

109TH CONGRESS
1ST SESSION

H. R. 1544

IN THE SENATE OF THE UNITED STATES

MAY 12, 2005

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To provide faster and smarter funding for first responders,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Faster and Smarter
3 Funding for First Responders Act of 2005”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) In order to achieve its objective of pre-
7 venting, minimizing the damage from, and assisting
8 in the recovery from terrorist attacks, the Depart-
9 ment of Homeland Security must play a leading role
10 in assisting communities to reach the level of pre-
11 paredness they need to prevent and respond to a ter-
12 rorist attack.

13 (2) First responder funding is not reaching the
14 men and women of our Nation’s first response teams
15 quickly enough, and sometimes not at all.

16 (3) To reform the current bureaucratic process
17 so that homeland security dollars reach the first re-
18 sponders who need it most, it is necessary to clarify
19 and consolidate the authority and procedures of the
20 Department of Homeland Security that support first
21 responders.

22 (4) Ensuring adequate resources for the new
23 national mission of homeland security, without de-
24 grading the ability to address effectively other types
25 of major disasters and emergencies, requires a dis-
26 crete and separate grant making process for home-

1 land security funds for first response to terrorist
2 acts, on the one hand, and for first responder pro-
3 grams designed to meet pre-September 11 priorities,
4 on the other.

5 (5) While a discrete homeland security grant
6 making process is necessary to ensure proper focus
7 on the unique aspects of terrorism preparedness, it
8 is essential that State and local strategies for uti-
9 lizing such grants be integrated, to the greatest ex-
10 tent practicable, with existing State and local emer-
11 gency management plans.

12 (6) Homeland security grants to first respond-
13 ers must be based on the best intelligence con-
14 cerning the capabilities and intentions of our ter-
15 rorist enemies, and that intelligence must be used to
16 target resources to the Nation's greatest threats,
17 vulnerabilities, and consequences.

18 (7) The Nation's first response capabilities will
19 be improved by sharing resources, training, plan-
20 ning, personnel, and equipment among neighboring
21 jurisdictions through mutual aid agreements and re-
22 gional cooperation. Such regional cooperation should
23 be supported, where appropriate, through direct
24 grants from the Department of Homeland Security.

1 (8) An essential prerequisite to achieving the
2 Nation's homeland security objectives for first re-
3 sponders is the establishment of well-defined na-
4 tional goals for terrorism preparedness. These goals
5 should delineate the essential capabilities that every
6 jurisdiction in the United States should possess or
7 to which it should have access.

8 (9) A national determination of essential capa-
9 bilities is needed to identify levels of State and local
10 government terrorism preparedness, to determine
11 the nature and extent of State and local first re-
12 sponder needs, to identify the human and financial
13 resources required to fulfill them, to direct funding
14 to meet those needs, and to measure preparedness
15 levels on a national scale.

16 (10) To facilitate progress in achieving, main-
17 taining, and enhancing essential capabilities for
18 State and local first responders, the Department of
19 Homeland Security should seek to allocate homeland
20 security funding for first responders to meet nation-
21 wide needs.

22 (11) Private sector resources and citizen volun-
23 teers can perform critical functions in assisting in
24 preventing and responding to terrorist attacks, and
25 should be integrated into State and local planning

1 efforts to ensure that their capabilities and roles are
2 understood, so as to provide enhanced State and
3 local operational capability and surge capacity.

4 (12) Public-private partnerships, such as the
5 partnerships between the Business Executives for
6 National Security and the States of New Jersey and
7 Georgia, can be useful to identify and coordinate pri-
8 vate sector support for State and local first respond-
9 ers. Such models should be expanded to cover all
10 States and territories.

11 (13) An important aspect of terrorism pre-
12 paredness is measurability, so that it is possible to
13 determine how prepared a State or local government
14 is now, and what additional steps it needs to take,
15 in order to prevent, prepare for, respond to, mitigate
16 against, and recover from acts of terrorism.

17 (14) The Department of Homeland Security
18 should establish, publish, and regularly update na-
19 tional voluntary consensus standards for both equip-
20 ment and training, in cooperation with both public
21 and private sector standard setting organizations, to
22 assist State and local governments in obtaining the
23 equipment and training to attain the essential capa-
24 bilities for first response to acts of terrorism, and to
25 ensure that first responder funds are spent wisely.

1 **SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RE-**
 2 **SPONDERS.**

3 (a) IN GENERAL.—The Homeland Security Act of
 4 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is
 5 amended—

6 (1) in section 1(b) in the table of contents by
 7 adding at the end the following:

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

“Sec. 1801. Definitions.

“Sec. 1802. Faster and Smarter Funding for First Responders.

“Sec. 1803. Covered grant eligibility and criteria.

“Sec. 1804. Risk-based evaluation and prioritization.

“Sec. 1805. Task Force on Terrorism Preparedness for First Responders.

“Sec. 1806. Use of funds and accountability requirements.

“Sec. 1807. National standards for first responder equipment and training.”.

8 (2) by adding at the end the following:

9 **“TITLE XVIII—FUNDING FOR**
 10 **FIRST RESPONDERS**

11 **“SEC. 1801. DEFINITIONS.**

12 “In this title:

13 “(1) BOARD.—The term ‘Board’ means the
 14 First Responder Grants Board established under
 15 section 1804.

16 “(2) COVERED GRANT.—The term ‘covered
 17 grant’ means any grant to which this title applies
 18 under section 1802.

19 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
 20 ‘directly eligible tribe’ means any Indian tribe or
 21 consortium of Indian tribes that—

1 “(A) meets the criteria for inclusion in the
2 qualified applicant pool for Self-Governance
3 that are set forth in section 402(c) of the In-
4 dian Self-Determination and Education Assist-
5 ance Act (25 U.S.C. 458bb(c));

6 “(B) employs at least 10 full-time per-
7 sonnel in a law enforcement or emergency re-
8 sponse agency with the capacity to respond to
9 calls for law enforcement or emergency services;
10 and

11 “(C)(i) is located on, or within 5 miles of,
12 an international border or waterway;

13 “(ii) is located within 5 miles of a facility
14 designated as high-risk critical infrastructure
15 by the Secretary;

16 “(iii) is located within or contiguous to one
17 of the 50 largest metropolitan statistical areas
18 in the United States; or

19 “(iv) has more than 1,000 square miles of
20 Indian country, as that term is defined in sec-
21 tion 1151 of title 18, United States Code.

22 “(4) ELEVATIONS IN THE THREAT ALERT
23 LEVEL.—The term ‘elevations in the threat alert
24 level’ means any designation (including those that
25 are less than national in scope) that raises the

1 homeland security threat level to either the highest
2 or second highest threat level under the Homeland
3 Security Advisory System referred to in section
4 201(d)(7).

5 “(5) EMERGENCY PREPAREDNESS.—The term
6 ‘emergency preparedness’ shall have the same mean-
7 ing that term has under section 602 of the Robert
8 T. Stafford Disaster Relief and Emergency Assist-
9 ance Act (42 U.S.C. 5195a).

10 “(6) ESSENTIAL CAPABILITIES.—The term ‘es-
11 sential capabilities’ means the levels, availability,
12 and competence of emergency personnel, planning,
13 training, and equipment across a variety of dis-
14 ciplines needed to effectively and efficiently prevent,
15 prepare for, respond to, and recover from acts of
16 terrorism consistent with established practices.

17 “(7) FIRST RESPONDER.—The term ‘first re-
18 sponder’ shall have the same meaning as the term
19 ‘emergency response provider’.

20 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
21 means any Indian tribe, band, nation, or other orga-
22 nized group or community, including any Alaskan
23 Native village or regional or village corporation as
24 defined in or established pursuant to the Alaskan
25 Native Claims Settlement Act (43 U.S.C. 1601 et

1 seq.), which is recognized as eligible for the special
2 programs and services provided by the United States
3 to Indians because of their status as Indians.

4 “(9) REGION.—The term ‘region’ means—

5 “(A) any geographic area consisting of all
6 or parts of 2 or more contiguous States, coun-
7 ties, municipalities, or other local governments
8 that have a combined population of at least
9 1,650,000 or have an area of not less than
10 20,000 square miles, and that, for purposes of
11 an application for a covered grant, is rep-
12 resented by 1 or more governments or govern-
13 mental agencies within such geographic area,
14 and that is established by law or by agreement
15 of 2 or more such governments or governmental
16 agencies in a mutual aid agreement; or

17 “(B) any other combination of contiguous
18 local government units (including such a com-
19 bination established by law or agreement of two
20 or more governments or governmental agencies
21 in a mutual aid agreement) that is formally cer-
22 tified by the Secretary as a region for purposes
23 of this Act with the consent of—

24 “(i) the State or States in which they
25 are located, including a multi-State entity

1 established by a compact between two or
2 more States; and

3 “(ii) the incorporated municipalities,
4 counties, and parishes that they encom-
5 pass.

6 “(10) TASK FORCE.—The term ‘Task Force’
7 means the Task Force on Terrorism Preparedness
8 for First Responders established under section 1805.

9 “(11) TERRORISM PREPAREDNESS.—The term
10 ‘terrorism preparedness’ means any activity designed
11 to improve the ability to prevent, prepare for, re-
12 spond to, mitigate against, or recover from threat-
13 ened or actual terrorist attacks.

14 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
15 **SPONDERS.**

16 “(a) COVERED GRANTS.—This title applies to grants
17 provided by the Department to States, regions, or directly
18 eligible tribes for the primary purpose of improving the
19 ability of first responders to prevent, prepare for, respond
20 to, mitigate against, or recover from threatened or actual
21 terrorist attacks, especially those involving weapons of
22 mass destruction, administered under the following:

23 “(1) STATE HOMELAND SECURITY GRANT PRO-
24 GRAM.—The State Homeland Security Grant Pro-

1 gram of the Department, or any successor to such
2 grant program.

3 “(2) URBAN AREA SECURITY INITIATIVE.—The
4 Urban Area Security Initiative of the Department,
5 or any successor to such grant program.

6 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
7 TION PROGRAM.—The Law Enforcement Terrorism
8 Prevention Program of the Department, or any suc-
9 cessor to such grant program.

10 “(b) EXCLUDED PROGRAMS.—This title does not
11 apply to or otherwise affect the following Federal grant
12 programs or any grant under such a program:

13 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
14 eral grant program that is not administered by the
15 Department.

16 “(2) FIRE GRANT PROGRAMS.—The fire grant
17 programs authorized by sections 33 and 34 of the
18 Federal Fire Prevention and Control Act of 1974
19 (15 U.S.C. 2229, 2229a).

20 “(3) EMERGENCY MANAGEMENT PLANNING
21 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
22 gency Management Performance Grant program and
23 the Urban Search and Rescue Grants program au-
24 thorized by title VI of the Robert T. Stafford Dis-
25 aster Relief and Emergency Assistance Act (42

1 U.S.C. 5195 et seq.); the Departments of Veterans
2 Affairs and Housing and Urban Development, and
3 Independent Agencies Appropriations Act, 2000
4 (113 Stat. 1047 et seq.); and the Earthquake Haz-
5 ards Reduction Act of 1977 (42 U.S.C. 7701 et
6 seq.).

7 **“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.**

8 “(a) GRANT ELIGIBILITY.—Any State, region, or di-
9 rectly eligible tribe shall be eligible to apply for a covered
10 grant.

11 “(b) GRANT CRITERIA.—The Secretary shall award
12 covered grants to assist States and local governments in
13 achieving, maintaining, and enhancing the essential capa-
14 bilities for terrorism preparedness established by the Sec-
15 retary.

16 “(c) STATE HOMELAND SECURITY PLANS.—

17 “(1) SUBMISSION OF PLANS.—The Secretary
18 shall require that any State applying to the Sec-
19 retary for a covered grant must submit to the Sec-
20 retary a 3-year State homeland security plan that—

21 “(A) describes the essential capabilities
22 that communities within the State should pos-
23 sess, or to which they should have access, based
24 upon the terrorism risk factors relevant to such

1 communities, in order to meet the Department’s
2 goals for terrorism preparedness;

3 “(B) demonstrates the extent to which the
4 State has achieved the essential capabilities
5 that apply to the State;

6 “(C) demonstrates the needs of the State
7 necessary to achieve, maintain, or enhance the
8 essential capabilities that apply to the State;

9 “(D) includes a prioritization of such needs
10 based on threat, vulnerability, and consequence
11 assessment factors applicable to the State;

12 “(E) describes how the State intends—

13 “(i) to address such needs at the city,
14 county, regional, tribal, State, and inter-
15 state level, including a precise description
16 of any regional structure the State has es-
17 tablished for the purpose of organizing
18 homeland security preparedness activities
19 funded by covered grants;

20 “(ii) to use all Federal, State, and
21 local resources available for the purpose of
22 addressing such needs; and

23 “(iii) to give particular emphasis to
24 regional planning and cooperation, includ-
25 ing the activities of multijurisdictional

1 planning agencies governed by local offi-
2 cials, both within its jurisdictional borders
3 and with neighboring States;

4 “(F) with respect to the emergency pre-
5 paredness of first responders, addresses the
6 unique aspects of terrorism as part of a com-
7 prehensive State emergency management plan;
8 and

9 “(G) provides for coordination of response
10 and recovery efforts at the local level, including
11 procedures for effective incident command in
12 conformance with the National Incident Man-
13 agement System.

14 “(2) CONSULTATION.—The State plan sub-
15 mitted under paragraph (1) shall be developed in
16 consultation with and subject to appropriate com-
17 ment by local governments and first responders
18 within the State.

19 “(3) APPROVAL BY SECRETARY.—The Sec-
20 retary may not award any covered grant to a State
21 unless the Secretary has approved the applicable
22 State homeland security plan.

23 “(4) REVISIONS.—A State may revise the appli-
24 cable State homeland security plan approved by the

1 Secretary under this subsection, subject to approval
2 of the revision by the Secretary.

3 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
4 retary shall ensure that each covered grant is used to sup-
5 plement and support, in a consistent and coordinated
6 manner, the applicable State homeland security plan or
7 plans.

8 “(e) APPLICATION FOR GRANT.—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, any State, region, or di-
11 rectly eligible tribe may apply for a covered grant by
12 submitting to the Secretary an application at such
13 time, in such manner, and containing such informa-
14 tion as is required under this subsection, or as the
15 Secretary may reasonably require.

16 “(2) DEADLINES FOR APPLICATIONS AND
17 AWARDS.—All applications for covered grants must
18 be submitted at such time as the Secretary may rea-
19 sonably require for the fiscal year for which they are
20 submitted. The Secretary shall award covered grants
21 pursuant to all approved applications for such fiscal
22 year as soon as practicable, but not later than
23 March 1 of such year.

24 “(3) AVAILABILITY OF FUNDS.—All funds
25 awarded by the Secretary under covered grants in a

1 fiscal year shall be available for obligation through
2 the end of the subsequent fiscal year.

3 “(4) MINIMUM CONTENTS OF APPLICATION.—

4 The Secretary shall require that each applicant in-
5 clude in its application, at a minimum—

6 “(A) the purpose for which the applicant
7 seeks covered grant funds and the reasons why
8 the applicant needs the covered grant to meet
9 the essential capabilities for terrorism prepared-
10 ness within the State, region, or directly eligible
11 tribe to which the application pertains;

12 “(B) a description of how, by reference to
13 the applicable State homeland security plan or
14 plans under subsection (c), the allocation of
15 grant funding proposed in the application, in-
16 cluding, where applicable, the amount not
17 passed through under section 1806(g)(1), would
18 assist in fulfilling the essential capabilities for
19 terrorism preparedness specified in such plan or
20 plans;

21 “(C) a statement of whether a mutual aid
22 agreement applies to the use of all or any por-
23 tion of the covered grant funds;

24 “(D) if the applicant is a State, a descrip-
25 tion of how the State plans to allocate the cov-

1 ered grant funds to regions, local governments,
2 and Indian tribes;

3 “(E) if the applicant is a region—

4 “(i) a precise geographical description
5 of the region and a specification of all par-
6 ticipating and nonparticipating local gov-
7 ernments within the geographical area
8 comprising that region;

9 “(ii) a specification of what govern-
10 mental entity within the region will admin-
11 ister the expenditure of funds under the
12 covered grant; and

13 “(iii) a designation of a specific indi-
14 vidual to serve as regional liaison;

15 “(F) a capital budget showing how the ap-
16 plicant intends to allocate and expend the cov-
17 ered grant funds;

18 “(G) if the applicant is a directly eligible
19 tribe, a designation of a specific individual to
20 serve as the tribal liaison; and

21 “(H) a statement of how the applicant in-
22 tends to meet the matching requirement, if any,
23 that applies under section 1806(g)(2).

24 “(5) REGIONAL APPLICATIONS.—

1 “(A) RELATIONSHIP TO STATE APPLICA-
2 TIONS.—A regional application—

3 “(i) shall be coordinated with an ap-
4 plication submitted by the State or States
5 of which such region is a part;

6 “(ii) shall supplement and avoid dupli-
7 cation with such State application; and

8 “(iii) shall address the unique regional
9 aspects of such region’s terrorism pre-
10 paredness needs beyond those provided for
11 in the application of such State or States.

12 “(B) STATE REVIEW AND SUBMISSION.—

13 To ensure the consistency required under sub-
14 section (d) and the coordination required under
15 subparagraph (A) of this paragraph, an appli-
16 cant that is a region must submit its applica-
17 tion to each State of which any part is included
18 in the region for review and concurrence prior
19 to the submission of such application to the
20 Secretary. The regional application shall be
21 transmitted to the Secretary through each such
22 State within 30 days of its receipt, unless the
23 Governor of such a State notifies the Secretary,
24 in writing, that such regional application is in-
25 consistent with the State’s homeland security

1 plan and provides an explanation of the reasons
2 therefor.

3 “(C) DISTRIBUTION OF REGIONAL
4 AWARDS.—If the Secretary approves a regional
5 application, then the Secretary shall distribute
6 a regional award to the State or States submit-
7 ting the applicable regional application under
8 subparagraph (B), and each such State shall,
9 not later than the end of the 45-day period be-
10 ginning on the date after receiving a regional
11 award, pass through to the region all covered
12 grant funds or resources purchased with such
13 funds, except those funds necessary for the
14 State to carry out its responsibilities with re-
15 spect to such regional application: *Provided*,
16 That in no such case shall the State or States
17 pass through to the region less than 80 percent
18 of the regional award.

19 “(D) CERTIFICATIONS REGARDING DIS-
20 TRIBUTION OF GRANT FUNDS TO REGIONS.—
21 Any State that receives a regional award under
22 subparagraph (C) shall certify to the Secretary,
23 by not later than 30 days after the expiration
24 of the period described in subparagraph (C)
25 with respect to the grant, that the State has

1 made available to the region the required funds
2 and resources in accordance with subparagraph
3 (C).

4 “(E) DIRECT PAYMENTS TO REGIONS.—If
5 any State fails to pass through a regional
6 award to a region as required by subparagraph
7 (C) within 45 days after receiving such award
8 and does not request or receive an extension of
9 such period under section 1806(h)(2), the re-
10 gion may petition the Secretary to receive di-
11 rectly the portion of the regional award that is
12 required to be passed through to such region
13 under subparagraph (C).

14 “(F) REGIONAL LIAISONS.—A regional li-
15 aison designated under paragraph (4)(E)(iii)
16 shall—

17 “(i) coordinate with Federal, State,
18 local, regional, and private officials within
19 the region concerning terrorism prepared-
20 ness;

21 “(ii) develop a process for receiving
22 input from Federal, State, local, regional,
23 and private sector officials within the re-
24 gion to assist in the development of the re-

1 regional application and to improve the re-
2 gion’s access to covered grants; and

3 “(iii) administer, in consultation with
4 State, local, regional, and private officials
5 within the region, covered grants awarded
6 to the region.

7 “(6) TRIBAL APPLICATIONS.—

8 “(A) SUBMISSION TO THE STATE OR
9 STATES.—To ensure the consistency required
10 under subsection (d), an applicant that is a di-
11 rectly eligible tribe must submit its application
12 to each State within the boundaries of which
13 any part of such tribe is located for direct sub-
14 mission to the Department along with the appli-
15 cation of such State or States.

16 “(B) OPPORTUNITY FOR STATE COM-
17 MENT.—Before awarding any covered grant to
18 a directly eligible tribe, the Secretary shall pro-
19 vide an opportunity to each State within the
20 boundaries of which any part of such tribe is lo-
21 cated to comment to the Secretary on the con-
22 sistency of the tribe’s application with the
23 State’s homeland security plan. Any such com-
24 ments shall be submitted to the Secretary con-

1 currently with the submission of the State and
2 tribal applications.

3 “(C) FINAL AUTHORITY.—The Secretary
4 shall have final authority to determine the con-
5 sistency of any application of a directly eligible
6 tribe with the applicable State homeland secu-
7 rity plan or plans, and to approve any applica-
8 tion of such tribe. The Secretary shall notify
9 each State within the boundaries of which any
10 part of such tribe is located of the approval of
11 an application by such tribe.

12 “(D) TRIBAL LIAISON.—A tribal liaison
13 designated under paragraph (4)(G) shall—

14 “(i) coordinate with Federal, State,
15 local, regional, and private officials con-
16 cerning terrorism preparedness;

17 “(ii) develop a process for receiving
18 input from Federal, State, local, regional,
19 and private sector officials to assist in the
20 development of the application of such
21 tribe and to improve the tribe’s access to
22 covered grants; and

23 “(iii) administer, in consultation with
24 State, local, regional, and private officials,
25 covered grants awarded to such tribe.

1 “(E) LIMITATION ON THE NUMBER OF DI-
2 RECT GRANTS.—The Secretary may make cov-
3 ered grants directly to not more than 20 di-
4 rectly eligible tribes per fiscal year.

5 “(F) TRIBES NOT RECEIVING DIRECT
6 GRANTS.—An Indian tribe that does not receive
7 a grant directly under this section is eligible to
8 receive funds under a covered grant from the
9 State or States within the boundaries of which
10 any part of such tribe is located, consistent with
11 the homeland security plan of the State as de-
12 scribed in subsection (c). If a State fails to
13 comply with section 1806(g)(1), the tribe may
14 request payment under section 1806(h)(3) in
15 the same manner as a local government.

16 “(7) EQUIPMENT STANDARDS.—If an applicant
17 for a covered grant proposes to upgrade or purchase,
18 with assistance provided under the grant, new equip-
19 ment or systems that do not meet or exceed any ap-
20 plicable national voluntary consensus standards es-
21 tablished by the Secretary, the applicant shall in-
22 clude in the application an explanation of why such
23 equipment or systems will serve the needs of the ap-
24 plicant better than equipment or systems that meet
25 or exceed such standards.

1 **“SEC. 1804. RISK-BASED EVALUATION AND**
2 **PRIORITIZATION.**

3 “(a) **FIRST RESPONDER GRANTS BOARD.—**

4 “(1) **ESTABLISHMENT OF BOARD.—**The Sec-
5 retary shall establish a First Responder Grants
6 Board, consisting of—

7 “(A) the Secretary;

8 “(B) the Under Secretary for Emergency
9 Preparedness and Response;

10 “(C) the Under Secretary for Border and
11 Transportation Security;

12 “(D) the Under Secretary for Information
13 Analysis and Infrastructure Protection;

14 “(E) the Under Secretary for Science and
15 Technology;

16 “(F) the Director of the Office for Domes-
17 tic Preparedness;

18 “(G) the Administrator of the United
19 States Fire Administration; and

20 “(H) the Administrator of the Animal and
21 Plant Health Inspection Service.

22 “(2) **CHAIRMAN.—**

23 “(A) **IN GENERAL.—**The Secretary shall be
24 the Chairman of the Board.

25 “(B) **EXERCISE OF AUTHORITIES BY DEP-**
26 **UTY SECRETARY.—**The Deputy Secretary of

1 Homeland Security may exercise the authorities
2 of the Chairman, if the Secretary so directs.

3 “(b) FUNCTIONS OF UNDER SECRETARIES.—The
4 Under Secretaries referred to in subsection (a)(1) shall
5 seek to ensure that the relevant expertise and input of the
6 staff of their directorates are available to and considered
7 by the Board.

8 “(c) PRIORITIZATION OF GRANT APPLICATIONS.—

9 “(1) FACTORS TO BE CONSIDERED.—The
10 Board shall evaluate and annually prioritize all
11 pending applications for covered grants based upon
12 the degree to which they would, by achieving, main-
13 taining, or enhancing the essential capabilities of the
14 applicants on a nationwide basis, lessen the threat
15 to, vulnerability of, and consequences for persons
16 (including transient commuting and tourist popu-
17 lations) and critical infrastructure. Such evaluation
18 and prioritization shall be based upon the most cur-
19 rent risk assessment available by the Directorate for
20 Information Analysis and Infrastructure Protection
21 of the threats of terrorism against the United
22 States. The Board shall coordinate with State, local,
23 regional, and tribal officials in establishing criteria
24 for evaluating and prioritizing applications for cov-
25 ered grants.

1 “(2) CRITICAL INFRASTRUCTURE SECTORS.—

2 The Board specifically shall consider threats of ter-
3 rorism against the following critical infrastructure
4 sectors in all areas of the United States, urban and
5 rural:

6 “(A) Agriculture and food.

7 “(B) Banking and finance.

8 “(C) Chemical industries.

9 “(D) The defense industrial base.

10 “(E) Emergency services.

11 “(F) Energy.

12 “(G) Government facilities.

13 “(H) Postal and shipping.

14 “(I) Public health and health care.

15 “(J) Information technology.

16 “(K) Telecommunications.

17 “(L) Transportation systems.

18 “(M) Water.

19 “(N) Dams.

20 “(O) Commercial facilities.

21 “(P) National monuments and icons.

22 The order in which the critical infrastructure sectors
23 are listed in this paragraph shall not be construed
24 as an order of priority for consideration of the im-
25 portance of such sectors.

1 “(3) TYPES OF THREAT.—The Board specifi-
2 cally shall consider the following types of threat to
3 the critical infrastructure sectors described in para-
4 graph (2), and to populations in all areas of the
5 United States, urban and rural:

6 “(A) Biological threats.

7 “(B) Nuclear threats.

8 “(C) Radiological threats.

9 “(D) Incendiary threats.

10 “(E) Chemical threats.

11 “(F) Explosives.

12 “(G) Suicide bombers.

13 “(H) Cyber threats.

14 “(I) Any other threats based on proximity
15 to specific past acts of terrorism or the known
16 activity of any terrorist group.

17 The order in which the types of threat are listed in
18 this paragraph shall not be construed as an order of
19 priority for consideration of the importance of such
20 threats.

21 “(4) CONSIDERATION OF ADDITIONAL FAC-
22 TORS.—The Board shall take into account any other
23 specific threat to a population (including a transient
24 commuting or tourist population) or critical infra-
25 structure sector that the Board has determined to

1 exist. In evaluating the threat to a population or
2 critical infrastructure sector, the Board shall give
3 greater weight to threats of terrorism based upon
4 their specificity and credibility, including any pat-
5 tern of repetition.

6 “(5) MINIMUM AMOUNTS.—After evaluating
7 and prioritizing grant applications under paragraph
8 (1), the Board shall ensure that, for each fiscal
9 year—

10 “(A) each of the States, other than the
11 Virgin Islands, American Samoa, Guam, and
12 the Northern Mariana Islands, that has an ap-
13 proved State homeland security plan receives no
14 less than 0.25 percent of the funds available for
15 covered grants for that fiscal year for purposes
16 of implementing its homeland security plan in
17 accordance with the prioritization of needs
18 under section 1803(c)(1)(D);

19 “(B) each of the States, other than the
20 Virgin Islands, American Samoa, Guam, and
21 the Northern Mariana Islands, that has an ap-
22 proved State homeland security plan and that
23 meets one or both of the additional high-risk
24 qualifying criteria under paragraph (6) receives
25 no less than 0.45 percent of the funds available

1 for covered grants for that fiscal year for pur-
2 poses of implementing its homeland security
3 plan in accordance with the prioritization of
4 needs under section 1803(c)(1)(D);

5 “(C) the Virgin Islands, American Samoa,
6 Guam, and the Northern Mariana Islands each
7 receives no less than 0.08 percent of the funds
8 available for covered grants for that fiscal year
9 for purposes of implementing its approved State
10 homeland security plan in accordance with the
11 prioritization of needs under section
12 1803(c)(1)(D); and

13 “(D) directly eligible tribes collectively re-
14 ceive no less than 0.08 percent of the funds
15 available for covered grants for such fiscal year
16 for purposes of addressing the needs identified
17 in the applications of such tribes, consistent
18 with the homeland security plan of each State
19 within the boundaries of which any part of any
20 such tribe is located, except that this clause
21 shall not apply with respect to funds available
22 for a fiscal year if the Secretary receives less
23 than 5 applications for such fiscal year from
24 such tribes under section 1803(e)(6)(A) or does
25 not approve at least one such application.

1 pabilities for terrorism preparedness as necessary, but not
2 less than every 3 years.

3 “(c) REPORT.—

4 “(1) IN GENERAL.—The Task Force shall sub-
5 mit to the Secretary, by not later than 12 months
6 after its establishment by the Secretary under sub-
7 section (a) and not later than every 2 years there-
8 after, a report on its recommendations for essential
9 capabilities for terrorism preparedness.

10 “(2) CONTENTS.—Each report shall—

11 “(A) include a priority ranking of essential
12 capabilities in order to provide guidance to the
13 Secretary and to the Congress on determining
14 the appropriate allocation of, and funding levels
15 for, first responder needs;

16 “(B) set forth a methodology by which any
17 State or local government will be able to deter-
18 mine the extent to which it possesses or has ac-
19 cess to the essential capabilities that States and
20 local governments having similar risks should
21 obtain;

22 “(C) describe the availability of national
23 voluntary consensus standards, and whether
24 there is a need for new national voluntary con-

1 sensus standards, with respect to first re-
2 sponder training and equipment;

3 “(D) include such additional matters as
4 the Secretary may specify in order to further
5 the terrorism preparedness capabilities of first
6 responders; and

7 “(E) include such revisions to the contents
8 of previous reports as are necessary to take into
9 account changes in the most current risk as-
10 sessment available by the Directorate for Infor-
11 mation Analysis and Infrastructure Protection
12 or other relevant information as determined by
13 the Secretary.

14 “(3) CONSISTENCY WITH FEDERAL WORKING
15 GROUP.—The Task Force shall ensure that its rec-
16 ommendations for essential capabilities for terrorism
17 preparedness are, to the extent feasible, consistent
18 with any preparedness goals or recommendations of
19 the Federal working group established under section
20 319F(a) of the Public Health Service Act (42 U.S.C.
21 247d–6(a)).

22 “(4) COMPREHENSIVENESS.—The Task Force
23 shall ensure that its recommendations regarding es-
24 sential capabilities for terrorism preparedness are

1 made within the context of a comprehensive State
2 emergency management system.

3 “(5) PRIOR MEASURES.—The Task Force shall
4 ensure that its recommendations regarding essential
5 capabilities for terrorism preparedness take into ac-
6 count any capabilities that State or local officials
7 have determined to be essential and have undertaken
8 since September 11, 2001, to prevent, prepare for,
9 respond to, or recover from terrorist attacks.

10 “(d) MEMBERSHIP.—

11 “(1) IN GENERAL.—The Task Force shall con-
12 sist of 25 members appointed by the Secretary, and
13 shall, to the extent practicable, represent a geo-
14 graphic (including urban and rural) and substantive
15 cross section of governmental and nongovernmental
16 first responder disciplines from the State and local
17 levels, including as appropriate—

18 “(A) members selected from the emergency
19 response field, including fire service and law en-
20 forcement, hazardous materials response, emer-
21 gency medical services, and emergency manage-
22 ment personnel (including public works per-
23 sonnel routinely engaged in emergency re-
24 sponse);

1 “(B) health scientists, emergency and in-
2 patient medical providers, and public health
3 professionals, including experts in emergency
4 health care response to chemical, biological, ra-
5 diological, and nuclear terrorism, and experts in
6 providing mental health care during emergency
7 response operations;

8 “(C) experts from Federal, State, and local
9 governments, and the private sector, rep-
10 resenting standards-setting organizations, in-
11 cluding representation from the voluntary con-
12 sensus codes and standards development com-
13 munity, particularly those with expertise in first
14 responder disciplines; and

15 “(D) State and local officials with exper-
16 tise in terrorism preparedness, subject to the
17 condition that if any such official is an elected
18 official representing one of the two major polit-
19 ical parties, an equal number of elected officials
20 shall be selected from each such party.

21 “(2) COORDINATION WITH THE DEPARTMENT
22 OF HEALTH AND HEALTH SERVICES.—In the selec-
23 tion of members of the Task Force who are health
24 professionals, including emergency medical profes-

1 sionals, the Secretary shall coordinate such selection
2 with the Secretary of Health and Human Services.

3 “(3) EX OFFICIO MEMBERS.—The Secretary
4 and the Secretary of Health and Human Services
5 shall each designate one or more officers of their re-
6 spective Departments to serve as ex officio members
7 of the Task Force. One of the ex officio members
8 from the Department of Homeland Security shall be
9 the designated officer of the Federal Government for
10 purposes of subsection (e) of section 10 of the Fed-
11 eral Advisory Committee Act (5 App. U.S.C.).

12 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
13 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
14 eral Advisory Committee Act (5 App. U.S.C.), including
15 subsections (a), (b), and (d) of section 10 of such Act,
16 and section 552b(c) of title 5, United States Code, shall
17 apply to the Task Force.

18 **“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**
19 **QUIREMENTS.**

20 “(a) IN GENERAL.—A covered grant may be used
21 for—

22 “(1) purchasing or upgrading equipment, in-
23 cluding computer software, to enhance terrorism
24 preparedness;

1 “(2) exercises to strengthen terrorism prepared-
2 ness;

3 “(3) training for prevention (including detec-
4 tion) of, preparedness for, response to, or recovery
5 from attacks involving weapons of mass destruction,
6 including training in the use of equipment and com-
7 puter software;

8 “(4) developing or updating State homeland se-
9 curity plans, risk assessments, mutual aid agree-
10 ments, and emergency management plans to enhance
11 terrorism preparedness;

12 “(5) establishing or enhancing mechanisms for
13 sharing terrorism threat information;

14 “(6) systems architecture and engineering, pro-
15 gram planning and management, strategy formula-
16 tion and strategic planning, life-cycle systems de-
17 sign, product and technology evaluation, and proto-
18 type development for terrorism preparedness pur-
19 poses;

20 “(7) additional personnel costs resulting from—

21 “(A) elevations in the threat alert level of
22 the Homeland Security Advisory System by the
23 Secretary, or a similar elevation in threat alert
24 level issued by a State, region, or local govern-
25 ment with the approval of the Secretary;

1 “(B) travel to and participation in exer-
2 cises and training in the use of equipment and
3 on prevention activities; and

4 “(C) the temporary replacement of per-
5 sonnel during any period of travel to and par-
6 ticipation in exercises and training in the use of
7 equipment and on prevention activities;

8 “(8) the costs of equipment (including software)
9 required to receive, transmit, handle, and store clas-
10 sified information;

11 “(9) protecting critical infrastructure against
12 potential attack by the addition of barriers, fences,
13 gates, and other such devices, except that the cost
14 of such measures may not exceed the greater of—

15 “(A) \$1,000,000 per project; or

16 “(B) such greater amount as may be ap-
17 proved by the Secretary, which may not exceed
18 10 percent of the total amount of the covered
19 grant;

20 “(10) the costs of commercially available inter-
21 operable communications equipment (which, where
22 applicable, is based on national, voluntary consensus
23 standards) that the Secretary, in consultation with
24 the Chairman of the Federal Communications Com-
25 mission, deems best suited to facilitate interoper-

1 ability, coordination, and integration between and
2 among emergency communications systems, and that
3 complies with prevailing grant guidance of the De-
4 partment for interoperable communications;

5 “(11) educational curricula development for
6 first responders to ensure that they are prepared for
7 terrorist attacks;

8 “(12) training and exercises to assist public ele-
9 mentary and secondary schools in developing and
10 implementing programs to instruct students regard-
11 ing age-appropriate skills to prevent, prepare for, re-
12 spond to, mitigate against, or recover from an act of
13 terrorism;

14 “(13) paying of administrative expenses directly
15 related to administration of the grant, except that
16 such expenses may not exceed 3 percent of the
17 amount of the grant;

18 “(14) paying for the conduct of any activity
19 permitted under the Law Enforcement Terrorism
20 Prevention Program, or any such successor to such
21 program; and

22 “(15) other appropriate activities as determined
23 by the Secretary.

24 “(b) PROHIBITED USES.—Funds provided as a cov-
25 ered grant may not be used—

1 “(1) to supplant State or local funds;

2 “(2) to construct buildings or other physical fa-
3 cilities;

4 “(3) to acquire land; or

5 “(4) for any State or local government cost
6 sharing contribution.

7 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
8 section shall be construed to preclude State and local gov-
9 ernments from using covered grant funds in a manner
10 that also enhances first responder preparedness for emer-
11 gencies and disasters unrelated to acts of terrorism, if
12 such use assists such governments in achieving essential
13 capabilities for terrorism preparedness established by the
14 Secretary.

15 “(d) REIMBURSEMENT OF COSTS.—(1) In addition
16 to the activities described in subsection (a), a covered
17 grant may be used to provide a reasonable stipend to paid-
18 on-call or volunteer first responders who are not otherwise
19 compensated for travel to or participation in training cov-
20 ered by this section. Any such reimbursement shall not
21 be considered compensation for purposes of rendering
22 such a first responder an employee under the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 201 et seq.).

24 “(2) An applicant for a covered grant may petition
25 the Secretary for the reimbursement of the cost of any

1 activity relating to prevention (including detection) of, pre-
2 paredness for, response to, or recovery from acts of ter-
3 rorism that is a Federal duty and usually performed by
4 a Federal agency, and that is being performed by a State
5 or local government (or both) under agreement with a
6 Federal agency.

7 “(e) ASSISTANCE REQUIREMENT.—The Secretary
8 may not require that equipment paid for, wholly or in part,
9 with funds provided as a covered grant be made available
10 for responding to emergencies in surrounding States, re-
11 gions, and localities, unless the Secretary undertakes to
12 pay the costs directly attributable to transporting and op-
13 erating such equipment during such response.

14 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECU-
15 RITY GRANT FUNDS.—Upon request by the recipient of
16 a covered grant, the Secretary may authorize the grantee
17 to transfer all or part of funds provided as the covered
18 grant from uses specified in the grant agreement to other
19 uses authorized under this section, if the Secretary deter-
20 mines that such transfer is in the interests of homeland
21 security.

22 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
23 ITIES.—

24 “(1) PASS-THROUGH.—The Secretary shall re-
25 quire a recipient of a covered grant that is a State

1 to obligate or otherwise make available to local gov-
2 ernments, first responders, and other local groups,
3 to the extent required under the State homeland se-
4 curity plan or plans specified in the application for
5 the grant, not less than 80 percent of the grant
6 funds, resources purchased with the grant funds
7 having a value equal to at least 80 percent of the
8 amount of the grant, or a combination thereof, by
9 not later than the end of the 45-day period begin-
10 ning on the date the grant recipient receives the
11 grant funds.

12 “(2) COST SHARING.—

13 “(A) IN GENERAL.—The Federal share of
14 the costs of an activity carried out with a cov-
15 ered grant to a State, region, or directly eligible
16 tribe awarded after the 2-year period beginning
17 on the date of the enactment of this section
18 shall not exceed 75 percent.

19 “(B) INTERIM RULE.—The Federal share
20 of the costs of an activity carried out with a
21 covered grant awarded before the end of the 2-
22 year period beginning on the date of the enact-
23 ment of this section shall be 100 percent.

24 “(C) IN-KIND MATCHING.—Each recipient
25 of a covered grant may meet the matching re-

1 requirement under subparagraph (A) by making
2 in-kind contributions of goods or services that
3 are directly linked with the purpose for which
4 the grant is made, including, but not limited to,
5 any necessary personnel overtime, contractor
6 services, administrative costs, equipment fuel
7 and maintenance, and rental space.

8 “(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—

9 Any State that receives a covered grant shall certify
10 to the Secretary, by not later than 30 days after the
11 expiration of the period described in paragraph (1)
12 with respect to the grant, that the State has made
13 available for expenditure by local governments, first
14 responders, and other local groups the required
15 amount of grant funds pursuant to paragraph (1).
16 amount of grant funds pursuant to paragraph (1).

17 “(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in
18 paragraph (2)(A) may be increased by up to 2 per-
19 cent for any State, region, or directly eligible tribe
20 that, not later than 30 days after the end of each
21 fiscal quarter, submits to the Secretary a report on
22 that fiscal quarter. Each such report must include,
23 for each recipient of a covered grant or a pass-
24 through under paragraph (1)—
25 through under paragraph (1)—

1 “(A) the amount obligated to that recipient
2 in that quarter;

3 “(B) the amount expended by that recipi-
4 ent in that quarter; and

5 “(C) a summary description of the items
6 purchased by such recipient with such amount.

7 “(5) ANNUAL REPORT ON HOMELAND SECUR-
8 RITY SPENDING.—Each recipient of a covered grant
9 shall submit an annual report to the Secretary not
10 later than 60 days after the end of each Federal fis-
11 cal year. Each recipient of a covered grant that is
12 a region must simultaneously submit its report to
13 each State of which any part is included in the re-
14 gion. Each recipient of a covered grant that is a di-
15 rectly eligible tribe must simultaneously submit its
16 report to each State within the boundaries of which
17 any part of such tribe is located. Each report must
18 include the following:

19 “(A) The amount, ultimate recipients, and
20 dates of receipt of all funds received under the
21 grant during the previous fiscal year.

22 “(B) The amount and the dates of dis-
23 bursements of all such funds expended in com-
24 pliance with paragraph (1) or pursuant to mu-
25 tual aid agreements or other sharing arrange-

1 ments that apply within the State, region, or di-
2 rectly eligible tribe, as applicable, during the
3 previous fiscal year.

4 “(C) How the funds were utilized by each
5 ultimate recipient or beneficiary during the pre-
6 ceding fiscal year.

7 “(D) The extent to which essential capa-
8 bilities identified in the applicable State home-
9 land security plan or plans were achieved, main-
10 tained, or enhanced as the result of the expend-
11 iture of grant funds during the preceding fiscal
12 year.

13 “(E) The extent to which essential capa-
14 bilities identified in the applicable State home-
15 land security plan or plans remain unmet.

16 “(6) INCLUSION OF RESTRICTED ANNEXES.—A
17 recipient of a covered grant may submit to the Sec-
18 retary an annex to the annual report under para-
19 graph (5) that is subject to appropriate handling re-
20 strictions, if the recipient believes that discussion in
21 the report of unmet needs would reveal sensitive but
22 unclassified information.

23 “(7) PROVISION OF REPORTS.—The Secretary
24 shall ensure that each annual report under para-
25 graph (5) is provided to the Under Secretary for

1 Emergency Preparedness and Response and the Di-
2 rector of the Office for Domestic Preparedness.

3 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION
4 OF HOMELAND SECURITY GRANTS.—

5 “(1) PENALTIES FOR DELAY IN PASSING
6 THROUGH LOCAL SHARE.—If a recipient of a cov-
7 ered grant that is a State fails to pass through to
8 local governments, first responders, and other local
9 groups funds or resources required by subsection
10 (g)(1) within 45 days after receiving funds under
11 the grant, the Secretary may—

12 “(A) reduce grant payments to the grant
13 recipient from the portion of grant funds that
14 is not required to be passed through under sub-
15 section (g)(1);

16 “(B) terminate payment of funds under
17 the grant to the recipient, and transfer the ap-
18 propriate portion of those funds directly to local
19 first responders that were intended to receive
20 funding under that grant; or

21 “(C) impose additional restrictions or bur-
22 dens on the recipient’s use of funds under the
23 grant, which may include—

1 “(i) prohibiting use of such funds to
2 pay the grant recipient’s grant-related
3 overtime or other expenses;

4 “(ii) requiring the grant recipient to
5 distribute to local government beneficiaries
6 all or a portion of grant funds that are not
7 required to be passed through under sub-
8 section (g)(1); or

9 “(iii) for each day that the grant re-
10 cipient fails to pass through funds or re-
11 sources in accordance with subsection
12 (g)(1), reducing grant payments to the
13 grant recipient from the portion of grant
14 funds that is not required to be passed
15 through under subsection (g)(1), except
16 that the total amount of such reduction
17 may not exceed 20 percent of the total
18 amount of the grant.

19 “(2) EXTENSION OF PERIOD.—The Governor of
20 a State may request in writing that the Secretary
21 extend the 45-day period under section
22 1803(e)(5)(E) or paragraph (1) for an additional
23 15-day period. The Secretary may approve such a
24 request, and may extend such period for additional
25 15-day periods, if the Secretary determines that the

1 resulting delay in providing grant funding to the
2 local government entities that will receive funding
3 under the grant will not have a significant detri-
4 mental impact on such entities' terrorism prepared-
5 ness efforts.

6 “(3) PROVISION OF NON-LOCAL SHARE TO
7 LOCAL GOVERNMENT.—

8 “(A) IN GENERAL.—The Secretary may
9 upon request by a local government pay to the
10 local government a portion of the amount of a
11 covered grant awarded to a State in which the
12 local government is located, if—

13 “(i) the local government will use the
14 amount paid to expedite planned enhance-
15 ments to its terrorism preparedness as de-
16 scribed in any applicable State homeland
17 security plan or plans;

18 “(ii) the State has failed to pass
19 through funds or resources in accordance
20 with subsection (g)(1); and

21 “(iii) the local government complies
22 with subparagraphs (B) and (C).

23 “(B) SHOWING REQUIRED.—To receive a
24 payment under this paragraph, a local govern-
25 ment must demonstrate that—

1 “(i) it is identified explicitly as an ul-
2 timate recipient or intended beneficiary in
3 the approved grant application;

4 “(ii) it was intended by the grantee to
5 receive a severable portion of the overall
6 grant for a specific purpose that is identi-
7 fied in the grant application;

8 “(iii) it petitioned the grantee for the
9 funds or resources after expiration of the
10 period within which the funds or resources
11 were required to be passed through under
12 subsection (g)(1); and

13 “(iv) it did not receive the portion of
14 the overall grant that was earmarked or
15 designated for its use or benefit.

16 “(C) EFFECT OF PAYMENT.—Payment of
17 grant funds to a local government under this
18 paragraph—

19 “(i) shall not affect any payment to
20 another local government under this para-
21 graph; and

22 “(ii) shall not prejudice consideration
23 of a request for payment under this para-
24 graph that is submitted by another local
25 government.

1 “(D) DEADLINE FOR ACTION BY SEC-
2 RETARY.—The Secretary shall approve or dis-
3 approve each request for payment under this
4 paragraph by not later than 15 days after the
5 date the request is received by the Department.

6 “(i) REPORTS TO CONGRESS.—The Secretary shall
7 submit an annual report to the Congress by January 31
8 of each year covering the preceding fiscal year—

9 “(1) describing in detail the amount of Federal
10 funds provided as covered grants that were directed
11 to each State, region, and directly eligible tribe in
12 the preceding fiscal year;

13 “(2) containing information on the use of such
14 grant funds by grantees; and

15 “(3) describing—

16 “(A) the Nation’s progress in achieving,
17 maintaining, and enhancing the essential capa-
18 bilities established by the Secretary as a result
19 of the expenditure of covered grant funds dur-
20 ing the preceding fiscal year; and

21 “(B) an estimate of the amount of expend-
22 itures required to attain across the United
23 States the essential capabilities established by
24 the Secretary.

1 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**
2 **EQUIPMENT AND TRAINING.**

3 “(a) EQUIPMENT STANDARDS.—

4 “(1) IN GENERAL.—The Secretary, in consulta-
5 tion with the Under Secretaries for Emergency Pre-
6 paredness and Response and Science and Tech-
7 nology and the Director of the Office for Domestic
8 Preparedness, shall, not later than 6 months after
9 the date of enactment of this section, support the
10 development of, promulgate, and update as nec-
11 essary national voluntary consensus standards for
12 the performance, use, and validation of first re-
13 sponder equipment for purposes of section
14 1805(e)(7). Such standards—

15 “(A) shall be, to the maximum extent prac-
16 ticable, consistent with any existing voluntary
17 consensus standards;

18 “(B) shall take into account, as appro-
19 priate, new types of terrorism threats that may
20 not have been contemplated when such existing
21 standards were developed;

22 “(C) shall be focused on maximizing inter-
23 operability, interchangeability, durability, flexi-
24 bility, efficiency, efficacy, portability, sustain-
25 ability, and safety; and

1 “(D) shall cover all appropriate uses of the
2 equipment.

3 “(2) REQUIRED CATEGORIES.—In carrying out
4 paragraph (1), the Secretary shall specifically con-
5 sider the following categories of first responder
6 equipment:

7 “(A) Thermal imaging equipment.

8 “(B) Radiation detection and analysis
9 equipment.

10 “(C) Biological detection and analysis
11 equipment.

12 “(D) Chemical detection and analysis
13 equipment.

14 “(E) Decontamination and sterilization
15 equipment.

16 “(F) Personal protective equipment, in-
17 cluding garments, boots, gloves, and hoods and
18 other protective clothing.

19 “(G) Respiratory protection equipment.

20 “(H) Interoperable communications, in-
21 cluding wireless and wireline voice, video, and
22 data networks.

23 “(I) Explosive mitigation devices and ex-
24 plosive detection and analysis equipment.

25 “(J) Containment vessels.

1 “(K) Contaminant-resistant vehicles.

2 “(L) Such other equipment for which the
3 Secretary determines that national voluntary
4 consensus standards would be appropriate.

5 “(b) TRAINING STANDARDS.—

6 “(1) IN GENERAL.—The Secretary, in consulta-
7 tion with the Under Secretaries for Emergency Pre-
8 paredness and Response and Science and Tech-
9 nology and the Director of the Office for Domestic
10 Preparedness, shall support the development of, pro-
11 mulgate, and regularly update as necessary national
12 voluntary consensus standards for first responder
13 training carried out with amounts provided under
14 covered grant programs, that will enable State and
15 local government first responders to achieve optimal
16 levels of terrorism preparedness as quickly as prac-
17 ticable. Such standards shall give priority to pro-
18 viding training to—

19 “(A) enable first responders to prevent,
20 prepare for, respond to, mitigate against, and
21 recover from terrorist threats, including threats
22 from chemical, biological, nuclear, and radio-
23 logical weapons and explosive devices capable of
24 inflicting significant human casualties; and

1 “(B) familiarize first responders with the
2 proper use of equipment, including software,
3 developed pursuant to the standards established
4 under subsection (a).

5 “(2) REQUIRED CATEGORIES.—In carrying out
6 paragraph (1), the Secretary specifically shall in-
7 clude the following categories of first responder ac-
8 tivities:

9 “(A) Regional planning.

10 “(B) Joint exercises.

11 “(C) Intelligence collection, analysis, and
12 sharing.

13 “(D) Emergency notification of affected
14 populations.

15 “(E) Detection of biological, nuclear, radi-
16 ological, and chemical weapons of mass destruc-
17 tion.

18 “(F) Such other activities for which the
19 Secretary determines that national voluntary
20 consensus training standards would be appro-
21 priate.

22 “(3) CONSISTENCY.—In carrying out this sub-
23 section, the Secretary shall ensure that such training
24 standards are consistent with the principles of emer-
25 gency preparedness for all hazards.

1 “(c) CONSULTATION WITH STANDARDS ORGANIZA-
2 TIONS.—In establishing national voluntary consensus
3 standards for first responder equipment and training
4 under this section, the Secretary shall consult with rel-
5 evant public and private sector groups, including—

6 “(1) the National Institute of Standards and
7 Technology;

8 “(2) the National Fire Protection Association;

9 “(3) the National Association of County and
10 City Health Officials;

11 “(4) the Association of State and Territorial
12 Health Officials;

13 “(5) the American National Standards Insti-
14 tute;

15 “(6) the National Institute of Justice;

16 “(7) the Inter-Agency Board for Equipment
17 Standardization and Interoperability;

18 “(8) the National Public Health Performance
19 Standards Program;

20 “(9) the National Institute for Occupational
21 Safety and Health;

22 “(10) ASTM International;

23 “(11) the International Safety Equipment Asso-
24 ciation;

1 “(12) the Emergency Management Accredita-
2 tion Program; and

3 “(13) to the extent the Secretary considers ap-
4 propriate, other national voluntary consensus stand-
5 ards development organizations, other interested
6 Federal, State, and local agencies, and other inter-
7 ested persons.

8 “(d) COORDINATION WITH SECRETARY OF HHS.—
9 In establishing any national voluntary consensus stand-
10 ards under this section for first responder equipment or
11 training that involve or relate to health professionals, in-
12 cluding emergency medical professionals, the Secretary
13 shall coordinate activities under this section with the Sec-
14 retary of Health and Human Services.”.

15 (b) DEFINITION OF EMERGENCY RESPONSE PRO-
16 VIDERS.—Paragraph (6) of section 2 of the Homeland Se-
17 curity Act of 2002 (Public Law 107–296; 6 U.S.C.
18 101(6)) is amended by striking “includes” and all that
19 follows and inserting “includes Federal, State, and local
20 governmental and nongovernmental emergency public
21 safety, law enforcement, fire, emergency response, emer-
22 gency medical (including hospital emergency facilities),
23 and related personnel, organizations, agencies, and au-
24 thorities.”.

1 **SEC. 4. SUPERSEDED PROVISION.**

2 This Act supersedes section 1014(c)(3) of Public Law
3 107–56.

4 **SEC. 5. OVERSIGHT.**

5 The Secretary of Homeland Security shall establish
6 within the Office for Domestic Preparedness an Office of
7 the Comptroller to oversee the grants distribution process
8 and the financial management of the Office for Domestic
9 Preparedness.

10 **SEC. 6. GAO REPORT ON AN INVENTORY AND STATUS OF**
11 **HOMELAND SECURITY FIRST RESPONDER**
12 **TRAINING.**

13 (a) IN GENERAL.—The Comptroller General of the
14 United States shall report to the Congress in accordance
15 with this section—

16 (1) on the overall inventory and status of first
17 responder training programs of the Department of
18 Homeland Security and other departments and
19 agencies of the Federal Government; and

20 (2) the extent to which such programs are co-
21 ordinated.

22 (b) CONTENTS OF REPORTS.—The reports under this
23 section shall include—

24 (1) an assessment of the effectiveness of the
25 structure and organization of such training pro-
26 grams;

1 (2) recommendations to—

2 (A) improve the coordination, structure,
3 and organization of such training programs;
4 and

5 (B) increase the availability of training to
6 first responders who are not able to attend cen-
7 tralized training programs;

8 (3) the structure and organizational effective-
9 ness of such programs for first responders in rural
10 communities;

11 (4) identification of any duplication or redun-
12 dancy among such programs;

13 (5) a description of the use of State and local
14 training institutions, universities, centers, and the
15 National Domestic Preparedness Consortium in de-
16 signing and providing training;

17 (6) a cost-benefit analysis of the costs and time
18 required for first responders to participate in train-
19 ing courses at Federal institutions;

20 (7) an assessment of the approval process for
21 certifying non-Department of Homeland Security
22 training courses that are useful for anti-terrorism
23 purposes as eligible for grants awarded by the De-
24 partment;

1 (8) a description of the use of Department of
2 Homeland Security grant funds by States and local
3 governments to acquire training;

4 (9) an analysis of the feasibility of Federal,
5 State, and local personnel to receive the training
6 that is necessary to adopt the National Response
7 Plan and the National Incident Management Sys-
8 tem; and

9 (10) the role of each first responder training in-
10 stitution within the Department of Homeland Secu-
11 rity in the design and implementation of terrorism
12 preparedness and related training courses for first
13 responders.

14 (c) DEADLINES.—The Comptroller General shall—

15 (1) submit a report under subsection (a)(1) by
16 not later than 60 days after the date of the enact-
17 ment of this Act; and

18 (2) submit a report on the remainder of the
19 topics required by this section by not later than 120
20 days after the date of the enactment of this Act.

21 **SEC. 7. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DIS-**
22 **COURAGE THE DONATION OF FIRE EQUIP-**
23 **MENT TO VOLUNTEER FIRE COMPANIES.**

24 (a) LIABILITY PROTECTION.—A person who donates
25 fire control or fire rescue equipment to a volunteer fire

1 company shall not be liable for civil damages under any
2 State or Federal law for personal injuries, property dam-
3 age or loss, or death caused by the equipment after the
4 donation.

5 (b) EXCEPTIONS.—Subsection (a) does not apply to
6 a person if—

7 (1) the person’s act or omission causing the in-
8 jury, damage, loss, or death constitutes gross neg-
9 ligence or intentional misconduct; or

10 (2) the person is the manufacturer of the fire
11 control or fire rescue equipment.

12 (c) PREEMPTION.—This Act preempts the laws of
13 any State to the extent that such laws are inconsistent
14 with this Act, except that notwithstanding subsection (b)
15 this Act shall not preempt any State law that provides
16 additional protection from liability for a person who do-
17 nates fire control or fire rescue equipment to a volunteer
18 fire company.

19 (d) DEFINITIONS.—In this section:

20 (1) PERSON.—The term “person” includes any
21 governmental or other entity.

22 (2) FIRE CONTROL OR RESCUE EQUIPMENT.—
23 The term “fire control or fire rescue equipment” in-
24 cludes any fire vehicle, fire fighting tool, communica-

1 tions equipment, protective gear, fire hose, or
2 breathing apparatus.

3 (3) STATE.—The term “State” includes the
4 several States, the District of Columbia, the Com-
5 monwealth of Puerto Rico, the Commonwealth of the
6 Northern Mariana Islands, American Samoa, Guam,
7 the Virgin Islands, any other territory or possession
8 of the United States, and any political subdivision of
9 any such State, territory, or possession.

10 (4) VOLUNTEER FIRE COMPANY.—The term
11 “volunteer fire company” means an association of
12 individuals who provide fire protection and other
13 emergency services, where at least 30 percent of the
14 individuals receive little or no compensation com-
15 pared with an entry level full-time paid individual in
16 that association or in the nearest such association
17 with an entry level full-time paid individual.

18 (e) EFFECTIVE DATE.—This Act applies only to li-
19 ability for injury, damage, loss, or death caused by equip-
20 ment that, for purposes of subsection (a), is donated on
21 or after the date that is 30 days after the date of the
22 enactment of this Act.

Passed the House of Representatives May 12, 2005.

Attest:

JEFF TRANDAHL,

Clerk.