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Fiscal Year 2005 Homeland Security Grant Program: State Allocations and Issues for Congressional Oversight

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Fiscal Year 2005 Homeland Security Grant Program: State Allocations and Issues for Congressional Oversight

Summary

The Office for Domestic Preparedness, within the Department of Homeland Security, is responsible for directing and supervising federal terrorism preparedness grants for states and localities. Prior to FY2005, the Office for Domestic Preparedness offered that assistance through six separate grant programs. Some state and local officials, however, criticized the fragmentation of homeland security assistance and recommended streamlining the grant process. Subsequently, the Office for Domestic Preparedness recommended and — pursuant to Section 872 of the Homeland Security Act (P.L. 107-296), which authorizes the Department of Homeland Security Secretary “to allocate, reallocate, and consolidate functions and organization units within the Department” — Department of Homeland Security Secretary Tom Ridge approved consolidating the separate programs into a single Homeland Security Grant Program. Within the consolidated program, however, the six types of assistance continue to have their separate identities and funding allocations as “sub-grants.” As a whole, the Homeland Security Grant Program provides assistance for a wide range of eligible activities, among which are planning, training, equipment acquisition, and exercises. To fund the program, Congress appropriated approximately \$2.5 billion for FY2005, roughly \$600,000 less than for the programs in FY2004.

This CRS report, which will be updated, summarizes key provisions of the FY2005 program guidance, with special attention to differences from the FY2003 and FY2004 editions. Among those differences are the following:

- consolidation of previously separate grant programs;
- specific application requirements for the Homeland Security Grant Program sub-grants;
- provisions for citizen and private sector involvement;
- authorization of operational overtime costs associated with Homeland Security Advisory System threat levels;
- guidance for critical infrastructure protection and border security; and
- streamlined grant administration based on recommendations of the Department of Homeland Security Task Force on State and Local Homeland Security Funding.

This report also discusses issues regarding methods used to allocate federal homeland security assistance and authorized expenditures of homeland security assistance programs, and it analyzes options Congress may wish to consider for resolving those issues. Tables included in the report present comparative data on federal homeland security assistance to states and localities.

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Introduction

The Office for Domestic Preparedness (ODP), within the Department of Homeland Security (DHS), is responsible for directing and supervising federal terrorism preparedness grants for states and localities.¹ Prior to FY2005, ODP offered that assistance through six separate grant programs.² Some state and local officials, however, criticized the fragmentation of homeland security assistance and recommended streamlining the grant process.³ Subsequently, ODP recommended and — pursuant to Section 872 of the Homeland Security Act (P.L. 107-296), which authorizes the DHS Secretary “to allocate, reallocate, and consolidate functions and organization units within the Department” — DHS Secretary Tom Ridge approved consolidating the separate programs into a single Homeland Security Grant Program (HSGP).⁴ Within the consolidated program, however, the six types of assistance continue to have their separate identities and funding allocations as “sub-grants.” As a whole, the HSGP provides assistance for a wide range of eligible activities, among which are planning, training, equipment acquisition, and exercises. To fund the program, Congress appropriated approximately \$2.5 billion for FY2005, roughly \$600,000 less than for the programs in FY2004.⁵

¹ P.L. 107-296, Sec. 430(c)(3), Homeland Security Act.

² These grant programs included the State Homeland Security Grant Program, Urban Area Security Initiative, Law Enforcement Terrorism Prevention Program, Citizen Corps Programs, Metropolitan Medical Response System, and Emergency Management Performance Grants.

³ See U.S. Congress, Senate Committee on Governmental Affairs, *Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs*, 108th Cong., 1st sess., May 1, 2003, (Washington: GPO, 2003); and U.S. Congress, House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations, *Combating Terrorism: Assessing Federal Assistance to First Responders*, 108th Cong., 1st sess., Sept. 15, 2003 (Washington: GPO, 2003).

⁴ P.L. 107-296, Sec. 872, Homeland Security Act. ODP recommendations and the secretary’s decision reflected the work of DHS’s Task Force on State and Local Homeland Security Funding. See U.S. Department of Homeland Security, *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: Dec. 2004), p. 18.

⁵ P.L. 108-334 and P.L. 108-90, DHS appropriations for FY2005 and FY2004, respectively.

ODP administers the Homeland Security Grant Program through its annual *Homeland Security Grant Program: Program Guidelines and Application Kit*,⁶ which provides homeland security assistance information and instructions to states and localities for such matters as developing and implementing state and local homeland security strategies. The FY2005 program guidance is more fully developed and offers more specificity than in previous years.

This CRS report, which will be updated, summarizes key provisions of the FY2005 program guidance, with special attention to differences from the FY2003 and FY2004 editions. Among those differences are the following:

- consolidation of previously separate grant programs;
- specific application requirements for HSGP sub-grants;
- provisions for citizen and private sector involvement;
- authorization of operational overtime costs associated with Homeland Security Advisory System (HSAS) threat levels;
- guidance for critical infrastructure protection and border security; and
- streamlined grant administration based on recommendations of the DHS Task Force on State and Local Homeland Security Funding.

This report also discusses issues regarding methods used to allocate federal homeland security assistance and authorized expenditures of homeland security assistance programs, and it analyzes options Congress may wish to consider for resolving those issues. Tables included in the report present comparative data on federal homeland security assistance to states and localities.

Homeland Security Grant Program Overview

The Department of Homeland Security (DHS) consolidated the previous grant programs administered by the Office for Domestic Preparedness (ODP) into the Homeland Security Grant Program (HSGP). It includes the following sub-grants:

- State Homeland Security Grant Program (SHSGP);
- Urban Area Security Initiative (UASI);
- Law Enforcement Terrorism Prevention Program (LETPP);
- Citizen Corps Program (CCP);
- Emergency Management Performance Grants (EMPG); and
- Metropolitan Medical Response System (MMRS).

Each sub-grant is described briefly below:

State Homeland Security Grant Program. SHSGP provides homeland security assistance funds directly to states and territories to prevent, respond to, and

⁶ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit.*

recover from terrorist attacks. Funding from this program is meant to address state homeland security planning, equipment acquisition, training, and exercise needs.⁷

Urban Area Security Initiative. UASI provides funding to address the planning, equipment, training, and exercise needs in urban areas identified by DHS. The program is designed to help the urban areas prevent, respond to, and recover from terrorist attacks. Additionally, in the FY2005 DHS appropriations (P.L. 108-334), Congress authorized that funds from this program be provided to nonprofit organizations located within the identified urban areas.⁸

Law Enforcement Terrorism Prevention Program. LETPP assists law enforcement agencies in conducting terrorism prevention activities. The activities include information sharing, target hardening, threat recognition and mapping, counter-terrorism and security planning, interoperable communications, and terrorist interdiction.⁹

Citizen Corps Program. CCP, originally administered by the Federal Emergency Management Agency (FEMA), provides funding for volunteers participating in community security through personal preparedness, training, and community service. This program supports the state's local Citizen Corps Councils which encourage citizens to prevent, prepare for, and respond to all hazards.¹⁰

Emergency Management Performance Grants. EMPGs, originally administered by FEMA, support comprehensive emergency management at the state and local levels. The program assists in mitigation, preparedness, response, and recovery from all hazards. Funds provided from this program may also be used to support state and local activities to manage the consequences of terrorist attacks.¹¹

Metropolitan Medical Response System. MMRS was originally administered by the Department of Health and Human Services (HHS), but was transferred to FEMA (within the Emergency Preparedness and Response directorate of DHS) in March 2003.¹² The program helps the 124 metropolitan medical systems identified by DHS to enhance and sustain their integrated and systematic preparedness actions to respond to mass casualty events. The mass casualty events can be the result of incidents ranging from chemical, biological, radiological, nuclear, and explosive attacks to epidemic outbreaks, natural disasters, and large-scale hazardous materials events.¹³

⁷ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit*, p. 19.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid., p. 20.

¹¹ Ibid.

¹² P.L. 107-296, Sec. 503(5), Homeland Security Act.

¹³ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and* (continued...)

Program Guidance

Funding Distribution Methods. In the conference report (H.Rept. 108-774) accompanying the FY2005 DHS appropriations (P.L. 108-334), Congress directed DHS to allocate FY2005 funding for SHSGP, LETPP, EMPG, and CCP in the same manner as the FY2004 allocations. These allocations are based on the formula of 0.75% of total appropriations guaranteed to each state, and 0.25% of total appropriations guaranteed to each U.S. territory.¹⁴ In the absence of statutes or congressional guidance, DHS decided to allocate the remaining appropriations in direct proportion to the ratio of the state's population to the total national population.¹⁵

UASI discretionary allocations are distributed using credible threat, presence of critical infrastructure, vulnerability, population, population density, law enforcement investigative and enforcement activity, and the existence of formal mutual aid agreements as funding factors.¹⁶ MMRS allocations guarantee all 124 MMRS jurisdictions \$227,592 in FY2005 for a total appropriation of \$28.2 million, which is \$21.8 million less than appropriated in FY2004.¹⁷

HSGP Application and Matching Requirements. ODP required every state and territory to submit its application for HSGP sub-grants (including the State Homeland Security Grant Program, Law Enforcement Terrorism Prevention Program, and Citizen Corps Programs) by January 16, 2005. ODP states it will respond to each completed application no later than 15 days after receipt. With each application, the state must provide a program narrative that describes current management capabilities to develop, implement, and manage the HSGP sub-grants. This narrative also includes such specifics as an overview of the process by which the state determines funding allocations to localities, and state efforts to achieve National Incident Management System (NIMS) standards.¹⁸ There is no matching requirement for these sub-grants.

Each application must delineate the allocation of HSGP funds and state resources in the following homeland security activities: planning; training; exercises; and management and administration. Each state must provide an explanation of

¹³ (...continued)
Application Kit, p. 20.

¹⁴ P.L. 107-56, Sec. 1014, USA PATRIOT Act.

¹⁵ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit*, p. 1.

¹⁶ *Ibid.*

¹⁷ FY2004 MMRS allocations are available at [<http://mmrs.fema.gov>], visited Dec. 8, 2004.

¹⁸ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: Dec. 2004), p. 1.

challenges and impediments that complicate the administration and management of the homeland security assistance programs.¹⁹

EMPG Applications and Matching Requirements. For EMPG allocations, applicants must provide a narrative similar to the HSGP management narrative. Additionally, states must provide a list of major emergency management initiatives and a brief overview of each initiative. EMPG is the only HSGP sub-grant that has a matching requirement of a 50% federal share and 50% state cost-share cash or in-kind match. American Samoa, Guam, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands do not have a matching requirement for their EMPG allocations.²⁰

UASI Applications and Matching Requirements. The application process for UASI recipients has not changed from FY2004 program guidance. This guidance, however, is provided for newly identified UASI urban areas. This guidance requires newly identified urban areas to provide ODP with points of contact, a definition of the urban area, and the establishment of an Urban Area Working Group (UAWG).²¹ There is no matching requirement for UASI grants.

Pass-through Requirements. Each state must obligate not less than 80% of the State Homeland Security Grant Program, Urban Area Security Initiative, Law Enforcement Terrorism Prevention Program, and Metropolitan Medical Response System to localities within 60 days of the grant award date. Additionally, any UASI funds retained by the state must be used to support directly the identified urban area. The state is encouraged to pass-through 100% of MMRS funding to the identified metropolitan medical system. Any funds retained by the state, however, must be documented in a written agreement between the state MMRS grant administering agency and the chair of the identified MMRS recipient.

There is no minimum pass-through requirement for CCP. States, however, are expected to work with local Citizen Corps Councils and to expend the funds to support Citizen Corps Council education, and training. States are required to pass through 100% of EMPG funding to designated state-level emergency management agencies.²²

State and Urban Area Homeland Security Strategies. DHS requires states and urban areas to develop and use their State Homeland Security Strategies (SHSS) and Urban Area Homeland Security Strategies (UAHSS) as an approved guide for all security and preparedness activities funded through HSGP allocations.

¹⁹ Ibid., p. 13.

²⁰ Ibid., p. 12.

²¹ Ibid., p. 17.

²² Ibid., p. 21.

ODP certifies and approves all SHSS and UAHSS. States are also encouraged to supplement federal homeland security assistance funding with state resources.²³

Citizen and Private Sector Involvement. States are required to coordinate SHSGP and UASI citizen awareness and participation activities with the state agencies administering CCP. In addition, states are encouraged to collaborate with the private sector to leverage private sector homeland security initiatives, resources, and capabilities. DHS considers private sector involvement crucial, given most of the nation's critical infrastructure is privately owned and operated.²⁴

Operational Overtime Costs. States and localities are authorized to use up to 25% of their LETPP allocation to support operational overtime costs incurred during an HSAS "high-orange" threat level that is associated with critical infrastructure security. Urban areas are authorized to use up to 25% of their UASI allocations to support operational overtime costs for increased critical infrastructure security. Of this amount, only 10% may be used for overtime costs associated with an HSAS "elevated-yellow" or "high-orange" threat level. The remaining 15% of UASI allocations can be used only to support overtime costs incurred during an HSAS "high-orange" threat level.²⁵

Critical Infrastructure Protection. DHS directs states and local governments to consider critical infrastructure as any system or asset that if attacked would result in catastrophic loss of life and cause catastrophic economic loss. States and localities are required to consider specific facilities as critical infrastructure. This includes such facilities as: venues for large public celebrations and events; water systems; chemical facilities; power generations systems; rail and highway bridges; mass transit subway systems; and telecommunications and cyber facilities.²⁶

Border Security. The security of the nation's borders has become an important aspect of homeland security since the September 11, 2001, terrorist attacks. The importance of border security has resulted in DHS authorizing a portion of HSGP funding to be used for securing the U.S. borders. States and localities are authorized to use LETPP funding to provide enhanced law enforcement operations for increased border security during an HSAS "high-orange" threat level. UASI funding can be used for enhancing border security during an HSAS "elevated-yellow" or "high-orange" threat level. Increased patrol presence at the border and additional traffic control points are some of the enhanced law enforcement operations authorized by DHS for border security.²⁷

Unauthorized Homeland Security Activities. DHS does not allow states or localities to use HSGP funding for the following activities: construction and

²³ Ibid.

²⁴ Ibid., pp. 23-24.

²⁵ Ibid., pp. 25-26.

²⁶ Ibid., p. 27.

²⁷ Ibid., p. 27.

renovation of a building (unless for enhancing the security of the facility), and hiring of personnel.²⁸ The hiring of personnel is an issue that many state and local officials have stated is a critical homeland security need. DHS Secretary Ridge, however, stated before the Senate Committee on Governmental Affairs that it was not the role of the federal government to pay the salaries of state and local employees.²⁹

In addition to guidance on applications, homeland security strategies, citizen and private sector involvement, operational overtime costs, critical infrastructure protection, and border security, DHS provides information on homeland security equipment, training, and exercises in the HSGP program guidance. This information, however, is similar to that provided to states and localities in FY2003 and FY2004.³⁰

Task Force on State and Local Homeland Security Funding Recommendations

In March 2004, DHS Secretary Tom Ridge established the Task Force on State and Local Homeland Security Funding. This task force comprised governors, mayors, local government officials, and tribal officials. It was tasked to examine the distribution of homeland security funds to states and localities, and develop specific and objective recommendations to expedite the process by which DHS allocates homeland security assistance funding. The task force focused on three areas: delay of funding; best practices; and recommendations to eliminate delay in funding.³¹ In June 2004, the task force published its report, *A Report from the Task Force on State and Local Funding*, which provided recommendations to streamline federal homeland security grant applications and distribution processes.³²

The following table provides information on task force recommendations from its report, and the corresponding FY2005 HSGP program guidance:

²⁸ Ibid., p. 41.

²⁹ U.S. Congress, Senate Committee on Governmental Affairs, *Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs*.

³⁰ Ibid., pp. 28-41.

³¹ Ibid., p. 18.

³² U.S. Department of Homeland Security, Task Force on State and Local Funding, *A Report from the Task Force on State and Local Funding*, (Washington: June 2004).

**Table 1. Task Force Recommendations and
FY2005 HSGP Program Guidance**

Task Force Recommendation	FY2005 HSGP Guidance
Allow states and localities to draw down grant funds from the U.S. Treasury up to 120 days in advance of expenditure, as opposed to the 3-5 days currently allowed.	States and localities are authorized to draw down grant funding 120 days prior to expenditure.
Expand the approved uses of SHSGP funds to allow states and local governments better to address short term homeland security issues.	UASI grant recipients are authorized to support operational overtime costs incurred at an HSAS “elevated-yellow” or “high-orange” threat level for critical infrastructure security.
Enhance training and technical assistance available to states and localities involved in the management and distribution of homeland security assistance grants.	DHS provides grant management technical assistance to states and localities to assist in the distribution of HSGP funding.
Establish an Office of the Comptroller within DHS to assume complete financial responsibility for homeland security assistance grants.	DHS will establish the Office of Grant operations, within SLGCP, to provide administrative and financial grants management support.

Source: U.S. Department of Homeland Security, Task Force on State and Local Homeland Security Funding, and the Office for Domestic Preparedness.

Issues

Funding Distribution Methods. On July 22, 2004, the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) issued *The 9/11 Commission Report* recommending, among other things, that federal homeland security assistance be distributed to state and local governments based on risk and vulnerability. The 9/11 Commission recommends that risk and vulnerability assessments consider population, population density, vulnerability, and the presence of critical infrastructure within each state.³³

Other critics of the present funding distribution method, including some Members of Congress, have stated that the funding distribution methods used to provide federal homeland security assistance to states and localities are inadequate and unfair. Additionally, these critics assert that the present formula does not

³³ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: GPO, July 22, 2004), p. 396.

consider the threat of terrorist attack or vulnerability.³⁴ Other observers have also noted this allegedly unfair distribution of funds.³⁵

Variation in the distribution of funds under the FY2005 State Homeland Security Grant Program is seen, for example, in a comparison of Wyoming and New York. Wyoming's FY2005 State Homeland Security Grant Program allocation of \$9 million.³⁶ Based on Wyoming's 2002 estimated census population of 498,703, the state was allocated \$18.00 per capita. In contrast, New York (arguably a more likely target for terrorist attacks) was allocated \$49.4 million from the State Homeland Security Grant Program in FY2005.³⁷ Based on New York's 2002 estimated census population of 19,157,532, New York was allocated \$2.57 per capita.

The 9/11 Commission Recommendation. The 9/11 Commission reported 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 2002.³⁸ According to the report, no challenge was more difficult for federal government decision makers "than to set priorities, making hard choices in allocating limited resources."³⁹

The 9/11 Commission recommended that state and local homeland security assistance should be allocated strictly on risk and vulnerability assessments. In 2004, New York City and Washington, D.C., would likely be at or near the top of any threat assessment list. The commission indicated that it understands the argument for state and local baseline security. It stated unequivocally, however, that federal homeland security assistance should not remain a program "for general revenue sharing." It suggested that federal assistance should supplement state and local resources based on risks and vulnerabilities that merit additional support.⁴⁰

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 determine accurately

³⁴ 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*, 108th Cong., 2nd sess., Jan. 13, 2004. See also U.S. Congress, House of Representatives, Select Committee on Homeland Security, *An Analysis of First Responder Grant Funding*, 108th Cong., 2nd sess., May 5, 2004.

³⁵ 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.

³⁶ *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit*, p. 2.

³⁷ *Ibid.*

³⁸ P.L. 107-296, Sec. 102(c) states that the DHS Secretary is responsible for administering grant programs for state and local homeland security.

³⁹ *The 9/11 Commission Report*, p. 395.

⁴⁰ *Ibid.*, p. 396.

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 (HSAS) threat level from "elevated-yellow" to "high-orange" on August 1, 2004. This action, based, in part, on terrorist threat intelligence that is reportedly pre-September 11, 2001, led to the following 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."⁴¹ 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.⁴²

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.⁴³ Additionally, in a letter to DHS Secretary 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.⁴⁴

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 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's 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. The 9/11 Commission did not define risk and vulnerability factors, nor does it define 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 risk, vulnerability, and critical infrastructure.

If Congress legislates the 9/11 Commission recommendation to distribute homeland security assistance funding based on risk and vulnerability assessments, and critical infrastructure, it may need to give guidance to DHS on what risk and

⁴¹ Dan Eggen and Dana Priest, "Pre-9/11 Acts Led to Alerts," *The Washington Post*, Aug. 3, 2004, p. A1.

⁴² John Futtly, "Heartland Logical Target," *The Columbus Dispatch*, June 16, 2004, p. A1.

⁴³ *Ibid.*

⁴⁴ "Democrats Criticize Homeland Security Vulnerability Assessments," GOVEXEC.com, Aug. 4, 2004, available at [<http://www.govexec.com/dailyfed/0804/080404tdpm2.htm>], visited Dec. 6, 2004.

vulnerability criteria, and critical infrastructure to consider. With this guidance, Congress could, through statutory or conference report language, direct DHS to weigh some risk and vulnerability criteria, and critical infrastructure more heavily than others. Due to the diversity of the U.S. economy, the large and interconnected nature of private and government operated critical infrastructure sectors, 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 a national vulnerability assessment based on state vulnerability assessments. Then DHS would need to identify the nation's critical infrastructure and establish priorities for its protection.

Intelligence Reform Bills. In the 108th Congress, two bills passed the House and Senate that included provisions to change the current homeland security assistance funding formulas : S. 2845, the National Intelligence Reform Act of 2004; and H.R. 10, the 9/11 Recommendations Implementation Act. Both bills proposed to include threat and risk criteria in the distribution of a portion of the funds. Neither H.R. 10 nor S. 2845, however, proposed to distribute state and local homeland security funding strictly according to threat and risk; both bills proposed a guaranteed minimum amount to each state.⁴⁵ These provisions were removed from the bill as finally enacted.⁴⁶

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 federal homeland security assistance programs.

Reduce Minimum Percentage. Should Congress determine that the 0.75% state minimum guaranteed by the USA PATRIOT Act (P.L. 107-56, Sec. 1014) provides greater funding to the less populous states than it deems equitable, but still wants to provide a base amount to each state, it could consider legislation directing ODP to lower the guaranteed minimum. This option would address 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. A reduced guaranteed minimum, however, could result in less populous states still receiving, what critics consider an inequitable amount of federal homeland security assistance funding.

Increase Appropriations for UASI. Were Congress to decide that the guaranteed state minimum is adequate, yet wish to increase funding to high-threat, high-risk urban areas, it could appropriate a larger amount to UASI and reduce the amount appropriated to SHSGP. This option could provide greater funding to urban areas deemed at higher risk and at a greater threat of terrorist attacks. This, however, might not provide enough funding to states that contain high-risk, high-threat urban areas. While the urban area would receive increased funding, the state may not receive an adequate amount of funding to meet its overall homeland security needs.

⁴⁵ For further information and a comparison of these bills, see CRS Report RL32634, *First Responder Grant Formulas: A Comparison of Formula Provisions in S. 2845 and H.R. 10, 108th Congress*, by Shawn Reese.

⁴⁶ S. 2845, passed by Congress and sent to the President for his signature on Dec. 8, 2004.

No State Minimum. Should Congress determine there is no need for guaranteed state minimums, there are numerous approaches from which to choose in directing ODP to distribute funding. 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 both. The 9/11 Commission recommended that Congress direct DHS to distribute homeland security assistance to states and localities based strictly on threat and vulnerability. This option does 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.

Authorized Expenditures for Homeland Security Assistance Funding. Witnesses before congressional committees have testified that there is a need at the state and local level to increase the number of homeland security personnel.⁴⁷ These personnel include firefighters, law enforcement personnel, emergency managers, and emergency medical personnel. Additionally, these witnesses have testified about the cost in overtime during an HSAS “high-orange” threat level.

One could argue, that the most important homeland security asset a state and locality possess is personnel. Without an adequate number of first responders and other homeland security personnel, all other federal homeland security assistance is arguably marginal at securing states and localities from terrorist attacks.

Presently, EMPG is the only HSGP program that allows states and localities to use grant funding to pay the salaries of emergency managers. LETPP and UASI authorize a portion of state and locality funding to be used for overtime costs during HSAS “elevated-yellow” and “high-orange” threat levels.

Options. In addition to EMPG providing funding for personnel, and the LETPP and UASI overtime cost funding, there are other options for providing assistance to states and localities with a homeland security personnel need.

Funding Personnel Costs with SHSGP Grants. If Congress were to decide that funding state and local personnel costs was an important aspect of homeland security, it could direct ODP to authorize states and localities to use SHSGP funds for personnel costs. Congress could also appropriate a specific percentage within SHSGP funding for personnel costs. This option, however, would provide funding that, some argue, is a responsibility of state and local governments. DHS Secretary Ridge, in testimony before the Senate Governmental Affairs Committee on May 1,

⁴⁷ U.S. Congress, Senate Committee on Governmental Affairs, *Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs*; and U.S. Congress, House Committee on Government Reform, Subcommittee on National Security, Emerging Threats, and International Relations, *Combating Terrorism: Assessing Federal Assistance to First Responders*.

2003, stated that it was not the responsibility of the federal government to pay the salaries of state and local employees.⁴⁸

Funding Overtime Costs Associated with an HSAS “High-Orange” Threat Level. Should Congress determine that DHS does not provide enough assistance to states and localities during an HSAS “high-orange” threat level, it could direct ODP, through statutory or conference report language, to authorize states and localities to use SHSGP funding for overtime costs during this threat level. If Congress chose not to authorize the use of SHSGP funding for overtime costs, it could direct ODP to increase the percentage of LETPP and UASI funding it authorizes states and localities to use for overtime costs. Some could argue that the federal government, specifically DHS, determines when there is a need to raise the HSAS threat level; thus the federal government should assist states and localities when they raise their homeland security due to this threat level. This option, however, could be compared to the funding of homeland security personnel issue, and the discussion of the federal government’s (non) role in funding personnel at the state and local levels could be argued as valid for overtime costs.

⁴⁸ U.S. Congress, Senate Committee on Governmental Affairs, *Investing in Homeland Security: Streamlining and Enhancing Homeland Security Grant Programs*.

Table 2. FY2005 HSGP State Allocations
(In millions of dollars, except per capita amounts)

State	SHSGP	UASI	LETPP	CCP	EMPG	MMRS	Total	Per Capita
Alabama	\$17.7	—	\$6.4	\$0.2	\$2.9	\$0.9	\$28.1	\$6.24
Alaska	\$9.4	—	\$3.4	\$0.1	\$1.5	\$0.5	\$14.9	\$24.83
Arizona	\$20.0	\$10.0	\$7.3	\$0.3	\$3.2	\$0.9	\$41.7	\$7.58
Arkansas	\$13.9	—	\$5.0	\$0.2	\$2.3	\$0.2	\$21.6	\$8.00
California	\$84.6	\$148.3	\$30.8	\$1.1	\$13.8	\$4.1	\$282.7	\$8.05
Colorado	\$17.8	\$8.7	\$6.5	\$0.2	\$2.9	\$0.7	\$36.8	\$8.18
Connecticut	\$15.5	—	\$5.6	\$0.2	\$2.5	\$0.2	\$24.0	\$6.86
Delaware	\$9.7	—	\$3.5	\$0.1	\$1.6	—	\$14.9	\$18.63
D.C.	\$9.2	—	\$3.3	\$0.1	\$1.5	—	\$14.1	\$23.50
Florida	\$44.7	\$30.9	\$16.3	\$0.6	\$7.2	\$1.6	\$101.3	\$6.07
Georgia	\$26.7	\$13.3	\$9.7	\$0.3	\$4.3	\$0.5	\$54.8	\$6.37
Hawaii	\$10.7	\$6.5	\$3.9	\$0.1	\$1.7	\$0.2	\$23.1	\$19.25
Idaho	\$10.9	—	\$4.0	\$0.1	\$1.8	—	\$16.8	\$12.92
Illinois	\$35.3	\$48.0	\$12.8	\$0.4	\$5.8	\$0.2	\$102.5	\$8.13
Indiana	\$21.3	\$5.7	\$7.8	\$0.3	\$3.5	\$0.5	\$39.1	\$6.31
Iowa	\$14.3	—	\$5.2	\$0.2	\$2.3	\$0.2	\$22.2	\$7.66
Kansas	\$13.8	—	\$5.0	\$0.2	\$2.3	\$0.5	\$21.8	\$8.07
Kentucky	\$16.9	\$5.0	\$6.1	\$0.2	\$2.8	\$0.5	\$31.5	\$7.68
Louisiana	\$17.7	\$14.5	\$6.4	\$0.2	\$2.9	\$0.9	\$42.6	\$9.47
Maine	\$10.8	—	\$3.9	\$0.1	\$1.8	—	\$16.6	\$12.77

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State	SHSGP	UASI	LETPP	CCP	EMPG	MMRS	Total	Per Capita
Maryland	\$19.9	\$11.4	\$7.2	\$0.3	\$3.2	\$0.2	\$42.2	\$7.67
Mass.	\$21.9	\$28.1	\$8.0	\$0.2	\$3.6	\$0.7	\$62.5	\$9.77
Michigan	\$29.7	\$17.6	\$10.8	\$0.4	\$4.9	\$0.7	\$64.1	\$6.35
Minnesota	\$18.9	\$5.8	\$6.9	\$0.2	\$3.1	\$0.5	\$35.4	\$7.08
Mississippi	\$14.2	—	\$5.2	\$0.2	\$2.3	\$0.2	\$22.1	\$7.62
Missouri	\$20.3	\$15.3	\$7.4	\$0.3	\$3.3	\$0.5	\$47.1	\$8.26
Montana	\$9.9	—	\$3.6	\$0.1	\$1.6	—	\$15.2	\$16.89
NCR ^A	—	\$82.0	—	—	—	—	\$82.0	\$6.12 ^B
Nebraska	\$11.7	\$5.1	\$4.3	\$0.1	\$1.9	\$0.5	\$23.6	\$13.88
Nevada	\$12.8	\$8.5	\$4.7	\$0.2	\$2.1	\$0.2	\$28.5	\$12.95
New Hamp.	\$10.7	—	\$3.9	\$0.1	\$1.8	\$0.2	\$16.7	\$12.85
New Jersey	\$26.6	\$19.4	\$9.7	\$0.3	\$4.4	\$0.5	\$60.9	\$7.08
New Mexico	\$12.0	—	\$4.4	\$0.2	\$2.0	—	\$18.6	\$9.79
New York	\$49.4	\$221.1	\$18.0	\$0.6	\$8.1	\$1.1	\$298.3	\$15.54
N. Carolina	\$26.1	\$5.5	\$9.5	\$0.3	\$4.3	\$0.9	\$46.6	\$5.61
N. Dakota	\$9.3	—	\$3.4	\$0.1	\$1.5	—	\$14.3	\$23.83
Ohio	\$32.7	\$26.1	\$11.9	\$0.4	\$5.4	\$1.4	\$77.9	\$6.83
Oklahoma	\$15.6	\$5.6	\$5.7	\$0.2	\$2.5	\$0.2	\$29.8	\$8.51
Oregon	\$15.7	\$10.5	\$5.7	\$0.2	\$2.6	\$0.5	\$35.2	\$10.06
Pennsylvania	\$34.7	\$33.8	\$12.6	\$0.4	\$5.7	\$0.5	\$87.7	\$7.13
Rhode Island	\$10.3	—	\$3.7	\$0.1	\$1.7	\$0.2	\$16.0	\$14.55

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State	SHSGP	UASI	LETPP	CCP	EMPG	MMRS	Total	Per Capita
S. Carolina	\$16.9	—	\$6.2	\$0.2	\$2.8	\$0.2	\$26.3	\$6.41
S. Dakota	\$9.6	—	\$3.5	\$0.1	\$1.6	—	\$14.8	\$18.50
Tennessee	\$20.6	—	\$7.5	\$0.3	\$3.4	\$0.9	\$32.7	\$5.64
Texas	\$55.7	\$49.8	\$20.3	\$0.7	\$9.0	\$3.0	\$138.5	\$6.35
Utah	\$13.0	—	\$4.7	\$0.2	\$2.1	\$0.2	\$20.2	\$8.78
Vermont	\$9.3	—	\$3.4	\$0.1	\$1.5	—	\$14.3	\$23.83
Virginia	\$23.9	—	\$8.7	\$0.3	\$3.9	\$1.4	\$38.2	\$5.23
Washington	\$21.2	\$12.0	\$7.7	\$0.3	\$3.5	\$0.7	\$45.4	\$7.44
W. Virginia	\$11.9	—	\$4.3	\$0.2	\$1.9	—	\$18.3	\$10.17
Wisconsin	\$19.8	\$6.3	\$7.2	\$0.3	\$3.2	\$0.5	\$37.3	\$6.91
Wyoming	\$9.0	—	\$3.3	\$0.1	\$1.5	—	\$13.9	\$27.80
Puerto Rico	\$16.3	—	\$5.9	\$0.2	\$2.7	—	\$25.1	\$6.44
Virgin Is.	\$2.9	—	\$1.1	\$0.04	\$0.6	—	\$4.6	\$46.00
A. Samoa	\$2.8	—	\$1.0	\$0.04	\$0.5	—	\$4.3	\$71.67
Guam	\$3.0	—	\$1.1	\$0.04	\$0.6	—	\$4.7	\$23.50
N. Ma. Is.	\$2.8	—	\$1.0	\$0.04	\$0.5	—	\$4.3	\$61.43
Total	\$1,062.0	\$854.8	\$386.4	\$13.26	\$173.9	\$28.5	\$2,518.9	

Source: U.S. Department of Homeland Security, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: Dec. 2004), and CRS calculations based on the 2002 population estimates from the U.S. Bureau of Census.

a. The National Capital Region (NCR) comprises the District of Columbia; Maryland counties of Montgomery and Prince Georges, Virginia counties of Arlington, Fairfax, Prince William, and Loudon; and the Virginia cities of Falls Church, Manassas, Manassas Park, Fairfax, and Alexandria.

b. This per capita amount is based on the 2002 population estimates for the District of Columbia, Maryland, and Virginia. The 2002 U.S. Census Bureau population estimates are available at [<http://www.census.gov/popest/estimates.php>], visited December 8, 2004.

Table 3. FY2005 UASI State and Urban Area Allocations
(In millions of dollars)

State	Urban Area	FY2005 UASI Allocation	State Total
Arizona	Phoenix	\$10.0	\$10.0
California	Anaheim	\$10.9	\$148.3
	Santa Ana	\$9.0	
	Oakland	\$6.2	
	San Francisco	\$21.4	
	San Jose	\$6.6	
	Los Angeles	\$65.1	
	Long Beach	\$8.0	
	Sacramento	\$6.0	
	San Diego	\$15.1	
Colorado	Denver	\$8.7	\$8.7
National Capital Region	District of Columbia; Maryland counties of Montgomery and Prince Georges, Virginia counties of Arlington, Fairfax, Prince William, and Loudon; Virginia cities of Falls Church, Manassas, Manassas Park, Fairfax, and Alexandria	\$82.0	\$82.0
Florida	Jacksonville	\$6.9	\$30.9
	Miami	\$16.2	
	Tampa	\$7.8	
Georgia	Atlanta	\$13.3	\$13.3
Hawaii	Honolulu	\$6.5	\$6.5
Illinois	Chicago	\$48.0	\$48.0
Indiana	Indianapolis	\$5.7	\$5.7
Kentucky	Louisville	\$5.0	\$5.0
Louisiana	Baton Rouge	\$5.2	\$14.5
	New Orleans	\$9.3	
Massachusetts	Boston	\$28.1	\$28.1
Maryland	Baltimore	\$11.4	\$11.4
Michigan	Detroit	\$17.6	\$17.6

State	Urban Area	FY2005 UASI Allocation	State Total
Minnesota	Minneapolis	\$5.8	\$5.8
Missouri	Kansas City	\$8.2	\$15.3
	St. Louis	\$7.1	
Nebraska	Omaha	\$5.1	\$5.1
North Carolina	Charlotte	\$5.5	\$5.5
New Jersey	Jersey City	\$6.8	\$19.4
	Newark	\$12.6	
New York	Buffalo	\$7.2	\$221.1
	New York City	\$213.9	
Nevada	Las Vegas	\$8.5	\$8.5
Ohio	Cincinnati	\$5.9	\$26.1
	Cleveland	\$7.3	
	Columbus	\$7.6	
	Toledo	\$5.3	
Oklahoma	Oklahoma City	\$5.6	\$5.6
Oregon	Portland	\$10.5	\$10.5
Pennsylvania	Philadelphia	\$24.1	\$33.8
	Pittsburgh	\$9.7	
Texas	Arlington	\$5.1	\$49.8
	Dallas	\$14.1	
	Forth Worth	\$5.4	
	Houston	\$19.2	
	San Antonio	\$6.0	
Washington	Seattle	\$12.0	\$12.0
Wisconsin	Milwaukee	\$6.3	\$6.3
Total		\$854.8	\$854.8

Source: U.S. Department of Homeland Security, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: December 2004).

Table 4. FY2005 MMRS Allocation Recipients
 (Each metropolitan medical system is allocated \$227,592)

State	Metropolitan Medical System
Alabama	Birmingham, Huntsville, Mobile, and Montgomery
Alaska	Anchorage and Southeast Alaska
Arizona	Glendale, Mesa, Phoenix, and Tucson
Arkansas	Little Rock
California	Los Angeles, San Francisco, San Diego, San Jose, Long Beach, Oakland, Sacramento, Fresno, Santa Ana, Anaheim, Riverside, Glendale, Huntington Beach, Stockton, Bakersfield, Fremont, Modesto, and San Bernardino
Colorado	Aurora, Colorado Springs, and Denver
Connecticut	Hartford
Florida	Miami, Jacksonville, Tampa, St. Petersburg, Hialeah, Ft. Lauderdale, and Orlando
Georgia	Atlanta and Columbus
Hawaii	Honolulu
Illinois	Chicago
Indiana	Ft. Wayne and Indianapolis
Iowa	Des Moines
Kansas	Kansas City and Wichita
Kentucky	Lexington and Louisville
Louisiana	Baton Rouge, Jefferson Parish, New Orleans, and Shreveport
Maryland	Baltimore
Massachusetts	Boston, Springfield, Worcester
Michigan	Detroit, Grand Rapids, and Warran
Minnesota	Minneapolis and St. Paul
Mississippi	Jackson
Missouri	Kansas City and St. Louis
Nebraska	Lincoln and Omaha

State	Metropolitan Medical System
Nevada	Las Vegas
New Hampshire	Northern New England (also serves Maine and Vermont)
New Jersey	Jersey City and Newark
New York	Buffalo, New York City, Rochester, Syracuse, and Yonkers
North Carolina	Charlotte, Columbia, Greensboro, and Raleigh
Ohio	Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo
Oklahoma	Oklahoma City and Tulsa
Oregon	Portland
Pennsylvania	Allegheny County and Philadelphia
Rhode Island	Providence
South Carolina	Columbia
Tennessee	Chattanooga, Knoxville, Memphis, and Nashville
Texas	Amarillo, Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Garland, Houston, Irving, Lubbock, San Antonio, and Southern Rio Grande
Utah	Salt Lake City
Virginia	Arlington County, Chesapeake, Newport News, Norfolk, Richmond, and Virginia Beach
Washington	Seattle, Spokane, and Tacoma
Wisconsin	Madison and Milwaukee

Source: U.S. Department of Homeland Security, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: Dec. 2004).

Table 5. FY2004 and FY2005 HSGP State Allocations^a

(In millions of dollars, except per capita amounts)

State	FY2004		FY2005	
	Allocation	Per Capita Amount	Allocation	Per Capita Amount
Alabama	\$41.4	\$9.20	\$28.1	\$6.24
Alaska	\$21.0	\$35.00	\$14.9	\$24.83
Arizona	\$56.9	\$10.35	\$41.7	\$7.58
Arkansas	\$33.1	\$12.26	\$21.6	\$8.00
California	\$337.8	\$9.62	\$282.7	\$8.05
Colorado	\$49.6	\$11.02	\$36.8	\$8.18
Connecticut	\$45.5	\$13.00	\$24.0	\$6.86
Delaware	\$21.8	\$27.25	\$14.9	\$18.63
District of Columbia	\$20.6	\$34.33	\$14.1	\$23.50
Florida	\$144.0	\$8.62	\$101.3	\$6.07
Georgia	\$72.4	\$8.42	\$54.8	\$6.37
Hawaii	\$24.3	\$20.25	\$23.1	\$19.25
Idaho	\$24.5	\$18.85	\$16.8	\$12.92
Illinois	\$120.0	\$9.52	\$102.5	\$8.13
Indiana	\$58.8	\$9.48	\$39.1	\$6.31
Iowa	\$32.2	\$11.10	\$22.2	\$7.66
Kansas	\$31.9	\$11.81	\$21.8	\$8.07
Kentucky	\$47.5	\$11.59	\$31.5	\$7.68
Louisiana	\$55.5	\$12.33	\$42.6	\$9.47

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State	FY2004		FY2005	
	Allocation	Per Capita Amount	Allocation	Per Capita Amount
Maine	\$24.2	\$18.62	\$16.6	\$12.77
Maryland	\$62.6	\$11.38	\$42.2	\$7.67
Massachusetts	\$73.1	\$11.42	\$62.5	\$9.77
Michigan	\$81.4	\$8.06	\$64.1	\$6.35
Minnesota	\$63.1	\$12.62	\$35.4	\$7.08
Mississippi	\$32.3	\$11.14	\$22.1	\$7.62
Missouri	\$70.5	\$12.37	\$47.1	\$8.26
Montana	\$22.3	\$24.78	\$15.2	\$16.89
Nebraska	\$27.0	\$15.88	\$23.6	\$13.88
Nevada	\$39.3	\$17.86	\$28.5	\$12.95
New Hampshire	\$24.4	\$18.77	\$16.7	\$12.85
New Jersey	\$93.2	\$10.84	\$60.9	\$7.08
New Mexico	\$27.3	\$14.37	\$18.6	\$9.79
New York	\$194.4	\$10.13	\$298.3	\$15.54
North Carolina	\$67.0	\$8.07	\$46.6	\$5.61
North Dakota	\$20.9	\$34.83	\$14.3	\$23.83
Ohio	\$108.9	\$9.55	\$77.9	\$6.83
Oklahoma	\$36.3	\$10.37	\$29.8	\$8.51
Oregon	\$43.5	\$12.43	\$35.2	\$10.06
Pennsylvania	\$117.1	\$9.52	\$87.7	\$7.13

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State	FY2004		FY2005	
	Allocation	Per Capita Amount	Allocation	Per Capita Amount
Rhode Island	\$23.0	\$20.91	\$16.0	\$14.55
South Carolina	\$38.3	\$9.34	\$26.3	\$6.41
South Dakota	\$21.6	\$27.00	\$14.8	\$18.50
Tennessee	\$57.7	\$9.95	\$32.7	\$5.64
Texas	\$167.9	\$7.70	\$138.5	\$6.35
Utah	\$29.5	\$12.83	\$20.2	\$8.78
Vermont	\$20.9	\$34.83	\$14.3	\$23.83
Virginia	\$63.5	\$8.70	\$38.2	\$5.23
Washington	\$65.5	\$10.74	\$45.4	\$7.44
West Virginia	\$26.7	\$14.83	\$18.3	\$10.17
Wisconsin	\$55.3	\$10.24	\$37.3	\$6.91
Wyoming	\$20.0	\$40.00	\$13.9	\$27.80
Puerto Rico	\$36.7	\$9.41	\$25.1	\$6.44
Virgin Islands	\$6.7	\$67.00	\$4.6	\$46.00
American Samoa	\$6.3	\$105.00	\$4.3	\$71.67
Guam	\$6.8	\$34.00	\$4.7	\$23.50
Northern Mariana Islands	\$6.3	\$90.00	\$4.3	\$61.43
Total	\$3,120.3		\$2,436.7	

Source: U.S. Department of Homeland Security, Office for Domestic Preparedness, *Fiscal Year 2005 Homeland Security Grant Program: Program Guidelines and Application Kit* (Washington: Dec. 2004), and CRS calculations based on the 2002 population estimates from the U.S. Bureau of Census.

a. This comparison includes FY2004 and FY2005 state allocations for SHSGP, UASI, LETPP, CCP, EMPG, and MMRS grants