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First Responder Grant Formulas: The 9/11 Commission Recommendation and Other Options for Congressional Action

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Summary

The Office for Domestic Preparedness (ODP), now consolidated with the Office for State and Local Government Coordination and Preparedness (SLGCP) within the Department of Homeland Security (DHS), is responsible for administering grant programs to assist first responders (including firefighters, law enforcement personnel, emergency managers, and emergency medical service personnel) in homeland security activities. These assistance programs, such as the State Homeland Security Grant Program (SHSGP), Urban Area Security Initiative (UASI), Assistance to Firefighters (FIRE), and Emergency Management Performance Grant Program (EMPG), provide federal funding to assist in the purchase of equipment, training, exercises, and planning.

In FY2003 and FY2004, Congress appropriated a combined total of \$7.8 billion for first responder grant programs. The Administration's FY2005 budget request proposes \$3.4 billion for these programs. H.R. 4567 (approved by the House of Representatives on June 18, 2004) proposes \$3.7 billion, and S. 2537 proposes \$3.5 billion. Even though a significant amount of money has been appropriated to assist state and local first responders, however, some observers argue that issues associated with program funding have decreased these programs' effectiveness.

On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission) issued *The 9/11 Commission Report*. On page 396 of the report, the 9/11 Commission recommends that federal homeland security assistance be distributed to state and local governments based on risk and vulnerability. According to the report, the risk and vulnerability assessments should consider population, population density, vulnerability, and the presence of critical infrastructure within each state. H.R. 5024, "9/11 Commission Recommendations Implementation Act of 2004," H.R. 5040, "9/11 Commission Report Implementation Act of 2004," and S. 2774, "9/11 Commission Report Implementation Act of 2004" propose to mirror the 9/11 Commission's recommendation of distributing homeland security grant funds based on threat and risk.

S. 2845, the "National Intelligence Reform Act of 2004" (passed by the Senate October 6, 2004), and H.R. 10, the "9/11 Recommendations Implementation Act," propose to change the current formula used in distributing first responder grant funding to states and localities. They would also include threat and risk criteria in the distribution of funds.

The issues examined in this report include proposed alternative funding formulas for first responder grant programs and reported administrative problems that may be responsible for significant delays in grant funds being used by state and local governments. The report discusses options Congress may consider in evaluating these issues. It summarizes how DHS currently administers these programs, the formulas used in allocating funds to states and localities, and the 9/11 Commission's recommendation for state and local homeland security funding.

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First Responder Grant Formulas: The 9/11 Commission Recommendation and Other Options for Congressional Action

Since the September 11, 2001 terrorist attacks, the importance of first responders and their ability to prepare for and respond to such incidents has become evident. To assist first responders (who include firefighters, emergency medical service personnel, emergency managers, and law enforcement personnel), the 108th Congress appropriated a combined total of \$7.8 billion in FY2003 and FY2004. More specifically, Congress appropriated \$3.8 billion for these programs in FY2003, and \$3.9 billion in FY2004.¹ For FY2005, the Administration's Department of Homeland Security (DHS) appropriations request is \$3.4 billion for these programs. H.R. 4567 (approved by the House of Representatives on June 18, 2004) proposes \$3.7 billion, and S. 2537 proposes \$3.5 billion, for these programs.²

Two principal criticisms have been raised by some concerning first responder grant programs. One is that the formulas used for these programs are unfair and inequitable, and the other is that these grant programs need to be streamlined to decrease the delay in states and localities receiving funding.

This report summarizes how DHS administers the programs, the formulas used in allocating funds to states and localities, and actions DHS has taken to reduce delays in funding to states and localities. It also analyzes the issues of streamlining and formulas of first responder grants, and options Congress might consider in evaluating these issues.

First Responder Grants

Administration of Grant Programs. In general, the DHS Secretary is responsible for administering grant programs for state and local first responders, including firefighters, emergency medical personnel, law enforcement personnel, and

¹ FY2003 and FY2004 first responder grant program appropriations (P.L. 108-7, P.L. 108-11, and P.L. 108-90) included in this figure are the State Homeland Security Grant Program, Urban Area Security Initiative, Critical Infrastructure Protection, Law Enforcement Terrorism Prevention Grants, Assistance to Firefighters, Citizen Corps Grant Programs, Emergency Management Performance Grants, and Urban Search and Rescue Task Force Program.

² For further information on FY2005 first responder grant program appropriations, see CRS Report RS21736, *FY2005 Appropriations for First Responder Preparedness: Issues and Analysis*, by Shawn Reese.

emergency managers.³ In addition to these grant programs, DHS administers technical and training assistance programs, and provides guidance and education to state and local governments for domestic preparedness activities.

Within DHS, the Office for State and Local Government Coordination and Preparedness (SLGCP) is responsible for coordinating state and local domestic preparedness programs. These programs include:

- State Homeland Security Grant Program (SHSGP);
- Urban Area Security Initiative Program (UASI);
- Law Enforcement Terrorism Prevention Program (LETPP);
- Assistance to Firefighters Program (FIRE);
- Citizen Corps Programs (CCP); and
- Emergency Management Performance Grant Program (EMPG).⁴

Additionally, the Federal Emergency Management Agency (FEMA) — within DHS's Emergency Preparedness and Response directorate (EPR) — administers the Urban Search and Rescue Task Force program (US&RTF).⁵

Consolidation of Grant Programs. On January 26, 2004, DHS Secretary Tom Ridge informed Congress of his intention to consolidate ODP — which at the time was within the Border and Transportation Security Directorate (BTS) — with the Office of State and Local Government Coordination (SLGC). SLGC is within the Office of the DHS Secretary, and Congress gave the Secretary consolidation authority in the Homeland Security Act of 2002.⁶ On March 26, 2004, ODP was consolidated with SLGC. This new consolidated office is named the Office of State and Local Government Coordination and Preparedness (SLGCP), and reports directly to the DHS Secretary.

The basis for this consolidation is the stated need for the establishment of a “one-stop-shop” within DHS for state and local governments. In theory, this one-stop-shop would integrate numerous federal preparedness initiatives into a single, streamlined comprehensive program.⁷

In addition to consolidating ODP and SLGC, DHS transferred numerous grant programs from other agencies within DHS to ODP in an effort to streamline the grant process. The following table provides information on the major grant programs transferred to ODP.

³ P.L. 107-296, sec. 102(c).

⁴ For detailed information on these grant programs, see CRS Report RL32348, *Selected Federal Homeland Security Assistance Programs: A Summary*, by Shawn Reese.

⁵ For information on the Urban Search and Rescue Task Force Program, see CRS Report RL32348, *Selected Federal Homeland Security Assistance Programs: A Summary*, by Shawn Reese.

⁶ P.L. 107-296, sec. 872.

⁷ Tom Ridge, U.S. Department of Homeland Security, letter to Senator Susan Collins, Chairman of the Senate Committee on Governmental Affairs, Jan. 26, 2004.

Table 1. Selected Consolidated Terrorism Preparedness Programs Within the Office for Domestic Preparedness

| Program | Present Administering Agency |
|---|---|
| Metropolitan Medical Response System | Emergency Preparedness and Response Directorate (EPR) |
| Assistance to Firefighters | Office for Domestic Preparedness (ODP) |
| Emergency Management Performance Grants | Federal Emergency Management Agency (FEMA) |
| Citizen Corps | ODP |
| Interoperable Communications | FEMA |
| Port Security Grants | Transportation Security Administration (TSA) |
| Intercity Bus Security Grants | TSA |
| Operation Safe Commerce | TSA |
| Trucking Industry Security Grant Program | TSA |
| State Homeland Security Grant Program | ODP |
| Law Enforcement Terrorism Prevention Grants | ODP |
| National Exercise Program | ODP |
| Urban Area Security Initiative | ODP |

Source: DHS Secretary Tom Ridge, letter to Senator Susan Collins, Chairman of the Senate Committee on Governmental Affairs, Jan. 26, 2004. See this letter for a complete list of programs transferred to ODP.

First Responder Grant Distribution. State and local first responders receive grant funding from DHS in a variety of ways. Four of the grant programs are allocated to states on a guaranteed minimum and population calculation. Funding for one program (FIRE) is distributed based on individual fire department applications, and funding for the two remaining programs is distributed at the discretion of the DHS Secretary.

Formula Grants. ODP allocates funding to states for the SHSGP, LETPP, CCP, and EMPG programs based on a guaranteed minimum of 0.75% of total appropriations, with the remainder of the appropriations allocated based on a state's population.⁸

The only portion of this formula that Congress required through statutory language is the 0.75% state minimum. DHS decided to exercise its administrative

⁸ P.L. 107-256, sec. 1014.

authority by distributing the remaining portion of funding using population as a formula factor. As an example, in FY2004 Congress appropriated \$1.7 billion for SHSGP. Each state was allocated a minimum of \$12.75 million, which is 0.75% of \$1.7 billion. This results in \$637.5 million (37.5% of total appropriations for this grant program) being allocated as the minimum guaranteed by law. DHS chose to allocate the remaining \$1.06 billion (62.5% of total appropriations) to states based on their population computed as a proportion of the national population.

Application Grants. FIRE grants, administered by ODP, do not have a funding formula; instead, the distribution is based on the grant recipients' applications. Fire departments apply for funding from the program, and within the application the fire department demonstrates a need for the proposed grant. A review board examines each application and determines the amount of the grant award.⁹

Discretionary Grants. The two remaining grants, UASI (administered by ODP) and US&RTF (administered by FEMA), are discretionary programs. UASI allocations are based on DHS risk and vulnerability assessments, location of critical infrastructure, and population density of major urban areas.¹⁰ In FY2004, DHS determined that there were 50 major urban areas and 25 mass transit systems at a high risk for a terrorist attack and distributed money from this program for these areas and systems.¹¹ FEMA determines the amount of funding for US&RTF based on a yearly review of needs.¹²

Matching Requirements. The only two first responder grants with a matching requirement are the EMPG and FIRE programs. EMPG requires states to match 50% of the total award.¹³ The FIRE program requires applicants who protect a population of 50,000 or less to provide a non-federal cost-share of not less than 10% of the total award. Applicants who protect a population in excess of 50,000 are required to provide a non-federal cost-share of not less than 30% of the total award.¹⁴

⁹ The Catalog of Federal Domestic Assistance, *97-044 Assistance to Firefighters Program*, available at [http://12.46.245.173/pls/portal30/SYSTEM.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=97.044], visited May 27, 2004.

¹⁰ U.S. Department of Homeland Security, Office for Domestic Preparedness, *FY2004 Urban Area Security Program Guidance* (Washington: Nov. 2003), p. 4.

¹¹ For a listing of cities and transit systems that received UASI funding, see *FY2004 Urban Area Security Program Guidance*.

¹² The Catalog of Federal Domestic Assistance, *97-025 National Urban Search and Rescue Response System*, available at [http://12.46.245.173/pls/portal30/SYSTEM.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=97.025], visited May 27, 2004.

¹³ The Catalog of Federal Domestic Assistance, *97-042 Emergency Management Performance Grants*, available at [http://12.46.245.173/pls/portal30/SYSTEM.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=97.042], visited May 27, 2004.

¹⁴ The Catalog of Federal Domestic Assistance, *97-044 Assistance to Firefighters Program*, available at [http://12.46.245.173/pls/portal30/SYSTEM.PROGRAM_TEXT_RPT.SHOW?p_arg_names=prog_nbr&p_arg_values=97.044], visited May 27, 2004.

Authorization for Appropriations. FIRE and US&RTF are the only two DHS first responder grant programs for which authorizing legislation has been enacted.¹⁵ All other DHS first responder grant programs have received appropriations in the absence of authorizing statutory language.

Issues

First Responder Grant Formulas

Some critics, including the 9/11 Commission and some Members of Congress, have stated that the funding formulas used to distribute first responder grant funding to states and localities are inadequate and unfair. Specifically, it is argued that the guaranteed state minimum features of the four ODP administered programs¹⁶ provide states with smaller populations vastly greater funding than is equitable. Additionally, critics assert that the present formula does not consider the threat of terrorist attack or vulnerability.¹⁷ Other observers have also noted this allegedly unfair distribution of funds.¹⁸

One could argue that an example of this reported inequitable distribution is Wyoming's FY2004 State Homeland Security Grant allocation of \$14.36 million.¹⁹ Based on Wyoming's 2002 estimated census population, the state is allocated \$28.72

¹⁵ The Assistance to Firefighters program's authorization for appropriations is Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229). The Urban Search and Rescue Task Force's authorizations of appropriations are the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.); Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.); Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.); Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.); Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.); Sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405); Reorganization Plan No. 3 of 1978 (5 U.S.C. App.); Section 503 of P.L. 107-296; and Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

¹⁶ SHSGP, LETPP, CCP, and EMPG.

¹⁷ U.S. Congress, House of Representatives, Democratic Members of the House Select Committee on Homeland Security, *America at Risk: The State of Homeland Security, Initial Findings*, Jan. 13, 2004, p. 14, available at [http://www.house.gov/hsc/democrats/issues_am_at_risk.shtml], visited June 9, 2004. See also U.S. Congress, House of Representatives, Select Committee on Homeland Security, *An Analysis of First Responder Grant Funding*, May 5, 2004, p. 3, available at [<http://homelandsecurity.house.gov/release.cfm?id=181>], visited June 9, 2004.

¹⁸ John Doyle, "DHS Making \$2.2B in Grants Available to States, Territories," *Aviation Week's Homeland Security & Defense*, Nov. 5, 2003, p. 6. Thomas Frank, "Minding the Gaps: A Push for Rethinking Anti-Terror Funds," *Newsday*, Oct. 30, 2003, p. A3. "Tennessee Ranks Low on Per Capita Homeland Security Funding," *The Associated Press State & Local Wire*, Apr. 12, 2004.

¹⁹ U.S. Department of Homeland Security, Office for Domestic Preparedness, *FY2004 State Homeland Security Program Guidance*, (Washington: Nov. 2003), p. 6. Available at [<http://www.dhs.gov/dhpublic/display?theme=10&content=2979>], visited July 8, 2004.

per capita, where as New York (arguably a more likely target for terrorist attacks) received a SHSGP allocation \$78.83 million in FY2004.²⁰ Based on the 2002 estimated census population, New York is allocated \$4.11 per capita.²¹

The 9/11 Commission Recommendation. The 9/11 Commission reports that prior to the September 11, 2001 terrorist attacks, no federal department had as its first priority defending the United States from domestic terrorist attack. This changed with the creation of DHS in 2002.²² According to the report, no challenge is more difficult for federal government decision makers “than to set priorities, making hard choices in allocating limited resources.”²³

Two questions are important in discussing this issue, according to the 9/11 Commission. First, how much money should be set aside using criteria not directly related to risk? Currently each state is guaranteed a minimum amount for homeland security assistance.²⁴ Second, can useful criteria to measure risk and vulnerability be developed to assess all the variables?²⁵

The 9/11 Commission recommends that state and local homeland security assistance should be allocated strictly on risk and vulnerability assessments. In 2004, New York City and Washington, DC, would likely be at or near the top of any assessment list. The 9/11 Commission indicates that it understands the argument for state and local baseline security. It states unequivocally, however, that federal homeland security assistance should not remain a program “for general revenue sharing.” It suggests that federal assistance should supplement state and local resources based on risks and vulnerabilities that merit additional support.²⁶ H.R. 5024, “9/11 Commission Recommendations Implementation Act of 2004,” H.R. 5040, “9/11 Commission Report Implementation Act of 2004,” and S. 2774, “9/11 Commission Report Implementation Act of 2004” propose to mirror the 9/11 Commission’s recommendation of distributing homeland security grant funds based on threat and risk.²⁷

²⁰ *FY2004 State Homeland Security Program Guidance* (Washington: Nov. 2003), p. 6.

²¹ For further information on FY2004 ODP state allocations, see CRS Report RS21677, *Office for Domestic Preparedness Grants for FY2004: State Allocations Fact Sheet*, by Shawn Reese.

²² DHS was created with the Homeland Security Act of 2002 (P.L. 107-296), and Sec. 102(c) states that the DHS Secretary is responsible for administering grant programs for state and local first responders, including firefighters, emergency medical personnel, law enforcement personnel, and emergency managers.

²³ National Commission on Terrorist Attacks on the United States, *The 9/11 Commission Report* (Washington: GPO, Jul. 22, 2004), p. 395.

²⁴ The USA PATRIOT Act (P.L. 107-56), Sec. 1014, guarantees each state a minimum of 0.75% of total appropriations for state and local domestic security.

²⁵ *The 9/11 Commission Report*, p. 396.

²⁶ *Ibid.*

²⁷ H.R. 5024, sec. 601; H.R. 5040, sec. 801; S. 2774, sec. 801.

Addressing the politically sensitive issue of how funding is allocated in a representative democracy, the 9/11 Commission states it as follows:

In a free-for-all over money, it is understandable that representatives will work to protect the interests of their home states or districts. But this issue is too important for politics as usual to prevail. Resources must be allocated according to vulnerabilities. We recommend that a panel of security experts be convened to develop written benchmarks for evaluating community needs. We further recommend that federal homeland security funds be allocated in accordance with those benchmarks, and that states be required to abide by those benchmarks in disbursing the federal funds. The benchmarks will be imperfect and subjective; they will continually evolve. But hard choices must be made. Those who allocate money on a different basis should then defend their view of the national interest.²⁸

Some would argue that the 9/11 Commission recommendation to distribute federal homeland security assistance funding based on threat and vulnerability is not viable at this time. Critics point to the lack of DHS's ability to accurately determine the nation's threats, risks, and vulnerabilities. An example of this would be the latest decision by DHS to raise the Homeland Security Advisory System alert level from "yellow" to "orange" on August 1, 2004. This action, based, in part, on terrorist threat intelligence that is reportedly pre-September 11, 2001, led to this comment by a senior law enforcement official: "There is nothing right now that we're hearing that is new. Why did we go to this level? I still don't know that."²⁹ Another example would be Attorney General John Ashcroft's June 14, 2004 announcement that a secret cell of Al Qaeda had plotted to attack an undisclosed Columbus, Ohio, shopping mall.³⁰

Some arguing against the proposed risk and vulnerability criteria point out that when security increases in one location, there is a possibility that terrorists search for other, softer, targets.³¹ Additionally, in a letter to DHS Secretary Tom Ridge, the Democrats on the House Select Committee on Homeland Security expressed concern that inconsistent methodology for extracting data about key critical infrastructure assets around the nation have resulted in incomplete and inadequate vulnerability assessments.³²

Those responding to such critics note that risk and vulnerability assessments based on credible and corroborated intelligence are arguably the logical method of allocating limited homeland security assistance funding. The recommendation, however, is based on the 9/11 Commission's recognition of the reality of limited

²⁸ Ibid.

²⁹ Dan Eggen and Dana Priest, "Pre-9/11 Acts Led to Alerts," *The Washington Post*, Aug. 3, 2004, p. A1.

³⁰ John Futtly, "Heartland Logical Target," *The Columbus Dispatch*, Jun. 16, 2004, p. A1.

³¹ Ibid.

³² "Democrats Criticize Homeland Security Vulnerability Assessments," GOVEXEC.Com, Aug. 4, 2004. Available at [<http://www.govexec.com/dailyfed/0804/080404tdpm2.htm>], visited Aug. 4, 2004.

funding for protecting the nation, and that risk and vulnerability assessments, based on available intelligence, are two main criteria in determining the appropriate level of homeland security.

It may be argued, however, that the 9/11 Commission recommendation does not provide sufficient guidance for distributing homeland security assistance based on risk and vulnerability assessments. The recommendation, however, identifies the political issues associated with homeland security funding distribution. Additionally, the recommendation proposes such criteria as population, population density, vulnerability, and the presence of critical infrastructure for risk and vulnerability assessments. The 9/11 Commission does not define vulnerability and critical infrastructure. In the absence of definitions for these criteria, each state could theoretically argue for a significant portion of homeland security funding based on *its own* definition of vulnerability and critical infrastructure.

If Congress were to legislate the recommendation to distribute homeland security assistance funding based on risk and vulnerability assessments, it may need to give guidance to DHS on what risk and vulnerability criteria to consider. With this guidance, Congress could, through statutory or conference language, direct DHS to weigh some risk and vulnerability criteria more heavily than others. Due to the diversity of the U.S. economy, the large and interconnected nature of private and government critical infrastructures, and concentrations of population in most regions of the nation, DHS may not be able to conduct in-depth and complete risk and vulnerability assessments in a short amount of time. DHS would need to establish national vulnerability standards based on state vulnerability assessments, and DHS would need to identify the nation's critical infrastructure and establish priorities for its protection.

S. 2845, the "National Intelligence Reform Act of 2004" (passed by the Senate October 6, 2004), and H.R. 10, the "9/11 Recommendations Implementation Act," propose to change the current formula used in distributing first responder grant funding to states and localities.³³ Senator Collins's amendment to S. 2845 also proposes to include threat and risk criteria in the distribution of grant funds. H.R. 10 would also include threat and risk criteria in the distribution of funds.

S. 2845 proposes to combine the SHSGP and UASI into a single program entitled the "Threat-Based Homeland Security Grant Program" (TBHSGP), and within this program DHS would be authorized to allocate 25% of the total funding for UASI and 75% for SHSGP. Additionally, 38.6% of the total appropriated funds for TBHSGP would be distributed to the states as either a guaranteed minimum of 0.75% or the state's per capita share of funding.³⁴

The remaining appropriations available for SHSGP would be allocated to states with a substantial percentage of population residing in Metropolitan Statistical Areas (as defined by the Office of Management and Budget); states with a high degree of threat, risk, and vulnerability to critical infrastructure; states with an international

³³ H.R. 10, Title V, Subtitle A.

³⁴ S. 2845, Sec. 406.

border or coastline; or states with other threat factors determined by the DHS Secretary.³⁵

UASI grant distributions would not be changed with the exception of the additional threat factor of international borders and coastline added to the present threat criteria used in distributing funding to high-threat urban areas.³⁶

H.R. 10, Title V, Subtitle A, “Faster and Smarter Funding for First Responder,” proposes to lower the minimum guaranteed to each state from 0.75% to 0.45% or 0.25%. In determining whether a state is to receive 0.45% or 0.25%, DHS would (based on threat and risk assessments) rank states either as “high risk” or “low risk.” High risk states would receive 0.45% of total appropriations, and low risk states would receive 0.25% of appropriations. The remainder of appropriated funds would be allocated based on the states’ applications. These applications would have to show how the allocated funding would enhance the states’ first responder’s capabilities in responding to a terrorist attack. Additionally, DHS would consider other high-risk criteria, such as international borders and coastline, when determining SHSGP allocations.

Other Options. In addition to the options proposed in legislation noted above and the 9/11 Commission’s recommendation, there are other possible options to change the distribution formulas for first responder grant programs.

Reduce Minimum Percentage. Should Congress determine that the 0.75% state minimum guaranteed by the USA PATRIOT Act³⁷ provides greater funding to the less populous states than it deems equitable, but still want to provide a base amount to each state, it could consider legislation directing ODP to lower the guaranteed minimum.³⁸ This option addresses the issue of the reported unfair distribution of grant funds to less populous states, while maintaining a provision for a homeland security baseline in every state.

Determination of High-Threat, High-Risk Urban Areas. If Congress were to determine that ODP has not provided sufficient funding through the UASI program, and states have not obligated sufficient SHSGP funding to high-threat, high-risk urban areas, it could consider legislation directing ODP (through statutory or conference language) to provide a specific amount to identified urban areas. Additionally, if Congress determines that some at-risk urban areas were excluded following ODP allocation of UASI funds, it could consider legislation directing ODP to provide a specific amount to the excluded urban areas. If Congress were to choose this option, it could direct ODP, in statutory or conference language, to conduct risk and vulnerability assessments of urban areas. Such an approach may not be feasible,

³⁵ Ibid.

³⁶ Ibid.

³⁷ P.L. 107-56, sec. 1014.

³⁸ For more information on hypothetical distribution patterns, see CRS Report RL32101, *State Homeland Security Grant Program: Hypothetical Distribution Patterns of a Risk-Based Formula*, by Ben Canada.

however, due to the statutory time requirement ODP is obligated to follow in allocating UASI funds to at-risk urban areas.³⁹ If the total appropriation was not increased, this could result in less funding being made available for distribution to low-threat, low-risk rural areas.

No State Minimum. Should Congress determine there is no need for guaranteed minimums for states, there are numerous approaches from which to choose in directing ODP to distribute grant funds. These approaches could include having a portion of the funds distributed based on population (which would ensure every state receiving some funding), and the remainder based on threat and risk factors determined by Congress, ODP, or a combination of both. The 9/11 Commission recommends that Congress direct DHS to distribute homeland security assistance to states and localities based strictly on threat and vulnerability.

These options do not, however, address the arguable need for having a minimum level of homeland security assured to every state through a percentage of total appropriations, as some observers maintain is necessary.

Streamlining First Responder Grants

Another issue with first responder grant programs that Congress may wish to consider is the reported fragmented and complex grant system administered by DHS. Critics say these problems cause delays in distribution of grant funding to states and localities. The Government Accountability Office (GAO) has reported that the federal grant system for first responders is highly fragmented, which can complicate coordination and integration of homeland security services and planning at the local level.⁴⁰ The United States Conference of Mayors reinforced this concern with their 168-city/50-state tracking survey on homeland security funding.⁴¹

Additionally, another possible reason for delays in funding to states and localities may be due to the reimbursement transfer of funds option ODP uses in funding state and local homeland security assistance programs. In June 2004, the DHS Task Force on State and Local Homeland Security Funding reported that the reimbursement requirement is problematic for many states, particularly for cash-strapped municipalities, and many state and local governments lack the purchasing power to obtain the goods and services in a timely manner.⁴²

³⁹ Congress required ODP to allocate funds to high-threat, high-risk urban areas within 60 days after receiving appropriations in the FY2004 DHS appropriations (P.L. 108-90).

⁴⁰ U.S. General Accounting Office, *Reforming Federal Grants to Better Meet Outstanding Needs*, GAO report GAO-03-1146T (Washington: Sept. 3, 2003), p. 1.

⁴¹ U.S. Conference of Mayors, *Tracking Federal Homeland Security Funds Sent to the 50 State Governments* (Washington: Sept. 2003), p. 3.

⁴² U.S. Department of Homeland Security, Homeland Security Advisory Council, Task Force on State and Local Homeland Security Funding, *A Report from the Task Force on State and Local Homeland Security Funding* (Washington: June 2004), p. 2.

Reimbursable funding involves a federal program agency transferring federal funds to states after they have already paid out the funds for federal assistance program purposes.⁴³ It could be argued that some states and localities do not have up-front funding necessary for their planned homeland security spending, and thus are unable to request reimbursement.

Options. The following options could streamline the grant distribution process.

Consolidation of All Grant Programs. Congress could consider legislation that directs DHS to consolidate *all* first responder grant programs into a single block grant administered by a single agency, such as SLGCP. This single consolidated grant program could then be allocated to states, with the requirement that certain minimum percentage be allocated with each state for homeland security activities such as urban area security and firefighter assistance. This consolidated grant program, administered by a single DHS agency, could decrease the state application, planning and distribution processes and time. It could also provide the states with a single point of contact on all issues pertaining to first responder assistance programs. Conversely, this option may result in some localities receiving less funding, because it would allow the state greater input in deciding what funding each locality receives.

Provide Training to State Officials. Congress might consider legislation instructing ODP to provide state officials with training on grant administration rules, techniques, and procedures, either through statutory or conference report language. Such training could give state officials a better understanding of program rules and facilitate improved communication between ODP grant officials and state and local officials. This option, however, does not reduce the number of applications states are required to complete when applying for multiple first responder grant programs.

Encourage States to Share Best Practices. States could be encouraged to share with other states their “best practices” in administering ODP grants. Such information could help some states to minimize administrative obstacles and distribute grant funds more quickly. This option does not, however, assist in reducing in what some say are the redundant application procedures.

Cash Advance for State Homeland Security Spending. If Congress were to determine that delays in grant funding to states and localities is caused by the reimbursement option ODP uses for its homeland security assistance programs, it could direct ODP to use cash advance. Cash advance (pre-issuance or post-issuance) funding means that a federal program agency transfers the actual amount of federal funds to a state that will be paid out by the state, in a lump sum, not more than three business days prior to the day the state issues checks.⁴⁴ This option is advocated by

⁴³ 31 C.F.R. 205.12.

⁴⁴ 31 C.F.R. 205.12.

the DHS Task Force on State and Local Homeland Security Funding.⁴⁵ This option may, however, remove a level of oversight ODP exercises when approving state and local homeland security expenditures.

⁴⁵ *A Report from the Task Force on State and Local Homeland Security Funding* (Washington: June 2004), p. 14.