clearance, resolving any conflicting views raised during DHS clearance prior to providing revised QFRs for coordination of any required Executive Branch review with OMB, and transmitting cleared responses to the Congress.

D. **The General Counsel:** The General Counsel (OGC), through the Associate General Counsel for Rules and Legislation, performs the following tasks relating to the preparation and review of Draft Legislation, Congressional Testimony, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and/or Pending Bills:

1. Drafting documents, including Draft Legislation and Congressional Testimony, with the assistance from appropriate DHS Organizational Elements;

2. Obtaining all clearances and/or comments from appropriate DHS Organizational Elements, including budgetary review by the CFO, resolving conflicting views, and coordinating any required Executive Branch review with OMB;
3. Obtaining clearance from the Executive Secretary for all Legislative Reports, Draft Legislation, and QFRs to be transmitted to the Congress which involve the signature of the Secretary, including Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill; and
4. Preparing procedures and providing guidance to DHS officials in the drafting of Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony.

E. **Executive Secretary:** The Executive Secretary, through the Office of the Executive Secretary, performs the following tasks relating to the preparation and review of Legislative Reports and Draft Legislation to be transmitted to the Congress which involve the signature of the Secretary, including Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill:

1. Initiating the preparation of Legislative Reports and Draft Legislation with the assistance of OGC, Legislative Affairs, the CFO, and DHS Organizational Elements, as appropriate;
2. Obtaining all clearances and/or comments from appropriate DHS Organizational Elements and resolving conflicting views, with the assistance of OGC, Legislative Affairs, the CFO, and DHS Organizational Elements as appropriate; and
3. Preparing procedures and providing guidance to DHS officials in the drafting of Legislative Reports and Draft Legislation.

F. **Designated DHS Officials:** All Designated DHS Officials responsible for the preparation and review of Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, Pending Bills, and Congressional Testimony in their areas of responsibility perform the following tasks:

1. Drafting documents, including Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony;
2. Obtaining all reviews and approvals necessary for clearance and submission to the CFO, or to the Office of Legislative Affairs for referral to the Office of the General Counsel, for further coordination and clearance; and

3. Providing substantive review of, comments on, and concurrence on all documents circulated by the Office of Legislative Affairs, Office of the General Counsel, Office of the Under Secretary for Management, and Office of the Executive Secretary, whether such documents are drafted within DHS or originate outside the Department.

## VI. Policy & Procedures

A. **Policy.** It is the policy of the Department of Homeland Security that Draft Legislation, Legislative Reports, Legislative Comments (including responses to inquiries by OMB regarding legislative products not generated by a DHS Organizational Element), QFRs, Legislative Programs, and Congressional Testimony prepared by DHS Organizational Elements express the policy of the Department, are consistent with the policy of the Administration, and are legally sufficient. Consistent with law, all transmittals shall be fully reviewed and coordinated within the Department and, as appropriate, within the Executive Branch, prior to their transmittal, presentation, release, or other dissemination.

B. **Procedures.**

1. Except as provided in paragraph VI.B.2, no Draft Legislation, Legislative Report, Legislative Comment (including responses to inquiries by OMB regarding legislative products not generated by a DHS Organizational Element), QFR, Congressional Testimony, or item prepared for inclusion in a Legislative Program that purports to represent the official views of the Department or any DHS Organizational Element shall be transmitted or presented to OMB, any department or agency of the Federal Government, or the Congress, or otherwise made available outside the Department, until review and coordination have been completed in accordance with paragraph VI.C.
2. In carrying out their responsibilities under this Directive, the Office of the General Counsel or the Chief Financial Officer may, with respect to any document that is subject to Executive Branch coordination by OMB prior to transmittal to the Congress or other dissemination, initiate coordination with OMB prior to the completion of Departmental review and coordination required by paragraph VI.A.
3. Draft Legislation, Legislative Reports, and Legislative Comments not related to appropriations shall be transmitted to OGC (or to Legislative Affairs for referral to OGC) for review and coordination.
4. Draft Legislation, Legislative Reports, Legislative Comments, Congressional Testimony, and QFRs related to appropriations shall be transmitted to CFO for review and coordination.

5. QFRs not related to appropriations and Congressional Testimony shall be prepared at the direction of Legislative Affairs and shall be transmitted by DHS Organizational Elements to Legislative Affairs and referred to OGC for further coordination and clearance.

6. Legislative Program submissions shall be prepared and reviewed by DHS Organizational Elements as coordinated by OGC or CFO.

C. **Review and Coordination.**

1. QFRs not related to appropriations and Congressional Testimony.

a. Legislative affairs.

(1) Except as provided in subparagraph (2) below, Legislative Affairs shall obtain all appropriate clearances within the Department.

(2) Referral to OGC. Legislative Affairs shall refer to OGC for review and coordination pursuant to paragraph VI.C.1 any Congressional testimony or QFR responses once cleared by the originating DHS Organizational Element (and any directorate in which the originating DHS Organizational Element operates) and resolve any conflicting views raised during DHS clearance prior to providing revised Congressional Testimony or QFR responses to OGC for coordination of any required Executive Branch review with OMB.

b. DHS Organizational Elements. DHS Organizational Elements shall provide comments, testimony, and QFRs to Legislative Affairs on a timely basis and in the manner prescribed by Legislative Affairs. Legislative Affairs shall provide sufficient notice of time requirements to allow DHS Organizational Elements to adequately perform analysis, prepare comments, testimony and QFRs, and complete clearances.

2. Draft Legislation, Authorization Reports, Legislative Comments, and Legislative Programs not related to appropriations.

a. OGC. Except as provided in paragraphs VI.B.2 and VI.C.3, OGC shall:

(1) Obtain all clearances and/or comments from appropriate DHS Organizational Elements, resolve conflicting views, and coordinate with OMB any required Executive Branch review; and

(2) Obtain clearance from the Executive Secretary for all Legislative Reports and Draft Legislation requiring approval of the Secretary or Deputy Secretary and to be transmitted to the Congress, and for Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill.

b. DHS Organizational Elements. DHS Organizational Elements shall provide clearances and/or comments to OGC in a reasonable and timely manner, within the time allowed by external constraints. OGC shall provide sufficient notice of time requirements to allow DHS Organizational Elements to adequately perform analysis, prepare comments, and complete clearances.

3. Draft Legislation, QFRs, Appropriations Reports, Legislative Comments, Legislative Programs, and Congressional Testimony arising out of the appropriations process.

a. Office of the Under Secretary for Management. For Draft Legislation, QFRs, Appropriations Reports, Legislative Comments, Legislative Programs, and Congressional Testimony arising out of the appropriations process, the Office of the Under Secretary for Management, acting through the Chief Financial Officer (CFO), shall:

(1) Obtain all clearances and/or comments from appropriate DHS Organizational Elements, resolve conflicting views, and coordinate with OMB any required Executive Branch review; and

(2) Obtain clearance from the Executive Secretary and OGC for all Appropriations Reports and Draft Legislation to be transmitted to the Congress, and for Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill.

b. DHS Organizational Elements. DHS Organizational Elements shall provide clearances and/or comments to the CFO on a timely basis and in the manner prescribed by the CFO. The CFO shall provide sufficient notice of requirements to allow DHS Organizational Elements to adequately perform analysis, prepare comments, and complete clearances.

4. Legislative Reports and Draft Legislation to be transmitted to the Congress and Legislative Reports to be transmitted to OMB recommending that the President veto an enrolled bill.

a. Executive Secretary.

(1) The Office of the Executive Secretary shall obtain all appropriate clearances within the Department, with assistance as appropriate from OGC, Legislative Affairs, and the CFO, with assistance as appropriate from OGC, the Assistant Secretary for Legislative Affairs, and the CFO.

(2) Referral to OGC. The Office of the Executive Secretary shall refer to OGC for review and coordination, pursuant to paragraph VI.C.1, all authorizing Legislative Reports and Draft Legislation upon clearance by the Department for any coordination of any required Executive Branch review with OMB.

(3) Referral to CFO. The Office of the Executive Secretary shall refer to CFO for review and coordination, pursuant to paragraph VI.C.1, all Legislative Reports and Draft Legislation arising out of the appropriations process upon clearance by the Department for any coordination of any required Executive Branch review with OMB.

b. DHS Organizational Elements shall provide clearances and/or comments to OGC or CFO on a timely basis and in the manner prescribed by OGC or CFO. OGC or CFO shall provide sufficient notice of requirements to allow DHS Organizational Elements to adequately perform analysis, prepare comments, and complete clearances.

5. Legislative Products not generated by DHS Organizational Elements.

a. OGC or CFO shall obtain all clearances and/or comments from appropriate DHS Organizational Elements, resolve conflicting views and coordinate with OMB any required Executive Branch review related to any legislative inquiry referred to DHS for comment by OMB, including but not limited to Proposed Legislation, Legislative Reports, Legislative Comments, Legislative Programs, or Congressional testimony. OGC or CFO shall establish and maintain an electronic circulation system that affords sufficient notice of such inquiries by OMB to DHS Organizational Elements to allow their adequate performance of analysis, preparation, and submission of comments, and completion of clearances.

b. DHS Organizational Elements shall provide clearances and/or comments to OGC on a timely basis and in the manner prescribed by OGC.

6. Scope and order of clearance. OGC, Legislative Affairs, the Office of the Executive Secretary, and the CFO, as appropriate, shall obtain clearance from all appropriate DHS Organizational Elements. Each DHS Organizational Element shall clear legislative products originating from a DHS Organizational Element operating within that DHS Organizational Element prior to submission of the legislative product for further clearance. Clearance requests may include a deadline to allow sufficient time for DHS Organizational Elements to adequately perform analysis, prepare comments, and complete clearances. If no response is received before this deadline, the requester may assume that the addressee concurs and has no comment. Requesters shall exercise discretion in interpreting non-responsiveness as concurrence if circumstances exist that might affect a timely response. Such circumstances include, but are not limited to, particularly short deadlines, inclement weather, weekends or holiday periods, time of circulation (e.g., late in the workday), other emergencies or temporary absence of key personnel known to be affecting the addressee, or if an item is believed to materially affect the interests of a DHS Organizational Element such that a response reasonably should have been expected. The Office of the Executive Secretary, OGC, Legislative Affairs, and CFO shall be included on all circulations, in order to ensure that matters receive appropriate budgetary, legal, and senior management review. Comments shall be referred to action offices for resolution, with recirculation performed as appropriate until DHS clearance is confirmed. Where referral of comments to action offices results in dispute, OGC or CFO shall first attempt to resolve the issue between the original drafter and the objector. If an impasse arises, OGC or CFO shall coordinate final resolution of the issue with COS and the Executive Secretary.

7. Submission and Review standards. Absent COS approval, all DHS Organizational Elements shall adhere to the following submission and review standards:

a. Testimony before all congressional committees except the Committees on Appropriations. DHS Organizational Elements (including any supervising DHS Organizational Element if any) shall clear and deliver Congressional Testimony to OGC for further review by appropriate DHS Organizational Elements no later than five business days prior to a hearing, in order to allow at least 48 hours for review by DHS Organizational Elements and 48 hours for OMB review and clearance. DHS Organizational Elements shall contact OGC regarding any requests for adjusted review periods to account for special circumstances, such as where the Congress provides less than seven days notice prior to a hearing.

b. Submission deadlines for testimony before the Committees on Appropriations. DHS Organizational Elements (including any supervising DHS Organizational Element if any) shall clear and deliver Congressional Testimony to CFO for further review by appropriate DHS Organizational Elements no later than ten business days prior to a hearing, in order to allow at least 48 hours for review by DHS Organizational Elements and 48 hours for OMB review and clearance.

c. Authorization Reports and other Congressional inquiries. OGC shall provide one calendar week (or five business days) for DHS review of Authorizing Reports and other Legislative Reports. To accommodate this timeframe, DHS Organizational Elements shall complete such items (including directorate-level clearance) no later than three weeks prior to the report deadline, in order to allow for DHS review (one calendar week) and OMB review (generally two calendar weeks). DHS Organizational Elements shall contact OGC regarding any requests for adjusted review periods to account for special circumstances, such as accelerated review where funding penalties will result from late submittal of a Legislative Report, or extended review for particularly long or controversial Legislative Reports.

d. Non-appropriations QFRs. Congressional deadlines for the submission of cleared responses to QFRs typically range between four to six weeks. In order to meet that timeframe, DHS Organizational Elements shall submit draft responses to Legislative Affairs within two weeks of the date QFRs are assigned. OGC shall provide one week (or five business days) for DHS review of QFR responses. Final review by OMB generally takes an additional two calendar weeks. DHS Organizational Elements (including any supervising directorate) shall be afforded 48 hours (two business days) for response to comments generated during DHS or OMB clearance.

e. Appropriations Reports. The CFO provides 72 hours for DHS review of Appropriations Reports and QFRs from appropriations committees of the Congress. To accommodate this timeframe, DHS Organizational Elements shall complete such items (including directorate-level clearance) no later than three calendar weeks prior to the report deadline, in order to allow for DHS review and OMB review (generally one calendar week). DHS Organizational Elements shall contact CFO regarding any requests for adjusted review periods to account for special circumstances, such as accelerated review where funding penalties will result from late submittal of a Legislative Report, or extended review for particularly long or controversial Legislative Reports.

f. Appropriations QFRs. Congressional deadlines for the submission of cleared responses to QFRs typically range between two to three weeks. In order to meet that timeframe, DHS Organizational Elements shall submit draft responses to CFO within one week of the date QFRs are assigned. CFO shall provide 72 hours (or three business days) for DHS review of QFR responses. Final review by OMB generally takes an additional week.

g. Reliance on expired deadlines for clearance. As discussed above, circulations can include a deadline, after which it shall be assumed that a DHS Organizational Element concurs and has no comment. As such, DHS Organizational Elements shall submit any comments no later than the requested deadline. Where additional time is needed to conduct adequate review, DHS Organizational Elements shall contact OGC or CFO prior to the deadline.

h. Appointment of DHS Organizational Element Liaison. For any Congressional Testimony, QFR or Legislative Report, the DHS Designated Official, or such DHS Designated Official's supervising directorate where applicable, shall designate a DHS Organizational Element Liaison with the authority to provide policy comment and the ability to timely respond to all issues arising during the clearance process, including on-time submission of the item to Legislative Affairs, OGC or CFO, and resolution of comments generated during review by DHS Organizational Elements and OMB.

(1) Format of comments. DHS Organizational Elements responding to circulations shall submit comments in a form allowing OGC or CFO to forward them within DHS or to OMB with minimal revision. Comments shall be written from the corporate ("we") perspective of the commenting DHS Organizational Element.

(2) Special clearance procedures. With COS approval, clearance procedures other than those described in this directive can be used for certain Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony, including those with extremely tight deadlines or high sensitivity. Even in these cases, the COS, OGC, CFO, Legislative Affairs, and affected DHS Organizational Elements shall be afforded a reasonable opportunity to review and clear such items.

(3) Informal comments. Where Congressional members or their staff request DHS views regarding Draft Legislation, DHS, in certain instances, may provide informal comments prior to completion of formal OMB clearance. The extent to which informal comments can be provided depends upon a number of factors, including, but not limited to, the policy content and format of the informal comments, as well as the political interest and procedural maturity of the legislation in question. In all cases, Legislative Affairs and DHS Organizational Elements shall coordinate informal comments with any significantly affected DHS Organizational Element, as well as COS, OGC, and CFO, as appropriate. In communicating with the Congress, Legislative Affairs shall advise the Congress that informal comments remain subject to formal Administration review and approval.

(4) Transmittal of communications to the Congress. Legislative Affairs shall perform or direct the final transmittal to the Congress of all Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony for non-appropriations related items. CFO shall perform the final transmittal to the Congress of all Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony for all appropriations related items. With the approval of Legislative Affairs, and where not otherwise required by law or policy, DHS Organizational Elements may perform the final transmission of Legislative Reports.

D. **Preparation of Documents, Legislative Reports, and Comments:**  
Unless otherwise directed by OGC or Legislative Affairs:

1. Effect of length and content of documents on clearance. Draft Legislation, Legislative Reports, Legislative Comments, QFRs, Legislative Programs, and Congressional Testimony shall be clearly and concisely drafted to allow efficient review. Whenever possible, offices shall use language drawn from previously cleared items. QFRs shall be drafted to directly and efficiently answer specific questions asked and avoid unnecessary explanation or tangential topics. Ideally, QFRs should be limited in length to one paragraph per individual answer. DHS Organizational Elements shall consult with OGC, CFO and the Office of Security, Administrative Security Division, prior to preparing QFR answers that potentially could include draft budgetary information, classified information, or information which is national or homeland security sensitive.

2. Signature authorities.

a. Draft Legislation. Letters transmitting Draft Legislation to the Congress shall be prepared for the signature of the General Counsel, Assistant Secretary for Legislative Affairs or Under Secretary for Management, unless otherwise directed by any of these officials. Letters transmitting Draft Legislation that may be of material significance to the Congress shall be prepared for the signature of the Secretary of Homeland Security, unless otherwise directed by the Secretary.

b. Reports to the Congress and Legislative Comments.

(1) To the Congress. Reports to the Congress shall be prepared for the signature of the Assistant Secretary for Legislative Affairs or Under Secretary for Management, unless otherwise directed by any of these officials. Reports to the Congress shall be addressed to the appropriate committees of the House and Senate, as prescribed by the legislation. If the law is silent on who the report should go to, it shall be addressed to the appropriate committees of jurisdiction. Reports to the Congress that are appropriations related, shall be transmitted by the Under Secretary for Management. All other reports to the Congress shall be transmitted by Legislative Affairs. Written Legislative Reports to the Congress relating to legislation or legislative issues of material significance shall be prepared for the signature of the Secretary of Homeland Security, unless otherwise directed by the Secretary. Alternate signatories or transmission shall be used where demanded by law, committee report language, or other requirement. In some cases, alternate signatories or transmission may be used with the prior approval of OGC, Legislative Affairs or CFO.

(2) To OMB. Reports to the Congress or Legislative Comments to OMB shall be prepared for the signature of the General Counsel or Under Secretary for Management, or either official's designated representative, addressed as directed by OGC, and transmitted by OGC or CFO. Oral reports and legislative comments to OMB shall be communicated by OGC or as directed by OGC. Reports to the Congress or Legislative Comments to OMB relating to legislation or legislative issues of material significance shall be prepared for the signature of the General Counsel.

(3) Other. Reports to the Congress or Legislative Comments prepared for transmittal to other than the Congress or OMB shall be signed and transmitted by the appropriate policy official.

c. Congressional Testimony shall be transmitted to the Congress as directed by the Assistant Secretary for Legislative Affairs or the Chief Financial Officer.

E. **Special requirements.**

1. Coordination with Executive Order 13132, "Federalism." When preparing Draft Legislation, Legislative Reports, Legislative Comments, QFRs, or Congressional Testimony, DHS Organizational Elements shall take into consideration the principles of Executive Order 13132. When transmitting Draft Legislation, Legislative Reports, Legislative Comments, or Congressional Testimony for Departmental review and coordination, DHS Organizational Elements shall advise OGC in writing of any significant Federalism implications. DHS Organizational Elements are advised that preparation of a Federalism Assessment may be required.

2. Coordination with E.O. 12630. "Governmental Actions and Interference with Constitutionally Protected Property Rights." When preparing Draft Legislation, Legislative Reports, Legislative Comments, QFRs, or Congressional Testimony, DHS Organizational Elements shall take into consideration the principles of Executive Order 12630. When transmitting Draft Legislation, Legislative Reports, Legislative Comments, or Congressional Testimony for Departmental review and coordination, DHS Organizational Elements shall advise OGC in writing of any significant property takings implications identified.

3. Paperwork reduction.

a. Draft Legislation. When preparing Draft Legislation, DHS Organizational Elements shall ensure that any reporting or recordkeeping requirement contained therein is necessary to carry out the purpose of the Draft Legislation and imposes the least amount of burden that is consistent with such purpose.

b. Reports to the Congress, Legislative Comments, and Congressional Testimony. When preparing Reports to the Congress, Legislative Comments, QFRs, or Congressional Testimony, DHS Organizational Elements shall address any reporting or recordkeeping requirement contained in the subject of such report, comment, or testimony that is unnecessary or imposes an inappropriate burden.

4. Competitive impact statement.

a. General. When preparing Draft Legislation, Reports to Congress, Legislative Comments, QFRs, or Congressional Testimony, DHS Organizational Elements shall consider whether the Draft Legislation, or the subject of the Legislative Report, Legislative Comment, or Congressional Testimony may affect the ability of United States companies to compete in domestic and international commerce. In any instance where such an effect is identified, the DHS Organizational Element shall prepare a competitiveness impact statement which shall be included in the manner specified for the following:

- (1) Draft Legislation: in the letters transmitting the Draft Legislation to the Congress;
- (2) Report to the Congress: in the Report;
- (3) Legislative Comments: in the written or oral comments provided to OGC;
- (4) Congressional Testimony: in the written testimony; and
- (5) QFRs: In the letter transmitting the QFRs to the Congress.

b. Content. A competitiveness impact statement shall address the impact of the Draft Legislation or the subject of the Report to the Congress, Legislative Comment, QFR, or Congressional Testimony, on the:

- (1) International trade and public interests of the United States; and
- (2) Ability of United States companies to compete in foreign or domestic markets.

5. Classified Information. When preparing Draft Legislation, Reports to the Congress, Legislative Comments, QFRs, or Congressional Testimony that includes information properly classified pursuant to Executive Order 12958, as amended ("Classified National Security Information"), DHS Organizational Elements shall adhere to the requirements of DHS Management Directive 11045, "Protection of Classified National Security Information/Accountability, Control, and Storage," Section 6.C.3.b. DHS Organizational Elements shall consult with OGC and the Office of Security, Administrative Security Division, when additional assistance is needed in reviewing or resolving classification issues.

6. Sensitive Information. When preparing Draft Legislation, Reports to Congress, Legislative Comments, QFRs, or Congressional Testimony, DHS Organizational Elements shall adhere to the requirements of DHS Management Directive 11060, "DHS Operations Security Program" Section 6.B. DHS Organizational Elements shall conduct a review for critical or sensitive but unclassified (SBU) information. For additional guidance on SBU information or law enforcement sensitive information, DHS Organizational Elements shall contact OGC and the DHS Office of Security, Training and Operations Security Division.

## **VII. Questions**

Any questions or concerns regarding this Directive should be addressed to the Office of the General Counsel.