

**Statement for the Record**

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**Before the**

**Committee on Homeland Security and Government Affairs**

**Subcommittee on State, Local and Private Sector Preparedness and Integration**

**United States Senate**

**“Private Sector Preparedness Part I – Defining the Problem and  
Proposing Solutions”**

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## **Introduction**

Chairman Pryor and Members of the Committee.

I am Al Martinez-Fonts Jr, Assistant Secretary for the Private Sector within the Office of Policy at the Department of Homeland Security, and I am pleased to respond to the Committee's request for information about public-private cooperation in emergency preparedness and response.

In order to adequately inform the Committee and respond to its request we are providing information about the Private Sector Office itself, which is a unique creation in the Executive Branch; various characteristics, requirements and experience with public private partnerships; specific information about Private Sector Office activities in support of public-private cooperation in emergency preparedness, response and recovery; and examples of activities by several other components of the Department, excluding in part, FEMA, which is represented here today and the Office of Infrastructure Protection, which will be able to address this subject to the Committee in further detail in the near future.

### **Part I – The Private Sector Office**

The U.S. Department of Homeland Security's Private Sector Office (PSO) is an outgrowth of the position of Special Assistant to the Secretary, created in Title I, Section 102(f) of the Homeland Security Act. The Special Assistant was given seven enumerated tasks designed to promote cooperation between the Department and the private sector. The Private Sector Office was created as a result of requests made to Congress by major business associations who recognized that more cooperation between the Department and the private sector was very desirable to enhance our nation's homeland security efforts. The Intelligence Reform and Terrorism Prevention Act of 2004 added three more tasks to the original seven in the Homeland Security Act.

In condensed form, the statutory mandates for PSO are to:

- Create and foster strategic communications with the private sector;
- Advise the Secretary on the impact of Department's policies, regulations, processes and actions on the private sector;
- Interface with Federal agencies with homeland security missions to assess their impact on the private sector;
- Create and manage Private Sector Advisory Councils;
- Work with Federal labs, research and development centers, academia to develop innovative approaches and technology;
- Promote public-private partnerships to provide collaboration and mutual support;
- Develop and promote private sector best practices to secure critical infrastructure;
- Coordinate industry efforts regarding DHS functions to identify private sector resources that could be effective in supplementing government efforts to prevent or respond to a terrorist attack or natural disaster; and

- Consult with various DHS components and the Department of Commerce on matters of concern to the private sector.

The Private Sector Office has evolved to a staff of fourteen Federal personnel, with additional contract staff support. The Private Sector Office is now part of the Policy Office where it is better able to satisfy its statutory mandate.

The Private Sector Office has two divisions: the Business Liaison Division and the Economic Analysis Division. The Business Liaison Division works directly with hundreds of individual businesses, trade associations, nonprofits, and other professional and non-governmental organizations, ranging from the U.S. Chamber of Commerce and the Business Executives for National Security (BENS) to the American Red Cross. The Business Liaisons also work with the Department's components, as well as with other Federal agencies, including the Small Business Administration, the U.S. Department of Labor, U.S. Department of Commerce and the U.S. Department of Health and Human Services.

The roles and examples of activities of the Business Liaison Division include:

**Obtaining information from the private sector to advise senior leadership and the policy development process by:**

- Conducting preparedness efforts, infrastructure protection outreach and education;
- Facilitating immigration issues/TWP outreach work;
- Encouraging Work Place Enforcement sessions and discussion;
- Facilitating Safety Act listening sessions with industry;
- Providing situational awareness to current and emerging issues (i.e., effects of regulation on the chemical industry, travel industry impacts of WHTI, effects of immigration legislation on U.S. employers);
- Contributing to numerous Department initiatives (i.e., non-immigrant visas/Rice Chertoff Initiative, etc.); and
- Pandemic preparedness seminars with HHS/CDC.

**Creating and fostering strategic communications with private sector by:**

- Creating and sustaining relationships with U.S. Chamber of Commerce, Business Roundtable (BRT), National Association of Manufactures (NAM), Business Executives for National Security (BENS), National Federation of Independent Business (NFIB), American Society for Industrial Security (ASIS), as well as many Critical Infrastructure/Key Resource (CI/KR) and non-CI/KR associations;
- Facilitating discussions and relationships with major corporate leaders (i.e. Wal-Mart, Home Depot, General Electric, financial services sector leaders, etc.);
- Conducting topic-focused roundtables for the Department to receive insight and awareness from private sector leaders (large and small businesses, associations/NGOs); and

- Participating in the process of delivering government information (threat response, mitigation, etc.) to the private sector.

**Promoting DHS policies to private sector by:**

- Delivering speeches and presentations to various groups and constituencies communicating Homeland Security policies, actions and initiatives; and
- Working with DHS leadership, Public Affairs and other DHS components to shape and target communications and provide strategic engagement of private sector leaders and key constituencies.

**Supporting outreach to the private sector by DHS components by:**

- Aiding rollouts and operations (e.g., US VISIT, National Response Plan (NRP), National Infrastructure Protection Plan (NIPP), etc.);
- Facilitating private sector member/association involvement in national and regional preparedness exercises (e.g. TOPOFF 4)
- Participating in incident communications and operations during an event of national significance. For example, coordinates staff forward to the Joint Field Office, ESF 15 (External Relations) operations; and private sector assistance to FEMA (i.e. establishing networks/relationships, large donations);
- Obtaining private sector inputs to DHS Strategic Plan, NRP, NIPP and similar products; and
- Contributing to improved Border crossing operations (i.e., 25% Challenge in Detroit, Mariposa Port of Entry, Nogales, AZ).

**Facilitating and encouraging public private partnerships by:**

- Working with the *Ready* Campaign, specifically *Ready Business*, to encourage owners and operators of small to medium sized businesses to create a business emergency plan, to talk to their employees and to take steps to protect their assets; and
- Coordinating with State and local business coalitions such as Pacific North West Economic Region (PNWER), Great Lakes Partnership (Chicago); Security Network (San Diego); Pittsburgh Regional Coalition for Homeland Security, Washington Board of Trade, ChicagoFIRST, State and regional BENS affiliates, Bankers and Brokers Roundtable, Hispanic Chamber of Commerce.

**Encouraging the commitment of private sector resources into homeland security activities by:**

- Promoting business continuity and supply chain security and resilience; and
- Encouraging coordination/integration of cyber and physical security.

The Private Sector Economic Analysis Division works with the Policy Office, other DHS components, other Government agencies, and external organizations to obtain

information and analyze issues. More specifically, its roles and actions include the following:

**Providing economic analyses of current or proposed Homeland Security actions, rules and regulations to offer component agencies and senior leadership with additional insight and perspective by:**

- Assessing the consequences of cyber attacks;
- Evaluating Pandemic Influenza efforts;
- Conducting air traveler customer surveys;
- Reviewing U.S. VISIT survey/analysis;
- Assisting U.S. Citizenship and Immigration Service (USCIS) in developing proof of concept analysis for their Transformation Project; and
- Coauthoring *Risk Assessment of Collecting Antidumping Duty and Analysis of CBP Bonding Policy* for CBP.

**Reviewing regulations, including providing help to regulating agencies by:**

- Assisting the Transportation Security Administration (TSA) in the completion of various rulemakings and their subsequent rollouts (i.e., REAL ID, APIS, ADIZ, trucking hazardous materials);
- Providing comments and assisting USCIS on completing the proposed rule on Religious Worker Visa Program; and
- Working with USCIS, ICE and the Chief Procurement Officer on estimating the costs of various components of the IMAGE (ICE Mutual Agreement between Government and Employers) programs.

**Part II – Public Private Partnerships**

Public-Private Partnerships (PPPs) directly or indirectly help address preparedness and consequence management issues. This section identifies the types of participants, some of the roles and purposes of such PPPs, the requirements for successful PPPs, the risks that they may not be successful, major variabilities among PPPs, their result, and many diverse examples of PPPs in addition to the following abbreviated examples.

The PPP is quite different from the traditional government relationship which treats the private sector as more of a supplier or customer. "Partnership" requires a different mental attitude for all participants. It implies "give and take", not a "take it or leave it" philosophy. Both the government and the private sector partners have constraints, (e.g. legislative, contractual, financial, or staffing), which limit their ability to agree on actions. However, the expectation is that neither the public nor the private sector will "win every argument" and, instead, will work collaboratively to achieve mutually beneficial goals.

**Stakeholders of Public Private Partnerships**

There are many possible participants in PPPs. The public sector participants could be agencies from one or more levels of government: Federal, State or local. In most cases,

the government participants do not involve the senior agency official. The private sector participants in the PPP can include individual businesses, trade associations, civic organizations, nonprofits and non-governmental organizations like American Red Cross.

### **The Purpose of Public Private Partnerships**

Public Private Partnerships have many potential roles and purposes. Some are focused on preventing terrorism while others combine protection and preparedness actions, to include both acts of terrorism and natural disasters. Still others may focus only on natural disasters but their results can be transferable in either case. PPP's may have one or more of the following purposes, some of which can overlap:

- For Federal, State or local governments to provide and receive information related to acts of terrorism and natural disasters;
- For private sector organizations to learn, understand, and influence prospective decisions by governments regarding prevention, protection and preparedness relative to acts of terrorism and natural disasters;
- For governments responding to a disaster, to encourage cooperation with private sector, who may be able to provide donations of goods or services, restore utilities or essential services to pre-disaster status, or work to reduce the impact of a disaster;
- For governments to obtain economic information useful in aiding in its recovery, evaluating disasters and reducing potential impact of mitigation decisions;
- For private sector organizations to mobilize with government to address disaster related issues which are critical to the private sector; and
- To solve security and expedited movement of people and goods across our borders.

### **Characteristics of Public Private Partnerships**

Most PPPs are not created under a specific legislative mandate. There are several characteristics of PPPs that could be characterized as “requirements” in order for a PPP to be successful. Some are addressed in written documents, many are not. They include:

- A charter with agreed scope for work and collaboration; success requires clear mutual goals defined before PPP begins;
- Agreed commitments to and expectations of the new PPP, including staffing and budget required of each party;
- A designated leader from the government and one from the private sector, who can address any issues which may arise;

- PPPs can be initiated by the private sector or the government, although most are initiated by the government. Many times the government, initially, persuades one or more key private sector partners to join the effort. They, in turn, help recruit other private sector members. In order to persuade the private sector to participate, there needs to be a “business case”, or “value proposition;”
- Compatibility between the PPP purposes and the mission and goals of government agency and private sector partners is essential; and
- Individuals in both the government and the private sector who are "champions" or “promoters” for the partnership are very important, particularly where the “business case” is not very strong.

### **Challenges to Successful Implementation of Public Private Partnerships**

Public-Private Partnerships are vulnerable to risks and challenges which can lead to their termination or change of course. Some risks can be addressed; others cannot. The risks may include:

- Concern by the private sector regarding potential liabilities regarding sharing information with governments and for voluntary actions taken to assist in recovery from disasters. Many businesses would like to collaborate; however, there are many liability issues. These concerns, whether perceived or real, inevitably may inhibit the private sector from participating in a true partnership.
- Ability of businesses and organizations to assist. Many who have the capacity and resources to make a significant impact in emergency preparedness, response, and recovery often are suppliers of goods and services. In this position, government may view this as a conflict of interest.
- Priorities of the government or private sector partners can change which may lead to a reduction in commitments and/or expectations on either side;
- Loss of “champion” or “promoter;”
- Proliferation of PPPs which involve same private sector or government organizations may lead to confusion, conflict or "partnership exhaustion";
- Mishandling or inappropriate sharing of information by either government or private parties leads to loss of trust and credibility;
- Favor of individual firms by Government if PPP excludes their competitors;

- Understanding level of participation. Unless the “business case” for participation is understood at the beginning of the PPP, it may not survive long.

### **Variability Among Public Private Partnerships**

There is no single model of public private partnership that supports the prevention, protection against or preparedness for natural disasters or terrorist actions. Some of the variations between PPPs include:

- Whether a particular partnership should be ad hoc for a specific disaster or issue or continuing;
- Level of involvement of local, State, or national level or a combination of one or more levels; and
- Number of participants and budget, which can range from few and no allocated budget to hundreds and annual budgets measured in thousands of dollars.

### **Results and Impacts from Public Private Partnerships**

Over 85% of the critical infrastructure and key resources in the United States are owned or operated by the private sector. Federal, State and local governments in the United States are neither authorized by law nor have the funds to provide comprehensive protection to each critical infrastructure asset. Thus unless the private sector takes actions to prepare for, respond to, and recover from an act of terrorism or natural disaster, the country will be poorly prepared to deal with these possibilities.

While the private sector can do so on their own, greater impact occurs when they collaborate through Public Private Partnerships. Many Public Private Partnerships have been created in the past five years and few have been terminated, a sure sign of progress which has helped to further enhance the information sharing, preparedness, and protective actions necessary to help ensure the security of the Nation.

Almost every review of the United States’ efforts to prepare to prevent, protect against, respond to, and recover from terrorist or natural disasters urges the continuation and increase in public private partnerships to achieve that end. Although there are no available statistics on numbers or results of PPPs, the fact that there is still willingness and desire by both the private sector and governments to create PPS is a strong indication that the results and impacts of PPPs have been very positive.

### **Successes of Public-Private Partnerships**

PPPs directly or indirectly help address preparedness/consequence management issues and help protect critical infrastructure.

### **Some examples of PPPs:**

- The Office of Infrastructure Protection coordinates and facilitates Sector Coordinating Councils of private sector organizations representing each of the 17 Critical Infrastructure/Key Resource Sectors. These councils work with government agencies through the Critical Infrastructure Partnership Advisory Council to share information and develop means of preventing, protecting against and preparing for terrorist disasters.

In addition, the Office of Infrastructure Protection coordinates the National Infrastructure Advisory Council (NIAC) which provides the President through the Secretary of Homeland Security with advice on the security of the critical infrastructure sectors and their information systems. The NIAC is composed of a maximum of 30 members, appointed by the President from private industry, academia, and State and local government.

- The Office of Intelligence and Analysis officials work with State and local authorities at fusion centers across the country to facilitate the two-way flow of timely, accurate, and actionable information on all types of hazards. In Washington State, for example, representatives from the private sector sit side by side with government.

Fusion centers provide critical sources of unique law enforcement and threat information; facilitate sharing information across jurisdictions and function and provide a conduit between men and women on the ground protecting their local communities and State and Federal agencies. The Department will have tailored multi-disciplinary teams of intelligence and operational professionals in fusion centers nationwide by the end of fiscal year 2008.

- The Homeland Security Advisory Council (HSAC) provides advice and recommendations to the Secretary on matters related to homeland security. The HSAC is comprised of leaders from State and local government, first responder communities, the private sector, and academia. In 2007, the HSAC Private Sector Work Group created “The Future of Terrorism Task Force Report” and the “Homeland Security Culture Report.”
- The Science and Technology Directorate facilitated the establishment of the Homeland Security Science and Technology Advisory Committee. This was established in 2004 to serve as a source of independent, scientific and technical planning advice to the Under Secretary for Science and Technology as mandated by the Homeland Security Act of 2002.
- The National Communications System has had an active partnership with the telecommunications industry since its inception in 1962. NCS coordinates the National Security Telecommunications Advisory Committee of 30 industry executives who advises national leadership on exercise of telecommunications functions and responsibilities and the coordination of the planning for and provision of national security and emergency preparedness communications

for the Federal government under all circumstances, including crisis or emergency, attack and recovery and reconstitution.

The National Security Information Exchange (NSIE) process was established as a forum in which government and industry could share information in a trusted and confidential environment to reduce the vulnerability of the Nation's telecommunications systems to electronic intrusion. The NSIE process continues to function today, demonstrating that industry and government will share sensitive security information if they find value in doing so.

- The Transportation Security Administration regularly works with key air transport organizations. In the event of a disaster, TSA works with these organizations to assist in the disaster response efforts. For example, during Hurricane Katrina, TSA, through its ongoing relationship with the Air Transport Association (ATA) facilitated air transportation from ATA member airlines to over 20,000 disaster victims.
- The Office of Cyber Security and Communications (CS&C), is working in partnership with the Office of Infrastructure Protection, Sector-Specific Agencies, and public- and private-sector security partners, is committed to preventing, protecting against, responding to, and recovering from cyber attacks and their consequences. CS&C's strategic goals include preparing for and deterring catastrophic incidents by achieving a collaborative risk management and deterrence capability with a mature information sharing partnership between government and the private sector. This strategic goal also encompasses tactical efforts to secure and protect the Nation's cyber and communications infrastructures from attacks and disasters by identifying threats, vulnerabilities, and consequences.

A number of initiatives are currently under way to identify vulnerabilities to the Nation's critical infrastructure, assess their potential impact, and determine appropriate mitigation strategies and techniques. CS&C supports the management of risk to the information technology and communications sectors' critical functions and infrastructures that support homeland, economic, and national security; it works to reduce the likelihood of success and severity of impact of a cyber attack against critical infrastructure control systems; detects and analyze cyber attacks; and facilitates the identification of systemic risks across the Nation's CI/KR sectors.

- Customs and Border Protection, in coordination with FEMA, is requested to assist during significant incidents for Law Enforcement and Public Safety (Emergency Support Function 13), Search and Rescue (Emergency Support Function 9) and Transportation (Emergency Support Function 1). Due to the various missions CBP currently employs each day at our borders, these

functions assist in incident response and management. CBP's role and direction are dictated by FEMA to their mission during an incident.

The Private Sector Office staff is assigned a portfolio which over many of our largest components such as Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration and the U.S. Coast Guard. The Private Sector Office often acts as a catalyst with Department components to cultivate and foster public-private partnerships.

### **Part III – Private Sector Office Actions Specific to Emergency Preparedness, Response and Recovery**

The Private Sector Office works with Department components to assist in the establishment of relationships, integration and partnership building with the private sector. Taking FEMA as an example, we are:

- Dedicating PSO staff to assist FEMA in their efforts to integrate the private sector in their mission critical priorities;
- Spearheading the development of private sector expertise into FEMA operations. PSO and FEMA are working with loaned executives from the private sector to provide advice and best practices especially in the areas of logistics, operations and communications;
- Advocating and advising FEMA on the importance of private sector coordination as apart of FEMA's newly established National Advisory Council;
- Implementing Hurricane Katrina lessons learned in regards to donation management. During Hurricane Katrina, the Private Sector Office created the National Emergency Resource Registry (NERR) to register the flood of unsolicited products and services. Since then, the NERR framework was retooled to create the Debris Contractor Registry. This is an electronic database developed to assist State and local governments in identifying and contacting debris removal contractor resources. The information provided and maintained by contractors and their representatives.

To replace NERR and address the need for donation management during a crisis, FEMA reached out to AIDMATRIX, a nonprofit organization who, through a grant from FEMA, has created a virtual superhighway for all levels of government, private sector, and nonprofits to connect and share unsolicited offers of products, services and volunteers both for crisis management and everyday mission support.

Supporting the development and outreach objectives of the Pandemic Planning Guide for Critical Infrastructure and Key Resources. This guide was

created in partnership with HHS/CDC based on the principles of the national standard for business continuity, the NFPA 1600;

- Advocating and supporting private sector coordination in national and regional exercises such as the upcoming TOPOFF 4 and the Department of Defense-sponsored ARDENT SENTRY;
- Actively encouraging State and local coordination with the private sector. Just last month we worked with the City of Charlotte and the Charlotte Chamber and the U.S. Chamber of Commerce in the design and development of the Charlotte Regional Business Preparedness Summit;

This summit provided the business community with Federal resources, a forum to engage Charlotte's Office of Emergency Management and its local first responder community, a forum to engage Federal, State and local public health officials regarding Pandemic Flu, a showcase to highlight best practices in Charlotte's business community on the importance of business continuity of both small and large businesses and finally, a first hand opportunity to learn the fundamentals of business continuity as outlined by the NFPA 1600.

This event was a pilot initiative with our office and the U.S. Chamber to increase engagement of business owners and operators on the importance of business continuity planning, emergency response coordination and pandemic flu preparedness. In partnership with the Ready Campaign, we are working to develop a toolkit for State and local officials to be able to replicate these types of business preparedness summits across the country, especially during National Preparedness Month;

- Supporting the active use and outreach of programs like *Ready Business* whose content is based on the Preparedness and Business Continuity Standard NFPA 1600 as developed by the National Fire Protection Association and endorsed by the American National Standards Institute, the 9/11 Commission and the U.S. Department of Homeland Security, *Ready Business* resources and tools encourage owners and operators of small to medium sized businesses to create a business emergency plan, talk to their employees and take steps to protect their assets;
- Providing support and advisement for September's National Preparedness Month. In 2006, the Private Sector Office assisted in recruiting hundreds of businesses to become National Preparedness Month Coalition partners to promote workplace and community preparedness;

In addition, PSO also reaches out across to Federal Interagency. For example, PSO is working with the DHS Office of Infrastructure Protection to coordinate with the Department of Energy on several initiatives such as encouraging the owners and operators of gasoline stations to wire and install generators to operate fuel pumps in case

of a power outage. In past collaborations with DoE, the Department worked to sponsor exercises that include the electrical and oil and natural gas industries, in exercise design and tests of detection, response and recovery from terrorist attacks and natural disasters in order to identify lessons learned and needed changes to protocols and invited industry participation in a lessons learned forum following the 2005 hurricane season to identify best practices and needed changes to preparedness, response and recovery;

In partnership with SafeAmerica and the U.S. Chamber of Commerce, PSO participated in a series of Pandemic Flu Preparedness Events across the country. PSO reached out to the DHS Chief Medical Officer, the DHS Office of Infrastructure Protection and to the U.S. Department of Health and Human Services to promote joint pandemic outreach initiatives.

## **Summary**

Public Private Partnerships have existed in the United States for many years. They often have very diverse membership involving one or more levels of government and can also involve varying numbers of private sector organizations.

One essential characteristic of a successful Public Private Partnership is that it must provide clear benefits to all parties, including a shared and valued outcome. These benefits constitute the “value proposition” of the Partnership and define the motivations and contributions that members bring to it.

There are very many types of Public Private Partnerships. The more successful have a scope and purpose that results in continuing benefits to the public and private participants and also have “champions” in both the public and private sectors. Mishandling of shared information between the public and private participants, changing goals of government or private sector partners, loss of “champions”, and potential liability for sharing information are among the main risks that can cause premature termination of Public Private Partnerships.

The results and impacts of Public Private Partnerships for preparedness, prevention and protection have been very positive and increasing during the past five years both from pre-existing partnerships and from newly created ones.

PPP's are not "disguised charity" by the private sector. Good PPPs serve common public/private sector interests, and private partners must be chosen carefully based on their business interests and resources. PPPs are not a means to shift the public burden away from government. However, a "partnership" in its truest state, is where both partners contribute their core skills and services as a joint effort. This collaboration creates an environment which builds trust, communication and cooperation. These results only enhance our nation's ability to better prepare for, respond to, recover from and mitigate against an act of terrorism or a natural disaster.