# Congress of the United States
## House of Representatives
### Washington, D.C. 20515

January 19, 2007

Mr. Vayl Oxford
Director
Domestic Nuclear Detection Office
U.S. Department of Homeland Security
245 Murray Lane, SW
Washington, D.C. 20528-0300

Dear Mr. Oxford:

The Committee on Energy and Commerce has had an ongoing investigation regarding the efforts of the Department of Homeland Security (DHS) to target and inspect sea cargo containers bound for the United States from foreign ports in order to prevent possible smuggling of weapons of mass destruction. This effort has included numerous hearings by the Subcommittee on Oversight and Investigations, field visits to both domestic and foreign ports, and numerous discussions with key officials from DHS, the Department of Energy (DOE), the Defense Threat Reduction Agency, and a number of DOE national laboratories. We are writing to obtain from you information regarding the efforts of the Domestic Nuclear Detection Office (DNDO) to test and deploy nuclear detection technologies.

Since the attacks of September 11, 2001, efforts have been undertaken worldwide to secure the Nation from the threat of nuclear or radiological attack. These multifaceted efforts involve a number of key agencies and programs. On April 15, 2005, President Bush established DNDO under the Department of Homeland Security. DNDO shares responsibility for testing, selecting, and deploying nuclear detection technologies, working in conjunction with the Departments of Energy, State, and Defense, agencies that have been implementing their own programs to combat nuclear smuggling. As part of the mission at DNDO, the agency sponsors research and testing of an array of capabilities for both current generation (deployed) as well as future generation radiation portal technology. Much of this testing was conducted at the Nevada Test Site over the past 18 months.

On October 17, 2006, the Government Accountability Office (GAO) issued a report entitled "Combating Nuclear Smuggling: DHS's Cost-Benefit Analysis to Support the Purchase of New Radiation Detection Portal Monitors Was Not Based on Available Performance Data and Did Not Fully Evaluate All the Monitors' Costs and Benefits." In summary, GAO's report found that DNDO's cost-benefit analysis did not provide a sound analytical basis for DNDO's decision to purchase and deploy new radiation portal technology. Moreover, the report noted that DNDO did not use the results of its own performance tests, conducted at the Nevada Test Site, in its

costs-benefit analysis and instead relied on assumptions of the new portals expected performance capability. Finally, GAO found that DNDO did not perform certain tests that were key to selecting portals that could mitigate against an array of potential dangerous radiological or nuclear materials. Given that Committee staff has had numerous discussions with key DHS staff regarding the scope of testing at the Nevada Test site, it is somewhat surprising that certain key tests were ultimately not pursued.

As this Committee continues to examine the issues relating to securing and detecting nuclear materials throughout the world, and given the ongoing legislative activities related to this matter, we ask that you respond to the attached list of questions by no later than close of business on Friday, February 16, 2007. Furthermore, we are forwarding this letter to the GAO Comptroller General as a formal request to continue its audit of both the testing, deployment, and the selection of equipment by DNDO for this effort. We intend to separately discuss with GAO additional language to define both the scope and direction of this future work, and we ask that your staff work with the staff from GAO as they conduct this review.

If you have any additional questions, please have your staff contact Christopher Knauer of the Majority staff (202/225-2927) or Dwight Cates of the Minority staff (202/225-3641) of the Committee on Energy and Commerce.

Sincerely,

JOHN D. DINGELL
CHAIRMAN
COMMITTEE ON ENERGY AND COMMERCE

JOE BARTON
RANKING MEMBER
COMMITTEE ON ENERGY AND COMMERCE

BART STUPAK
CHAIRMAN
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

ED WHITFIELD
RANKING MEMBER
SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

Attachment

cc: The Honorable David M. Walker
Comptroller General
U.S. Government Accountability Office

**Attachment to letter of January 19, 2007**

**Questions for Mr. Vayl Oxford, Director,Domestic Nuclear Detection Office**
**U.S. Department of Homeland Security**
**from Reps. Dingell, Barton, Stupak, and Whitfield**

1. It is our understanding that additional tests involving portal technology are scheduled to occur at the Nevada Test Site. If so, please indicate what types of equipment will be tested and what these additional tests are designed to accomplish with respect to the selection and purchasing of nuclear portal technology.

2. A primary reason for the Nevada Test site tests was to determine the validity of "Energy Windowing," that could be apply to certain technology. Please indicate why the previous tests at the Nevada Test Site did not formally assess this technology and whether any new testing is designed to do so.

3. Please indicate whether DNDO has definitive data which can determine whether existing "plastic scintillators (PVTs)" are more or less capable of detecting radiological or nuclear materials than the proposed "advanced spectroscopic portal monitors (ASPs)." If DNDO does have such data, please include this data in your response.

4. The audit by the Government Accountability Office (GAO) revealed that although DNDO tested the performance of PVTs, along with the ASPs, it did not use the results of these tests in its cost-benefit analysis used to select the new generation of portals. Please explain why DNDO did not use the results of these tests in its selection process for choosing new technology.

5. It is our understanding that ASPs will be placed in "secondary" inspection locations at certain U.S. seaports including ports designated under the Department of Energy's "Megaports Initiative." If so, please provide the full methodology both DHS and DOE will use to not only gather data, but also assess the capability of such equipment while deployed in such settings. Please indicate how certain ports will be selected to receive any new ASP technology for testing.