

# Background

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## After the 9/11 Act: Homeland Security Grants Still Moving in the Wrong Direction

*Matt A. Mayer and James Jay Carafano, Ph.D.*

Nearly six years after September 11, 2001, the Department of Homeland Security (DHS) is still struggling to keep homeland security grants from becoming just another federal entitlement program. To make matters worse, Congress recently passed a bill (S. 4 and H.R. 1) that will make the DHS's job more difficult.

The bill's official purpose is to implement the reforms proposed by the 9/11 Commission, but it also will proliferate new grants and add additional requirements that will keep the department from focusing grants on strategic priorities. In addition, new research suggests that federal homeland security grants are largely just supplanting state and local spending rather than promoting national preparedness and raising standards.

Congress needs to start over by eliminating minimum grant allocations, boosting matching requirements for grants, consolidating grant categories, and requiring the DHS to conduct a full assessment of national capabilities.

### A Good Idea Gone Wrong

Funds distributed through the homeland security grant program are intended to support the objectives outlined in the National Preparedness Goal and related national preparedness doctrine, such as the National Incident Management System, National Response Plan, and National Infrastructure Protection Plan.<sup>1</sup> The DHS and representatives from various sectors and government levels collaborated to lay the foundation for a

### Talking Points

- As the 9/11 Commission warned, federal homeland security grants have become a vehicle for pork-barrel funding, largely displacing rather than augmenting local and state spending on homeland security.
- Despite distributing \$20 billion in grants to state and local governments, the Department of Homeland Security has not instituted an effective oversight mechanism to ensure that the grants are being used properly.
- Congress has recently passed a bill (S. 4 and H.R. 1) that will actually make the DHS's job more difficult by proliferating new grants and adding new requirements that will keep the department from focusing grants on strategic priorities.
- Instead, Congress needs to require the DHS to conduct a national assessment of homeland security capabilities, eliminate minimum and maximum grant requirements for states and urban areas, and refocus DHS grant programs on core objectives based on risk and capability needs.

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[www.heritage.org/Research/HomelandDefense/bg2059.cfm](http://www.heritage.org/Research/HomelandDefense/bg2059.cfm)

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(202) 546-4400 • [heritage.org](http://heritage.org)

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national preparedness and response system. In this endeavor, they created the Target Capabilities List (TCL), which identifies 15 national planning scenarios, hundreds of critical tasks, and 37 critical capabilities. The TCL includes the definitions, requirements, and responsibilities for each of the 37 capabilities, making it a vital tool in the development of meaningful strategic planning.<sup>2</sup>

While DHS has done yeoman's service in establishing national standards for readiness, its efforts to tie grant funding to the standards have been troubled at best. Since drafting the TCL in 2005, the DHS has not taken any measures to ensure that these plans are executed at the federal, state and local levels.<sup>3</sup>

Today, nearly four years after its initial assessment, the DHS has yet to conduct another national capabilities assessment, making it virtually impossible to ascertain which critical capabilities exist and which ones are still needed. Even if the department was in a position to communicate new tasks and responsibilities to state and local governments, the recommendations would be based on obsolete criteria. Consequently, there is no way to determine how best to target resources to address the capabilities gap.

### Not Another Entitlement Program

The 9/11 Commission warned in its report that homeland security grants were in danger of becoming pork-barrel funding.<sup>4</sup> The warning proved prophetic. While federal spending on homeland security has increased exponentially since 9/11, state spending on homeland security has remained almost flat as a percentage of total state appropriations. Studies suggest that this trend may indicate a

more dangerous practice of federal grants supplanting state spending on homeland security.

In 2006, The Heritage Foundation published a report examining how intergovernmental grants affected recipient spending. The report looked at Community Oriented Policing Services (COPS) grants, which are administered through the U.S. Department of Justice. Much like homeland security grants, COPS grants were categorical grants intended to fund specific activities. Although various regression models found that they had a statistically significant effect in reducing violent and property crime rates, COPS grants failed to stimulate local spending.<sup>5</sup> This strongly rebuts the theory that federal grants provide a powerful incentive for state and local governments to increase their own spending beyond what they would have spent without federal assistance.

The last thing the United States needs is another entitlement program, particularly in homeland security. When state and local officials can rely on federal money to finance projects that are clearly local responsibilities, competing interests engender a horde of unnecessary, wasteful projects that would probably never be funded if the localities had been forced to bear the financial burden themselves. Federal funds should be used to supplement, not supplant, state and local spending.

### Putting the Right Money in the Right Place

For fiscal year (FY) 2007, the DHS allocated nearly \$1.7 billion in homeland security grants. These grants continue even though the DHS has no effective oversight mechanism in place to ensure that the money is being used properly.

1. U.S. Department of Homeland Security, "Overview: FY 2007 Homeland Security Grant Program," January 5, 2007, p. 1, at [www.dhs.gov/xlibrary/assets/grants-2007-program-overview-010507.pdf](http://www.dhs.gov/xlibrary/assets/grants-2007-program-overview-010507.pdf) (July 30, 2007).
2. U.S. Department of Homeland Security, "A Nation Prepared: The Target Capabilities List," at [www.ojp.usdoj.gov/odp/docs/Target\\_Capabilities\\_List\\_041405.pdf](http://www.ojp.usdoj.gov/odp/docs/Target_Capabilities_List_041405.pdf) (July 30, 2007).
3. James Jay Carafano and Matt A. Mayer, "Spending Smarter: Prioritizing Homeland Security Grants by Using National Standards and Risk Criteria," Heritage Foundation *Backgrounder* No. 2033, May 10, 2007, at [www.heritage.org/Research/HomelandDefense/bg2033.cfm](http://www.heritage.org/Research/HomelandDefense/bg2033.cfm).
4. National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: W.W. Norton and Company, 2004), p. 396, at [www.9-11commission.gov/report/911Report.pdf](http://www.9-11commission.gov/report/911Report.pdf) (August 1, 2007).
5. David B. Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," Heritage Foundation *Center for Data Analysis Report* No. CDA06-03, May 26, 2006, at [www.heritage.org/Research/Crime/cda06-03.cfm](http://www.heritage.org/Research/Crime/cda06-03.cfm).

Such lax measures have inevitable repercussions. For example, a 2005 state audit of Colorado's homeland security system revealed that 13 percent of the state's \$15.8 million had been misspent on office space, a bus, and other items. In 2007, Governor Bill Ritter (D) ordered a system review, which found that the state's homeland security structure was inadequate. Responsibilities were so diffused that the system was considered unable to handle a serious terrorist incident in Colorado.<sup>6</sup>

Since FY 2003, the DHS has pumped over \$1 billion into the state of California. Because these funds were distributed through various disconnected grant programs, too many projects were funded and too few results were achieved.

To support local preparedness efforts to respond to all-hazards mass casualty incidents, the Metropolitan Medical Response System Program has awarded California nearly \$20 million since 2003. Yet in a 2006 report published by Trust for America's Health, a nonprofit organization, California tied with Iowa, Maryland, and New Jersey for the lowest score among all 50 states in its level of health preparedness. Specifically, the state failed to meet adequate strategic stockpile levels, was considered non-compatible with the CDC's National Electronic Disease Surveillance System, and did not have sufficient hospital bed surge capacity to respond to a moderate pandemic.<sup>7</sup>

Fiscal responsibility is also needed in calculating the funding amounts. This year, the DHS reserved 55 percent of Urban Areas Security Initiative (UASI) funds for the six highest-risk urban areas, known as Tier I urban areas. While the Tier I areas competed for \$411 million of the funding pie, the remaining 39 areas (Tier II) competed for \$336 million of funding. By restricting more than half of the funding to a select number of grant recipients, this policy will lead inevitably to disproportionate allocations that defy the very function of need-based grants.

Until an assessment is completed, no one at the DHS can know whether or not the preordained cap

on the top six urban areas is sufficient to meet the capability needs of those jurisdictions and to address existing capability gaps. Setting an arbitrary funding threshold—whether high or low—would prevent essential funds from reaching their targets. One of the Tier I urban areas could take a chunk of the \$411 million and overinvest in one capability, while a Tier II area could face an underinvestment in one of its initiatives. The opposite is also possible. This would not only distort the incentives for homeland security spending, but also conceal the true vulnerabilities.

Homeland security funding should have a specific purpose: reducing risk and preventing attacks and disasters. Arbitrary funding floors and ceilings may simplify the arithmetic, but they do not contribute to a sound homeland security structure.

The DHS should eliminate this formulaic grant policy and base all funding allocations on an updated TCL. This would not only serve as a valuable metric tool for assessing the nationwide capabilities gap, but also help the nation to reach an overall level of preparedness.

### **The Real Purpose: Reducing Risk and Building a National System**

The core function of homeland security grants and the DHS in general is to integrate capabilities into a national system that is grounded in principles of federalism and capable of preventing, responding to, and recovering from attacks on the homeland. The question that should be asked is how the effectiveness of homeland security spending in reducing risk can be measured.

Since 9/11, the traditional rubric has been to aggregate a target's threat, vulnerability, and consequence. The likelihood of the threat, the target's susceptibility to the threat, and the repercussions of the threat all contribute to the target's risk index. States compile data along these guidelines and submit them to the DHS with the understanding that this information will be incorporated into a national

6. Associated Press, "Ritter Overhauls Colorado Homeland Security," CBS4 (Denver), July 13, 2007, at [http://cbs4denver.com/local/local\\_story\\_194120230.html](http://cbs4denver.com/local/local_story_194120230.html) (July 30, 2007).

7. Trust for America's Health, "Ready or Not? Protecting the Public's Health From Diseases, Disasters, and Bioterrorism," *Issue Report*, December 2006, at <http://healthyamericans.org/reports/bioterror06/BioTerrorReport2006.pdf> (July 21, 2007).

threat assessment. However, a DHS official has said that the department's methodology for incorporating these data is underdeveloped, which means that "the data [are] not currently incorporated into threat assessment at the federal level in any systematic and meaningful manner."<sup>8</sup>

Determining the grant program's true value requires, first, defining, conceptualizing, assessing, and managing the risk. Second, the DHS must develop a methodology for indexing relative risk and implementing a strategy to reduce it. Understandably, this is a complex task with varying factors. Any tools that attempt to quantify risk will always be off the mark.

Furthermore, DHS Secretary Michael Chertoff has conceded that the country must accept some level of risk, given that protecting the country against every real or perceived risk is simply not feasible. However, this level of acceptable risk—the benchmark for allocating federal resources—has not yet been defined.<sup>9</sup> This nebulous policymaking significantly impedes efforts to maintain a respectable level of situational awareness.

### The 9/11 Law Makes Matters Worse

The law passed by Congress does contain several provisions that should advance national preparedness. Importantly, it endorses multi-state projects that allow key states to work together to develop critical regional capabilities with the aim of building a layered, nationwide homeland security system. Regional capabilities play a particularly important role in key densely populated areas and areas that contain critical infrastructure.

The bill also adds some solid auditing and reporting requirements to homeland security grants. Many state and local grantees will resist these requirements, but given the DHS's failure to institute an effective grant management system or build a National Preparedness System after spending \$20 billion, these provisions will add some much-needed accountability and transparency to the process.

Finally, the law would require a quadrennial review of homeland security. Like the Quadrennial Defense Review, this document would provide Congress, the President, and the American taxpayer with a four-year view of the progress and challenges in homeland security.

Regrettably, the law also contains provisions that are steps back. It would expand eligibility for the Urban Areas Security Initiative grant program to the top 100 urban areas. Such an expansion would greatly dilute the funding by diverting grants to urban areas with little to no meaningful risk. Rather than expanding this program, Congress should exercise the political will to reduce the number of eligible urban areas, since the DHS has been unwilling to limit the program to eligible urban areas that face meaningful risks.

Originally, only seven urban areas were eligible. After complaints from urban areas that were not included in the program, the program was expanded to 30 areas. The next year, it was expanded to 50 areas. Two years later, the DHS scaled eligibility down to 35 urban areas, and another 11 areas were allowed to apply for funds to finish projects. Those 11 areas were not eligible for funds the following year unless they were in the top 35 list, but this year, the number is back up to 46 fully eligible urban areas.

However, the law's biggest problem is how it changes the funding formula. While the bill reduces the state minimum in homeland security grants to 0.375 percent for FY 2008, it applies that minimum to the UASI grant program as well. The state minimum has never before applied to the UASI grant program. This change would be an enormous step back. Based on authorized funding levels, the change would give each state a minimum of \$6,750,000, which is \$200,000 more than the smallest states received this year.

As argued in a Heritage Foundation report, Congress needs to eliminate all minimums and use the funds to close the highest-priority gaps in TCL

8. Todd Masse, Siobhan O'Neil, and John Rollins, "The Department of Homeland Security's Risk Assessment Methodology: Evolution, Issues, and Options for Congress," Congressional Research Service *Report for Congress*, February 2, 2007, p. 14, at [www.fas.org/spp/crs/homesecc/RL33858.pdf](http://www.fas.org/spp/crs/homesecc/RL33858.pdf) (July 15, 2007).

9. *Ibid.*, p. 17.



capability.<sup>10</sup> Rather than increasing the state minimum, Congress needs to acknowledge that states with fewer TCL needs should receive less funding. The bill also allows the states to retain 20 percent of the UASI funds. Historically, the states were required to pass through 100 percent of the funds. Given that urban areas face the highest risks, allowing the states to retain up to 20 percent—thereby depriving urban areas of needed funds—is a serious mistake.

Another flaw in the law is that it still fails to include any matching requirements for state and local governments. Whether the matching requirement is 5 percent or 50 percent, Congress should require recipients to dedicate a certain level of local funds to meeting critical TCL needs. As noted, state and local spending on homeland security after 9/11 has not increased in any meaningful way, which indicates that the federal government is supplanting local funds, not supplementing them. Compounding this issue, the law allows localities to spend 50 percent of funds on personnel costs, which moves the federal programs closer to COPS-like programs.

Congress should not fund personnel costs, and it should require states and other recipients to match funds as a condition of receiving federal funds. This mechanism has been used successfully in the Port Security Program with private-sector applicants. In FY 2005, the 50 percent matching requirement for private-sector applicants resulted in \$33 million in matching spending, boosting the funds used to secure U.S. ports by almost 25 percent.<sup>11</sup>

Finally, the 749-page bill appears to authorize roughly \$3.85 billion in state and local grants for FY 2008. The current environment does not justify this enormous increase. Congress should refuse to authorize more funds until a thorough national capabilities assessment has been conducted to determine which TCL capabilities the first \$20 billion built. After the assessment, Congress can put a more accurate price tag on closing the remaining TCL capability gaps.

## What the Federal Government Should Do

State and local needs vary across the board. They need to be identified and integrated into a national standards plan that fulfills articulated goals. However, this plan must be a dynamic list compiled from an established baseline of risks. The goal is to create an adaptive, flexible system to fit homeland security needs at all jurisdictional levels.

Congress and the DHS can take several actions to meet this goal. Specifically, they should:

- **Conduct a national capabilities assessment.** Evaluating capabilities is the starting point for understanding U.S. strengths and weaknesses. Once the DHS executes this task, it will be in a better position to justify future allocations of homeland security grants and provide the government with a sense of what still needs to be done.
- **Eliminate minimum and maximum grant requirements.** Placing caps on homeland security grants distorts the purpose of these grants and hinders state and local efforts to address their highest-priority needs. Congress should revisit the original language concerning homeland security grants in the Patriot Act and replace the minimum requirements with a comprehensive rubric based solely on risk and an updated TCL. The DHS should eliminate the arbitrary 55 percent maximum cap as well.
- **Refocus grant programs on core objectives.** Congress needs to end its addiction to proliferating grants. Both Congress and the DHS need to restore the program's federalist functions. The DHS needs to focus on truly national concerns in a way that lessens the appeal of wasteful pork-barrel projects, and Congress needs to give states enough latitude to access needed resources quickly and efficiently.

## Conclusion

It is unrealistic to expect homeland security grant levels to continue to increase as federal budget concerns mount. Furthermore, if previous

10. Carafano and Mayer, "Spending Smarter."

11. Press release, "U.S. Department of Homeland Security Announces Over \$141 Million in Grants to Secure America's Ports," U.S. Department of Homeland Security, September 13, 2005, at [www.dhs.gov/xnews/releases/press\\_release\\_0745.shtm](http://www.dhs.gov/xnews/releases/press_release_0745.shtm) (July 30, 2007).

funding has served its purpose, some previously identified vulnerabilities have been addressed and no longer require funding. The nation cannot afford to waste scarce homeland security funds on unnecessary capabilities. It is incumbent upon policymakers to begin fixing this broken system.

—Matt A. Mayer, Chief Executive Officer of Provisum Strategies LLC, is former Counselor to the Deputy Secretary of the U.S. Department of Homeland

Security and former head of the DHS Office of Grants and Training. James Jay Carafano, Ph.D., is Assistant Director of the Kathryn and Shelby Cullom Davis Institute for International Studies and Senior Research Fellow for National Security and Homeland Security in the Douglas and Sarah Allison Center for Foreign Policy Studies at The Heritage Foundation. Holly Sun, an intern at The Heritage Foundation, helped to prepare this paper.