

FASTER AND SMARTER FUNDING FOR FIRST
RESPONDERS ACT OF 2005

APRIL 28, 2005.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. COX, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 1544]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 1544) to provide faster and smarter funding for first responders, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	15
Background and Need for Legislation	16
Hearings	19
Committee Consideration	19
Committee Votes	19
Committee Oversight Findings	22
Statement of General Performance Goals and Objectives	22
New Budget Authority, Entitlement Authority, and Tax Expenditures	22
Congressional Budget Office Estimate	22
Federal Mandates Statement	24
Advisory Committee Statement	24
Constitutional Authority Statement	24
Applicability to Legislative Branch	24
Section-by-Section Analysis of the Legislation	25
Changes in Existing Law Made by the Bill, as Reported	34
Letters and Correspondence	54

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In order to achieve its objective of preventing, minimizing the damage from, and assisting in the recovery from terrorist attacks, the Department of Homeland Security must play a leading role in assisting communities to reach the level of preparedness they need to prevent and respond to a terrorist attack.

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

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

(4) Ensuring adequate resources for the new national mission of homeland security, without degrading the ability to address effectively other types of major disasters and emergencies, requires a discrete and separate grant making process for homeland security funds for first response to terrorist acts, on the one hand, and for first responder programs designed to meet pre-September 11 priorities, on the other.

(5) While a discrete homeland security grant making process is necessary to ensure proper focus on the unique aspects of terrorism preparedness, it is essential that State and local strategies for utilizing such grants be integrated, to the greatest extent practicable, with existing State and local emergency management plans.

(6) Homeland security grants to first responders must be based on the best intelligence concerning the capabilities and intentions of our terrorist enemies, and that intelligence must be used to target resources to the Nation’s greatest threats, vulnerabilities, and consequences.

(7) The Nation’s first response capabilities will be improved by sharing resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation. Such regional cooperation should be supported, where appropriate, through direct grants from the Department of Homeland Security.

(8) An essential prerequisite to achieving the Nation’s homeland security objectives for first responders is the establishment of well-defined national goals for terrorism preparedness. These goals should delineate the essential capabilities that every jurisdiction in the United States should possess or to which it should have access.

(9) A national determination of essential capabilities is needed to identify levels of State and local government terrorism preparedness, to determine the nature and extent of State and local first responder needs, to identify the human and financial resources required to fulfill them, to direct funding to meet those needs, and to measure preparedness levels on a national scale.

(10) To facilitate progress in achieving, maintaining, and enhancing essential capabilities for State and local first responders, the Department of Homeland Security should seek to allocate homeland security funding for first responders to meet nationwide needs.

(11) Private sector resources and citizen volunteers can perform critical functions in assisting in preventing and responding to terrorist attacks, and should be integrated into State and local planning efforts to ensure that their capabilities and roles are understood, so as to provide enhanced State and local operational capability and surge capacity.

(12) Public-private partnerships, such as the partnerships between the Business Executives for National Security and the States of New Jersey and Georgia, can be useful to identify and coordinate private sector support for State and local first responders. Such models should be expanded to cover all States and territories.

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

(14) The Department of Homeland Security should establish, publish, and regularly update national voluntary consensus standards for both equipment and training, in cooperation with both public and private sector standard setting organizations, to assist State and local governments in obtaining the equip-

ment and training to attain the essential capabilities for first response to acts of terrorism, and to ensure that first responder funds are spent wisely.

SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

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

(1) in section 1(b) in the table of contents by 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.”

(2) by adding at the end the following:

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

“SEC. 1801. DEFINITIONS.

“In this title:

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

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

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

“(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

“(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

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

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

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

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

“(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term ‘elevations in the threat alert level’ means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

“(5) EMERGENCY PREPAREDNESS.—The term ‘emergency preparedness’ shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

“(6) ESSENTIAL CAPABILITIES.—The term ‘essential capabilities’ means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

“(7) FIRST RESPONDER.—The term ‘first responder’ shall have the same meaning as the term ‘emergency response provider’.

“(8) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(9) REGION.—The term ‘region’ means—

“(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered

grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

“(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

“(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

“(ii) the incorporated municipalities, counties, and parishes that they encompass.

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

“(11) TERRORISM PREPAREDNESS.—The term ‘terrorism preparedness’ means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

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

“(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

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

“(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

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

“(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

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

“(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

“(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

“(b) GRANT CRITERIA.—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

“(c) STATE HOMELAND SECURITY PLANS.—

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

“(A) describes the essential capabilities that communities within the State should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department’s goals for terrorism preparedness;

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

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

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

“(E) describes how the State intends—

“(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional

structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

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

“(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

“(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

“(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

“(2) CONSULTATION.—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

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

“(4) REVISIONS.—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

“(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

“(e) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

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

“(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

“(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

“(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

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

“(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

“(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

“(E) if the applicant is a region—

“(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

“(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

“(iii) a designation of a specific individual to serve as regional liaison;

“(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

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

“(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

“(5) REGIONAL APPLICATIONS.—

“(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

“(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

“(ii) shall supplement and avoid duplication with such State application; and

“(iii) shall address the unique regional aspects of such region’s terrorism preparedness needs beyond those provided for in the application of such State or States.

“(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State’s homeland security plan and provides an explanation of the reasons therefor.

“(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: *Provided*, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

“(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

“(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

“(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

“(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

“(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region’s access to covered grants; and

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

“(6) TRIBAL APPLICATIONS.—

“(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

“(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe’s application with the State’s homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

“(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the bound-

aries of which any part of such tribe is located of the approval of an application by such tribe.

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

“(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

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

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

“(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

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

“(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

“SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

“(a) FIRST RESPONDER GRANTS BOARD.—

“(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

“(A) the Secretary;

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

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

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

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

“(F) the Director of the Office for Domestic Preparedness; and

“(G) the Administrator of the United States Fire Administration.

“(2) CHAIRMAN.—

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

“(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

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

“(c) PRIORITIZATION OF GRANT APPLICATIONS.—

“(1) FACTORS TO BE CONSIDERED.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

“(2) CRITICAL INFRASTRUCTURE SECTORS.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

“(A) Agriculture and food.

“(B) Banking and finance.

“(C) Chemical industries.

“(D) The defense industrial base.

“(E) Emergency services.

“(F) Energy.

- “(G) Government facilities.
- “(H) Postal and shipping.
- “(I) Public health and health care.
- “(J) Information technology.
- “(K) Telecommunications.
- “(L) Transportation systems.
- “(M) Water.
- “(N) Dams.
- “(O) Commercial facilities.
- “(P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

“(3) TYPES OF THREAT.—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

- “(A) Biological threats.
- “(B) Nuclear threats.
- “(C) Radiological threats.
- “(D) Incendiary threats.
- “(E) Chemical threats.
- “(F) Explosives.
- “(G) Suicide bombers.
- “(H) Cyber threats.
- “(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

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

“(4) CONSIDERATION OF ADDITIONAL FACTORS.—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

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

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

“(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

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

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

“(6) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

- “(A) having a significant international land border; or
- “(B) adjoining a body of water within North America through which an international boundary line extends.

“(d) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

“SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

“(a) ESTABLISHMENT.—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

“(b) UPDATE, REVISE, OR REPLACE.—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

“(c) REPORT.—

“(1) IN GENERAL.—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

“(2) CONTENTS.—Each report shall—

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

“(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

“(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

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

“(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

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

“(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

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

“(d) MEMBERSHIP.—

“(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

“(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

“(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

“(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

“(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

“(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.

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

“(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

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

“(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;

“(2) exercises to strengthen terrorism preparedness;

“(3) training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

“(4) developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;

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

“(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;

“(7) additional personnel costs resulting from—

“(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

“(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

“(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

“(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

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

“(A) \$1,000,000 per project; or

“(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

“(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

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

“(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

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

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

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

“(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

“(1) to supplant State or local funds;

“(2) to construct buildings or other physical facilities;

“(3) to acquire land; or

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

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

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

“(e) ASSISTANCE REQUIREMENT.—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

“(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

“(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

“(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

“(2) COST SHARING.—

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

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

“(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

“(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

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

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

“(B) the amount expended by that recipient in that quarter; and

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

“(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

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

“(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

“(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

“(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

“(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

“(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

“(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

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

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

“(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

“(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

“(C) impose additional restrictions or burdens on the recipient’s use of funds under the grant, which may include—

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

“(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

“(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

“(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities’ terrorism preparedness efforts.

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

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

“(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

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

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

“(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

“(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

“(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

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

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

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

“(i) shall not affect any payment to another local government under this paragraph; and

“(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

“(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

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

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

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

“(3) describing—

“(A) the Nation’s progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

“(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

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

“(a) EQUIPMENT STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

“(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

“(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

“(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

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

“(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

“(A) Thermal imaging equipment.

“(B) Radiation detection and analysis equipment.

“(C) Biological detection and analysis equipment.

“(D) Chemical detection and analysis equipment.

“(E) Decontamination and sterilization equipment.

“(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

“(G) Respiratory protection equipment.

“(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

“(I) Explosive mitigation devices and explosive detection and analysis equipment.

“(J) Containment vessels.

“(K) Contaminant-resistant vehicles.

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

“(b) TRAINING STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

“(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

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

“(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

“(A) Regional planning.

“(B) Joint exercises.

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

“(D) Emergency notification of affected populations.

“(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

“(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

“(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

“(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

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

“(2) the National Fire Protection Association;

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

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

“(5) the American National Standards Institute;

“(6) the National Institute of Justice;

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

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

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

“(10) ASTM International;

“(11) the International Safety Equipment Association;

“(12) the Emergency Management Accreditation Program; and

“(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

“(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.”.

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 101(6)) is amended by striking “includes” and all that follows and inserting “includes Federal, State, and local governmental and nongovernmental emergency public safety, law

enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.”.

SEC. 4. SUPERSEDED PROVISION.

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

SEC. 5. OVERSIGHT.

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

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

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

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

(2) the extent to which such programs are coordinated.

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

(1) an assessment of the effectiveness of the structure and organization of such training programs;

(2) recommendations to—

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

(B) increase the availability of training to first responders who are not able to attend centralized training programs;

(3) the structure and organizational effectiveness of such programs for first responders in rural communities;

(4) identification of any duplication or redundancy among such programs;

(5) a description of the use of State and local training institutions, universities, centers, and the National Domestic Preparedness Consortium in designing and providing training;

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

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

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

(9) an analysis of the feasibility of Federal, State, and local personnel to receive the training that is necessary to adopt the National Response Plan and the National Incident Management System; and

(10) the role of each first responder training institution within the Department of Homeland Security in the design and implementation of terrorism preparedness and related training courses for first responders.

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

(1) submit a report under subsection (a)(1) by not later than 60 days after the date of the enactment of this Act; and

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

PURPOSE AND SUMMARY

H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, reforms the manner in which the Department of Homeland Security (DHS or the Department) issues Federal grants to enhance the ability of States, local governments, regions, Indian tribes, and first responders to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism. H.R. 1544 does not create a new grant program. Rather, it establishes a common set of rules for three of the Department’s existing terrorism preparedness grant programs—the State Homeland Security Grant Program (SHSGP), the Urban Area Security Initiative (UASI), and the Law Enforcement Terrorism Prevention Program (LETPP). At its most fundamental level, H.R. 1544 is designed to expedite the delivery of Federal terrorism preparedness

assistance to first responders where it is needed most and, at the same time, end undisciplined homeland security spending. It does so by: (1) requiring States, territories, regions, localities, Indian tribes, and first responders to decide how to spend their terrorism preparedness grant funding before they submit their applications; (2) allocating grant awards to States, territories, regions, and directly eligible tribes based on an assessment of risk and need; (3) ensuring that grant recipients use their awards to achieve, maintain, and enhance clear and measurable essential capabilities, and providing a substantial role for State and local governments and first responders in determining such capabilities; (4) requiring and incentivizing States to pass through their awarded funds to localities within tight time-frames and penalizing States that fail to do so; (5) requiring States to prioritize their allocation of Federal anti-terrorism grants to address their greatest threats, vulnerabilities, and consequences; and (6) holding grant recipients accountable for how they spend their Federal terrorism preparedness funds.

BACKGROUND AND NEED FOR LEGISLATION

The need for legislative reform of the current Federal terrorism preparedness grant funding process is obvious. Several Federal studies and independent analyses have identified a myriad of problems with the current system, including: (1) the Department's reliance on an arbitrary formula—rather than risk or need—to allocate the vast majority of its terrorism preparedness grant funds; (2) the lack of Federal terrorism preparedness standards or goals to guide the expenditure of such funds at the State, local, territorial, and tribal levels of government; (3) the slow rate of draw-down, or spending, by State and local recipients of these Federal grants; and (4) the failure by many States and territories to allocate such funds to localities within their jurisdictions on the basis of risk and need.

DHS RISK-BASED ALLOCATION

Since 2001, the Department has awarded Federal terrorism preparedness grant funds to States and territories in a reasonable time-frame, but it has done so without any real assessment of risk or need (except for UASI). With respect to the method of allocation of non-UASI grant funds, the Department follows, in part, a formula established by the Congress that provides each State and territory with a guaranteed minimum amount of funding, regardless of the threat to, vulnerability of, and consequences for persons or critical infrastructure from acts of terrorism. Specifically, section 1014(c)(3) of the USA PATRIOT Act, passed by Congress in the immediate aftermath of the September 11th attacks, guarantees each State 0.75 percent and each territory 0.25 percent of the total amount appropriated in a fiscal year for State terrorism preparedness grants. For fiscal years 2002 through 2005, the Department's Office for Domestic Preparedness determined the allocations for the SHSGP and the LETPP grants by using a formula with a base amount of 0.75 percent for each State (including the District of Columbia and Puerto Rico), and 0.25 percent for each U.S. territory, with a secondary distribution to each State and territory of the balance of the funds on the basis of population.

The USA PATRIOT Act, however, does not require the Department to treat these percentages as a base. Instead, for fiscal years 2002 through 2004, DHS had the discretion to distribute all such funds on the basis of risk, so long as it ensured that no State or territory received less than the guaranteed minimum of 0.75 percent and 0.25 percent, respectively. DHS did not do so, but in its fiscal year 2005 budget proposal, DHS announced its intention to move toward risk-based funding for these programs. However, in the fiscal year 2005 Department of Homeland Security Appropriations Act, Congress instructed the Department to distribute State homeland security grants for such year in accordance with its previous methodology, thus limiting DHS' discretion under the USA PATRIOT Act.

This process has created some peculiar anomalies, especially with respect to rural America. The current grant system—which provides risk-based funds only to urban areas (under UASI) and to States based on population—essentially ignores the threats, vulnerabilities, and consequences of acts of terrorism in rural communities, which contain significant critical infrastructure that could be targets of terrorism. The disruption to the agricultural and food sectors by biological or other acts of terrorism, or the resulting economic and health considerations nationwide, are not among the factors currently considered in awarding billions of dollars in grant funding. H.R.1544 would eliminate this anomaly by requiring a risk-based analysis that covers urban, suburban, and rural communities, based on objective criteria.

PREPAREDNESS STANDARDS AND GOALS

Until the release in March 2005 of the interim National Preparedness Goal, the Department had not established any consistent methodology, such as preparedness standards, to help guide States and localities determine their preparedness needs. Such standards will enable communities to better identify the equipment, planning, training, and exercises that they need to enhance their terrorism preparedness. Commonsense dictates that not all communities need the same equipment or other terrorism preparedness resources. A mid-size Midwestern city with nuclear power and chemical plants, for example, has different terrorism preparedness needs than a smaller, rural community with critical infrastructure related to agriculture and food. The absence of such standards has led to numerous examples of questionable spending by State and local governments (i.e., on equipment of no, or only, marginal utility to terrorism preparedness).

DELAYS IN USE OF FIRST RESPONDER FUNDING

Only a very small portion of awarded funds has been utilized to date by State and local recipients, in part, due to poor advance planning and other administrative requirements and bottlenecks at various levels of government. Since September 11, 2001, the Administration and Congress have made an enormous investment—more than \$30 billion—in State and local terrorism and natural disaster preparedness programs. With regard to the Department's terrorism preparedness programs from fiscal years 2002 through 2004, State and local governments have spent only 31 percent of

the \$6.3 billion awarded by DHS. As a consequence, approximately \$4.1 billion in such funds remain in the pipeline for use by local recipients—with another \$2.4 billion recently added from fiscal year 2005. In fact, according to the latest quarterly reports submitted to DHS, five metropolitan regions and six transit authorities had not spent any fiscal year 2003 UASI grant funds, which are purportedly targeted to our Nation's most high-risk areas and are due to expire in the next several months.

One of the principal reasons for the delay in the flow of first responder grants is that the planning to spend such funding frequently occurs after the grants are actually received. Many States have obligated grant funds to local governments, notwithstanding the absence of a plan for how they actually would spend the money. In such cases, localities have waited to begin the planning process until after they received confirmation of the exact amount of the grant and permission from the State to spend it.

STATE RISK-BASED ALLOCATION

Almost one-third of all States have allocated the Department's terrorism preparedness grant funds to their localities without regard to need or risk (other than population), and those States that have allocated funds on the basis of risk or need have not followed any standard approach in doing so. Under Federal law, States must obligate or pass through eighty (80) percent of the funds received under all grant programs. With respect to method of obligation, many States follow the Department's example of providing a base amount to each county, with a secondary distribution on the basis of population. In other words, the same lack of assessment of risk and need at the Federal level exists in the method used by many States to pass through the funding from DHS to their localities.

H.R. 1544 addresses these and other problems with the Department's grant-making system. The Committee strongly believes that it is important to put the need for these reforms into a broader context. Arming our first responders with the best technologies, equipment, training, and exercises to respond in the event of a catastrophic terrorist attack is vital for protection of our Nation. But our top priority must, above all, be to prevent the attacks that would require our first responders to act. The Committee has stressed this overriding objective throughout its activities.

Good intelligence on the threat posed by foreign and domestic terrorists can help prevent or deter attacks. Provisions in H.R. 1544 that allow grant funds to be used to establish or enhance mechanisms for sharing terrorism threat information will assist first responders in preventing, disrupting, or deterring potential terrorist attacks. Such a result is far preferable to having our police officers, firefighters, and emergency medical services personnel put their lives in danger in responding to a terrorist attack.

Since the attacks of September 11, 2001, our Nation has greatly bolstered its terrorism response capabilities. H.R. 1544 will contribute significantly to that ongoing effort. The Nation must continue to strengthen its defenses, including the capabilities of our law enforcement and intelligence communities, understanding that the key to effective response will often be enhanced awareness and preparedness. Balancing resources allocated to each of those pur-

poses will be essential to protecting the American people and territory for the foreseeable future, and to reducing the chances that our first responders will again be put at risk while responding to another catastrophic attack.

HEARINGS

On Tuesday, April 12, 2005, the Subcommittee on Emergency Preparedness, Science, and Technology held an oversight hearing entitled “The Need for Grant Reform and The Faster and Smarter Funding for First Responders Act of 2005.” The Subcommittee received testimony from: Mr. J. Richard Berman, Assistant Inspector General for Audits, Office of Inspector General, U.S. Department of Homeland Security; Dr. William O. Jenkins, Jr., PhD., Director, Homeland Security and Justice Issues, Government Accountability Office; Dr. Veronique de Rugy, PhD., Fellow, American Enterprise Institute; The Honorable Bryan E. Beatty, Secretary, North Carolina Department of Crime Control and Public Safety; Mr. Michael Chapman, Director, Missouri Office of Homeland Security; and Mr. David L. Miller, Administrator, Iowa Homeland Security and Emergency Management Division.

On Tuesday, April 14, 2005, the Full Committee held an oversight hearing entitled “Grant Reform: The Faster and Smarter Funding for First Responders Act of 2005.” The Committee received testimony from: The Honorable Lee. H. Hamilton, Vice Chair, National Commission on Terrorist Attacks Upon the United States; Ms. Mary Fetchet, Founding Director, Voices of September 11; Inspector Louis P. Cannon, Testifying on Behalf of the National Fraternal Order of Police; Chief Gregg Lord, Director, National Association of Emergency Medical Technicians, Division Chief—EMS, Cherokee County Fire-Emergency Services; and Mr. Kevin B. O’Connor, Associate to the General President, International Association of Fire Fighters.

COMMITTEE CONSIDERATION

H.R. 1544 was introduced by Mr. Cox, Mr. Thompson, and 32 cosponsors on April 12, 2005, and referred to the Committee on Homeland Security. Within the Committee on Homeland Security, H.R. 1544 was referred to the Subcommittee on Emergency Preparedness, Science, and Technology.

On April 19, 2005, the Subcommittee on Emergency Preparedness, Science, and Technology met in open markup session and ordered H.R. 1544 favorably reported to the Full Committee for consideration, amended, by a unanimous voice vote. An Amendment in the Nature of a Substitute offered by Mr. King (#1), was AGREED TO by Voice Vote.

On April 21, 2005, the Full Committee met in open markup session and ordered H.R. 1544 favorably reported to the House of Representatives, amended, by a unanimous voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto.

H.R. 1544, to provide faster and smarter funding for first responders, and for other purposes; was ordered favorably reported to the House, amended, by voice vote; as follows:

The text of H.R. 1544 with an Amendment in the Nature of a Substitute as favorably reported by the Subcommittee on Emergency Preparedness, Science, and Technology(#1), was AGREED TO, amended, by Voice Vote. A unanimous consent request to consider the Amendment in the Nature of a Substitute base text for purposes of amendment, was Not Objected to. An Amendment offered by Mr. Rogers to the Amendment in the Nature of a Substitute offered by Mr. King (#1A), at the end of the amendment to add a new section entitled "GAO Report on an Inventory and Status of Homeland Security First Responder Training," was AGREED TO by Voice Vote.

An Amendment offered by Mr. Markey to the Amendment in the Nature of a Substitute offered by Mr. King (#1B), in section 1801(9) to insert a new subparagraph (C) relating to Urban Area Security Initiative, was WITHDRAWN by Unanimous Consent.

An Amendment offered by Ms. Jackson-Lee to the Amendment in the Nature of a Substitute offered by Mr. King (#1C), at the end of section 1803 insert a new subsection (f) relating to notice and comment requirements, was WITHDRAWN by Unanimous Consent.

An Amendment offered by Mrs. Lowey to the Amendment in the Nature of a Substitute offered by Mr. King (#1D), at the end of the amendment to add new sections entitled "Sec. 6. National Strategy for Interoperability Communications" and "Sec. 7 Interoperable Communications Technology Grant Program," was NOT AGREED TO by a recorded vote of 13 yeas and 19 nays (Roll call Vote No. 3).

COMMITTEE ON HOMELAND SECURITY
U.S. House of Representatives
109th Congress

Date: Thursday, April 21, 2005

Convened: 10:31 a.m.

Adjourned: 11:43 p.m.

Meeting on : Markup of H.R. 1544: The Faster and Smarter Funding for First Responders Act of 2005

Amendment #1D offered by Mrs. Lowey

Attendance Recorded Vote Vote Number: 3 Total: Yeas 13 Nays 19

	YEA	NAY	PRESENT		YEA	NAY	PRESENT
Mr. Don Young Alaska				Mr. Bennie G. Thompson Mississippi, Ranking Member	✓		
Mr. Lamar S. Smith Texas		✓		Ms. Loretta Sanchez California		✓	
Mr. Curt Weldon Pennsylvania		✓		Mr. Edward J. Markey Massachusetts			
Mr. Christopher Shays Connecticut		✓		Mr. Norman D. Dicks Washington	✓		
Mr. Peter T. King New York		✓		Ms. Jane Harman California	✓		
Mr. John Linder Georgia		✓		Mr. Peter A. DeFazio Oregon	✓		
Mr. Mark E. Souder Indiana		✓		Ms. Nita M. Lowey New York	✓		
Mr. Tom Davis Virginia		✓		Ms. Eleanor Holmes Norton District of Columbia	✓		
Mr. Daniel E. Lungren California		✓		Ms. Zoe Lofgren California	✓		
Mr. Jim Gibbons Nevada		✓		Ms. Sheila Jackson-Lee Texas	✓		
Mr. Rob Simmons Connecticut		✓		Mr. Bill Pascrell, Jr. New Jersey	✓		
Mr. Mike Rogers Alabama		✓		Mrs. Donna M. Christensen U.S. Virgin Islands	✓		
Mr. Stevan Pearce New Mexico		✓		Mr. Bob Etheridge North Carolina	✓		
Ms. Katherine Harris Florida		✓		Mr. James R. Langevin Rhode Island	✓		
Mr. Bobby Jindal Louisiana		✓		Mr. Kendrick Meek Florida	✓		
Mr. Dave Reichert Washington		✓					
Mr. Michael McCaul Texas		✓					
Mr. Charlie Dent Pennsylvania		✓					
Mr. Cox California, Chairman		✓					
				Total	13	19	

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, is intended to: (1) reform the manner in which the Department of Homeland Security issues terrorism preparedness grants to enhance the ability of States, territories, regions, local governments, Indian tribes, and first responders to prevent, prepare for, respond to, mitigate against, and recover from acts of terrorism; (2) direct the Secretary to regularly update or revise the established “essential capabilities” that different types of communities should possess, or to which they should have access, based on their relevant terrorism risk factors; (3) improve the grant process by streamlining and speeding the delivery of Federal grant assistance to first responders to build such capabilities in a measurable, comprehensive, and flexible fashion; and (4) establish a consolidated structure for evaluating and prioritizing grant applications based on the degree to which they would lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure in the event of a terrorist attack.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

APRIL 28, 2005.

Hon. CHRISTOPHER COX,
Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Jullie Middleton (for federal costs) and Melissa Merrell (for the state and local impact).

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure.

H.R. 1544—The Faster and Smarter Funding for First Responders Act of 2005

Summary: CBO estimates that enacting H.R. 1544 would have no significant impact on the federal budget. The bill would authorize the Secretary of the Department of Homeland Security (DHS) to change the criteria used to distribute funding—but not the total amount of funding—for three existing first-responder grant programs established after September 11, 2001—the State Homeland Security, the Law Enforcement Terrorism Prevention, and the Urban Area Security Initiative grant programs. In addition, the bill would establish the First Responder Grants Board, which would evaluate and prioritize applications for grants. Finally, H.R. 1544 would establish standards for the quality and content of first-responder equipment and training.

Enacting H.R. 1544 would not affect direct spending or revenues. H.R. 1544 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Because the bill would change how certain grants for first responders are allocated to states, localities, and Indian tribes, some states would receive more funding and others less than under current law. Any costs to state, local, and tribal governmental for participating in those programs would be incurred voluntarily.

Estimated cost to the Federal Government: CBP estimates that enacting H.R. 1544 would have no significant impact on the federal budget. The Office of Domestic Preparedness (within DHS) derives its primary authority to distribute grants to states and localities to prepare and respond to terrorism from the USA Patriot Act (Public Law 107-56). Almost \$9 billion has been appropriated for these first-responder grants since fiscal year 2003, including about \$2.7 billion in fiscal year 2005. That law authorizes the appropriation of such sums as necessary for first-responder grants through fiscal year 2007. H.R. 1544 would not extend that authorization, nor would it significantly affect the rate at which appropriations are spent.

Intergovernmental and private-sector impact: H.R. 1544 contains no intergovernmental mandates as defined in UMRA. The bill would make several changes to existing grant program for state, local and tribal governments. First, it would change the requirements for participating in at least three current programs—the State Homeland Security Grant, the Law Enforcement Terrorism Prevention Program, and the Urban Area Security Initiative—and change how those funds are allocated. Although some states would receive less funding than in previous years and others would receive more, this bill would not change the overall funding level and each state would receive a minimum amount of the total funds. This bill would allow certain metropolitan areas to apply for funds directly and would expand eligible activities to include covering the costs of some overtime activities during heightened threat alerts and training activities.

The bill also would authorize DHS to transfer funds directly to the local recipients, reduce the portion of grants retained by the state, or impose additional restrictions if states fail to provide funds to local first responders in a timely manner. States would be required to provide 80 percent of the funds or resources to local recipients within 45 days of receipt. If states fail to comply with that

requirement, funds could be allocated directly to local jurisdictions. Any costs to state, local, or tribal governments as a result of these changes to the grant programs would be incurred voluntarily.

State, local, and tribal governments would benefit from other provisions of the bill that require DHS to identify, with input from local first responders and trade representatives, essential capabilities and voluntary standards for equipment and training.

Previous CBO estimate: On April 22, 2005, CBO transmitted a cost estimate for S. 21, the Homeland Security Grant Enhancement Act of 2005, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on April 13, 2005. S. 21 would authorize the Secretary of the Department of Homeland Security to change the criteria used to distribute funding for the State Homeland Security, the Law Enforcement Terrorism Prevention, and the Urban Area Security Initiative grant programs. Under the bill, these three grant programs would be governed by the provisions of a new initiative known as the Threat-Based Homeland Security Grant Program. In addition, this bill would authorize the appropriation of \$2.9 billion a year for first-responder grants in 2006 and 2007, and such sums as are necessary for each subsequent year for first-responder grants. Assuming appropriation of the authorized and estimated amounts, CBO estimates that implementing S. 21 would cost about \$9.9 billion over the 2006–2010 period.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

The Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of that Act, and section 552b(c) of title 5, U.S.C., will apply to the Task Force on Terrorism Preparedness for First Responders.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

This section cites the measure as “Faster and Smarter Funding for First Responders Act of 2005.”

SECTION 2. FINDINGS

This section contains fourteen (14) findings of fact supporting the need for the legislation.

SECTION 3. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS

Subsection (a) of section 3 amends the “Homeland Security Act of 2002” (Public Law No. 107–296) by adding at the end a new Title XVIII—Funding for First Responders. This new title includes seven sections. These sections—sections 1801–1807—are as follow:

Section 1801—Definitions

This section provides a number of definitions. Among other definitions, the term “region” is defined to include only those geographic areas consisting of two or more states or local governments that have a combined population of 1,650,000 or have an area of not less than 20,000 square miles. Regions also may be designated by the Secretary with the consent of the State or States in which the local governments that comprise the region are located. This section also adopts the definition of “emergency response providers” in section 2(6) of the Homeland Security Act as the definition of “first responder” for purposes of this bill (although in subsection (b) of this section the bill amends the Homeland Security Act definition to make clear that the fire service and governmental and non-governmental organizations and personnel are included in the definition of “emergency response providers”).

This section also adopts the definition of “emergency preparedness” in section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Moreover, it defines the term “terrorism preparedness,” which is used extensively throughout H.R. 1544, to mean “any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.”

Section 1802—Faster and Smarter Funding for First Responders

Subsection (a) of this section states that the provisions of new Title XVIII apply only to those grants that the Department of Homeland Security provides to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks, especially those involving weapons of mass destruction. Specifically, such terrorism preparedness grants are those administered under the State Homeland Security Grant Program (SHSGP), the Law Enforcement Terrorism Prevention Program (LETPP), and the Urban Area Security Initiative (UASI).

Subsection (b) expressly excludes from coverage of this title all non-DHS Federal grants, as well as the DHS firefighter assistance grants and the emergency management planning and assistance

grants. The Committee notes that grants awarded under critical infrastructure programs, the Citizen Corps Program, and the Metropolitan Medical Response System are not covered under H.R. 1544.

Section 1803—Covered Grant Eligibility and Criteria

This section provides that States, regions, and directly eligible tribes may apply for covered grants. The Committee notes that, although States will continue to play a central role in homeland security planning and coordinating grant fund distribution to first responders at the local level, H.R. 1544 ensures that the unique preparedness needs of regions and Indian tribes can be addressed by the Secretary through regional and tribal grants. For purposes of the grant application process, only certain geographic areas will qualify as regions and only a limited number of Indian tribes will qualify as directly eligible.

H.R. 1544 recognizes the primary role of States in the Nation's terrorism preparedness efforts. Accordingly, this section requires that, to be eligible to receive a covered grant, a State must first submit for the Secretary's approval a comprehensive three-year state homeland security plan tied to the achievement, maintenance, and enhancement of the essential capabilities established by the Secretary. Specifically, the plan must be developed in consultation with, and subject to appropriate comment by, local governments, tribes, and first responders within the State, and must—

- describe the essential capabilities that communities within the State should possess, or to which they should have access, based on the terrorism risk factors relevant to such communities;
- demonstrate the extent to which the State has achieved its essential capabilities;
- demonstrate the needs of the State necessary to achieve, maintain, or enhance its essential capabilities;
- prioritize the State's needs based on threat, vulnerability, and consequences; and
- describe how the State intends to address its needs at the city, county, regional, tribal, state, and interstate levels, with particular emphasis on regional planning and coordination.

A State may revise its previously approved homeland security plan subject to the Secretary's approval.

The Committee notes that there is a category of private, not-for-profit institutions, as described in section 501(c)(3) of the Internal Revenue Code of 1986, that provides services that are at high risk of being the target of terrorist attacks. The Committee recommends that, in their state homeland security planning efforts, States should specifically consider the risk to such institutions.

The Secretary may not approve any state, regional, or tribal application that is inconsistent with any such state plan. Accordingly, to be eligible for a covered grant, a region must submit its application to each State of which any part is included in the region for review and concurrence. Within thirty (30) days of its receipt, the State must either submit the region's application to the Secretary or notify the Secretary that the application is inconsistent with the State's homeland security plan and provide an explanation of the reasons thereof. If the Secretary approves a regional application, then the Secretary must distribute the regional award to the State that submitted the region's application. Within forty-five (45) days

after receiving the regional award, the State must pass through to the region all covered grant funds or resources purchased with such funds, except those necessary for the State to fulfill its responsibilities with respect to the regional application. Under no circumstances may the State pass through less than eighty (80) percent of the regional award.

To be eligible for a covered grant, a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located. The State must simultaneously submit to DHS the application of the directly eligible tribe with its application. Although the State has no formal concurrence responsibility as with regions, it has the opportunity to submit comments to the Secretary on the consistency of a directly eligible tribe's application with the State's homeland security plan. The Secretary has final authority to determine such consistency and to approve the tribe's application.

All applications must adhere to the following general requirements. An applicant must include in its application at a minimum: (1) the purpose for which such funds are being sought and the reasons why such funds are needed to meet essential capabilities; (2) a description of how, by reference to the applicable state homeland security plan, the allocation of such funds would assist it in fulfilling the essential capabilities specified in such plan; (3) a statement whether a mutual aid agreement is applicable; (4) a capital budget; and (5) a statement on how the applicant intends to meet the matching requirement.

Moreover, in its application, a State must include a description of how it intends to allocate covered grant funds to regions, local governments, and Indian tribes. If the applicant is a region, the region's application must include the information required to be submitted by a State as described above, as well as: (1) a description of the region and a specification of all participating and non-participating local governments within it; (2) an explanation of which governmental entity will administer the funds; and (3) the designation of a regional liaison. And, if the applicant is a directly eligible tribe, the tribe's applicant must designate a specific individual to serve as a tribal liaison.

The Committee believes that the sharing of resources, training, planning, personnel, and equipment among neighboring jurisdictions through mutual aid agreements and regional cooperation enhances our Nation's terrorism preparedness. Such regional cooperation—both intra- and inter-State—should be supported, where appropriate, through grants from the Department. The Committee is encouraged by the long-standing, well-established network of intra- and inter-State regional entities. Indeed, many multi-jurisdictional councils of governments, regional planning commissions and organizations, development districts, and consortiums have responsibility for implementing emergency response plans and coordinating cross-jurisdictional response capabilities. The Committee urges the Department to support the continued development of such intra- and inter-State entities.

The Committee also recognizes that mutual aid agreements that include Indian tribes involve additional issues particular to Indian Country, such as tribal sovereignty, tribal sovereign immunity, and complicated jurisdictional relationships between the Federal, State,

and tribal governments. This is especially true for Indian tribes adjacent to high-risk, urban areas and international borders. For this and other reasons, the Committee urges the Secretary to assist all communities, including Indian tribes located contiguous to major metropolitan areas, in developing and implementing mutual aid agreements. In doing so, the Committee further urges the Secretary to utilize the mutual aid matrix that the Directorate for Emergency Preparedness and Response is required to establish pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004. Specifically, section 7406 of that Act directs the Directorate to identify and catalog existing agreements and to disseminate the best examples to States, local governments, and Indian tribes as models for such governments to emulate.

Section 1804—Risk-Based Evaluation and Prioritization

This section establishes the First Responder Grant Board (Grant Board) to assist the Secretary in awarding covered grants to States, territories, regions, and directly eligible Indian tribes. The Secretary (or Deputy Secretary) will chair the Grant Board, which will consist of the Department's Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, the Director of the Office for Domestic Preparedness, and the Administrator of the U.S. Fire Administration. Specifically, the Grant Board shall be responsible for evaluating and prioritizing all covered grant applications, based upon the degree to which they would, by achieving, maintaining, and enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist and seasonal populations) and critical infrastructure from a terrorist attack. In evaluating threat for such purposes, the Grant Board shall give greater weight to terrorist threats based on their specificity and credibility, including any pattern of repetition.

The Grant Board must consider a number of factors during this evaluation and prioritization process. The Grant Board must base its evaluation and prioritization on the most current risk assessment of the threats of terrorism against the United States available from the Directorate for Information Analysis and Infrastructure Protection. Moreover, the Grant Board must consider various types of threats, such as biological (including human and animal infectious diseases), nuclear, chemical, and radiological, and numerous critical infrastructure sectors in all areas of the Nation, urban and rural. The sixteen (16) critical infrastructure sectors listed in H.R. 1544, which correspond roughly to those contained in the President's Interim National Infrastructure Protection Plan, encompass a large number of critical infrastructure sectors, including agriculture and food, banking and finance, energy, public health and health care, government facilities, transportation systems, and water. These sectors are broad categories, within which there are many distinct components. For example, the transportation systems sector includes mass transit, such as the Washington Metropolitan Area Transit Authority, the State of New York's Metropolitan Transit Authority, and the Chicago Transit Authority, as well as aviation, maritime, ground/surface, and rail

systems. Moreover, the dam sector includes flood control levees, especially when their destruction would cause substantial loss of life and property. With respect to the national monuments and icons sector, the Committee notes that it is the people who visit or are near such sites, not their symbolic value, that merit consideration in the risk-based analysis.

The purpose of incorporating such a variety of critical infrastructure sectors into H.R. 1544 is not to mandate, or otherwise require, the Grant Board to award funds to each sector. Rather, it is to ensure that the Grant Board considers the different types of threats and vulnerabilities relating to all of our Nation's critical infrastructure when determining the proper allocation of terrorism preparedness grants for first responders. For example, the inclusion of the sectors such as agriculture and food, which are primarily located or originate in rural communities, should ensure that the Grant Board does not overlook such communities. By requiring the Grant Board to evaluate the risk to all critical infrastructure sectors, including those in rural America, H.R. 1544 will avoid a situation in which the Department allocates its terrorism preparedness resources solely to large, urban jurisdictions.

Nevertheless, the Committee also recognizes that urban areas make inviting targets. Specifically, it is clear that cities with large ports or borders present unique homeland security challenges. The proximity of these communities to our Nation's major points of entry makes them potentially the first targets of opportunity for terrorists who manage to enter the country, and also provide state and local officials the first opportunity to identify and interdict such terrorists before they carry out acts of terrorism. Moreover, in port and border communities, the potential harm to the national economy from acts of terrorism would be significant and extend beyond those communities. Therefore, the Committee encourages the Grant Board to consider the volume of border crossings and commerce moving across these borders and through port communities when evaluating and prioritizing covered grant applications.

After evaluating and prioritizing all covered grant applications on the basis of risk and need, the Grant Board shall then ensure that each State, territory, and up to twenty (20) directly eligible tribes receive no less than a defined minimum amount of funding. Specifically, this section requires DHS to allocate such grants based on risk and then provide additional funds for those applicants that have not met a minimum threshold of funding. The minimum threshold for each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, is 0.25 percent of the total funds available for covered grants that fiscal year. Because of the unique terrorism preparedness needs of States with international borders, this section provides a minimum threshold of 0.45 percent of the total funds available for covered grants that fiscal year for each State that has a significant international land border or adjoins a body of water within North America through which an international boundary line extends. The minimum threshold for each of the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands is 0.08 percent of the total funds available for covered grants that fiscal year. The minimum threshold for directly eligible tribes, collectively, is 0.08 percent of the total funds available for covered grants that fiscal

year. This minimum threshold, however, will not apply in a fiscal year if the Secretary receives less than five (5) applications for such fiscal year from such tribes or does not approve at least one (1) such application.

In awarding covered grants to regions, the Committee urges the Grant Board to ensure, to the maximum extent practicable, that such funds are distributed among the jurisdictions that could reasonably be expected to provide support to the region in the event of a terrorist attack. Moreover, the Committee believes that such distributions should be made on the basis of the risk profile of sub-areas within each region.

Section 1805—Task Force on Terrorism Preparedness for First Responders

This section requires that the Secretary of DHS establish a twenty-five (25) member advisory body pursuant to section 871(a) of the HSA for the purpose of assisting the Secretary in updating, revising, or replacing the essential capabilities. The Secretary, in appointing the twenty-five (25) members of this advisory body—to be known as the Task Force on Terrorism Preparedness for First Responders (Task Force)—should, to the greatest extent practicable, include a geographic (including urban and rural) and substantive cross-section of governmental and non-governmental first responder disciplines from the state and local levels and representatives from both management and labor. The Secretary also must coordinate the selection of the Task Force's members who are health professionals, including emergency medical professionals, with the Secretary of Health and Human Services.

The Committee believes that membership of the Task Force should encompass all first responder disciplines. For example, the Committee urges the Secretary to appoint Task Force members knowledgeable about emergency medical services (EMS). EMS responders provide extrication, rescue, and emergent care after a terrorist incident; they are critical to our Nation's terrorism preparedness. However, based on the findings of recent reports, including one issued by the Department's Office of State and Local Government Coordination and Preparedness, EMS concerns often do not receive the same level of attention as those of other first responder disciplines. The Committee also urges the Secretary to appoint an animal health expert to provide the Task Force with an understanding of the preparedness issues involved in the transmission of animal and plant diseases in agricultural communities and the protocols for the quarantine of animals and humans.

To achieve its advisory mission, the Task Force must submit for the Secretary's consideration a report within twelve (12) months of its establishment, and every two (2) years thereafter, on recommended essential capabilities for different types of communities. Among other things, the Task Force's report must include a priority ranking of essential capabilities and a methodology by which a state or local government can determine whether it possesses or has access to these essential capabilities. When making its recommendations for essential capabilities to the Secretary, the Task Force must ensure that such capabilities: (1) are made within the context of a comprehensive state emergency management system; (2) are consistent with those of a Federal working group to be es-

established by the Department of Health and Human Services; and (3) take into account any capabilities that State or local officials have determined to be essential and have undertaken to prevent or prepare for terrorist attacks since September 11, 2001. For instance, the Task Force should evaluate whether regional air support constitutes an essential capability for certain communities.

Section 1806—Use of Funds and Accountability Requirements

This section provides a list of permitted and prohibited uses of grant funds, establishes specific time-lines for the expenditure of covered grant funds, and creates a series of reporting requirements for both DHS and state, regional, and tribal grant recipients.

This section provides that a covered grant may be used for appropriate activities as determined by the Secretary of DHS, including specifically the following: purchasing and upgrading of equipment (including computer software); exercises and training; developing or updating response plans; establishing or enhancing mechanisms for information sharing; systems architecture and engineering, program planning and management, and product evaluation; personnel costs directly attributable to elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or an equivalent elevation in the threat alert level issued by a State, region, or local government with the Secretary's approval; classified information receipt and storage costs; critical infrastructure protective measures, up to \$1,000,000 per project or, if approved by the Secretary, up to ten (10) percent of the total amount of the covered grant; costs associated with the purchase of commercially available equipment that complies with national voluntary consensus standards and that facilitates interoperability of emergency communications; developing educational curricula for first responders to ensure their preparedness for terrorist attacks; training and exercises to assist public elementary and secondary schools in developing terrorism preparedness programs; paying three (3) percent of the administrative expenses directly related to administration of a grant; paying for the conduct of any activity permitted under LETPP; and other activities as determined by the Secretary.

In order to ensure that our Nation's first responders fulfill their new terrorism preparedness mission in an effective and efficient manner, grant recipients may only purchase equipment, training, and exercises in accordance with authorized lists compiled by the Department. The Department's Office for Domestic Preparedness (ODP) has an Authorized Equipment List (AEL) that delineates specific types of specialized equipment necessary to enhance our Nation's terrorism preparedness. For example, the AEL includes special-purpose vehicles for the transport of CBRNE terrorism response equipment and personnel to incident sites and excludes non-CBRNE tactical/armored assault vehicles. Through the Law Enforcement Support Organization 1033 program operated by the Defense Logistic Agency (DLA), over 145 jurisdictions in 30 States currently use the M-113 Family of Vehicles (FOV) for first responder purposes. Indeed, the M-113 FOV can be used for a variety of purposes, including as emergency response vehicles, mobile command posts, fire suppression, or fire rescue vehicles. The M-133 FOV, however, is not part of the AEL. Because of its wide-

spread use and easy adaptability, the Committee urges the Department to consider updating the AEL to include the M-113 FOV.

The Committee also encourages grant recipients, such as firefighters and other first responders, to take advantage of the Department's ODP/DLA Emergency Responder Equipment Purchase Program. This program provides the opportunity for recipients of first responder grants to procure commercially available emergency response equipment through the Defense Supply Center Philadelphia (DSCP). The equipment offered by the DSCP's prime vendors includes equipment on the AEL.

Covered grants also may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training in the use of equipment and on prevention activities, provided that such reimbursement is not considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act.

A covered grant, however, may not be used: to supplant state or local funds; to construct buildings or other physical facilities; to acquire land; or to alleviate any state or local government cost sharing contribution. Notwithstanding the foregoing, this section expressly permits state and local governments to use covered grant funds in a manner that enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, so long as such use assists such governments in achieving the essential capabilities for terrorism preparedness established by the Secretary.

This section also requires that state recipients of covered grants pass-through eighty (80) percent of their funds to local governments, first responders, and other local groups not later than forty-five (45) days after their receipt of such funds. State recipients that fail to pass-through these funds may face reduced payments, termination of payments, or other restrictions. Further, upon a specific and detailed showing, the Secretary has authority to re-direct a portion of a delinquent State's grant amount to a local government directly, consistent with the state plan and application. This section requires that, two (2) years following the enactment of this legislation, all grant recipients—States, regions, and directly eligible tribes—must contribute, or match, at least twenty five (25) percent of the cost of the activities carried out with covered grants. This matching requirement may be satisfied with in-kind contributions of goods or services.

Further, this section requires each recipient to submit to the Secretary annual reports describing the use of covered grant funds, the achievement of essential capabilities, and remaining needs. A state recipient also may submit a quarterly report, which identifies the amount obligated to, and expended by, such recipient and a summary description of the items purchased, in exchange for a two (2) percent increase in the Federal match. Finally, this section also requires an annual report from the Secretary to the Congress containing an analysis of the Nation's progress in achieving, maintaining, and enhancing essential capabilities.

Section 1807—National Standards for First Responder Equipment and Training

This section adds to the HSA provisions requiring the Secretary, in consultation with the Under Secretaries for Science and Technology and Emergency Preparedness and Response, the Director of the Office for Domestic Preparedness, and relevant public and private sector groups, to develop, promulgate, and update as necessary national voluntary consensus standards for first responder equipment and training. In establishing any national voluntary consensus standards that involve or relate to health professionals, including emergency medical professionals, the Secretary also must coordinate with the Secretary of Health and Human Services.

With regard to equipment, the standards for the performance, use, and validation should be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, portability, and safety. Such standards also should cover all appropriate uses of the equipment. Applicants who seek to purchase or upgrade equipment with covered grants must either buy items that meet these standards or explain why non-standard items will be superior. With regard to training, the standards should ensure that training is consistent with the principles of emergency preparedness for all hazards.

The Committee stresses the importance of developing national voluntary consensus standards that are dynamic, and that will encourage a wide variety of creative, private sector-generated solutions to homeland security challenges. Appropriate national voluntary consensus standards will help private sector entities identify potential markets and their characteristics. To the extent that they do, they can serve as an indirect stimulus to economic growth, while ensuring that first responders get the equipment and training most likely to help them prevent, prepare for, respond to, mitigate against, and recover from acts of terrorism.

In addition to the organizations identified in section 1806(c), the Committee is aware of numerous private and not-for-profit organizations working with State and local governments to implement first responder equipment and training standards. The Secretary should consult with as many of these organizations as practicable in the development of the national voluntary consensus standards.

As noted above, subsection (b) of section 3 of H.R. 1544 amends the Homeland Security Act definition to make clear that the fire service and governmental and non-governmental organizations and personnel are included in the definition of “emergency response providers.” The Committee believes that this change to the definition of “emergency response providers” covers non-governmental organizations, such as the American Red Cross and the National Voluntary Organizations Active in Disaster, that are signatories to, and have assigned responsibilities under, domestic preparedness and response incident plans. In addition, the Committee notes that the definition of “emergency response providers” in the Homeland Security Act includes a reference to “emergency medical” providers. The Committee believes, and for purposes of H.R. 1544 intends, that the “emergency medical” language in the definition of “emergency response providers,” incorporated into the definition of “first responders,” should be construed broadly to include any personnel

that would be called upon to respond to suspicious outbreaks of diseases that could be caused by acts of bioterrorism.

SECTION 4. SUPERSEDED PROVISION

This section provides that this Act supersedes section 1014(c)(3) of the USA PATRIOT Act (Public Law 107-56) (dealing with the allocation of terrorism grant funds).

SECTION 5. OVERSIGHT

This section directs the Secretary to establish an Office of the Comptroller to oversee the grant distribution process and the financial management of ODP. The Department's Task Force on State and Local Homeland Security Funding (Task Force), chaired by Massachusetts Governor Mitt Romney, included this and many other recommendations in its report examining the distribution, and use, of terrorism preparedness funds by State and local governments. The Task Force also recommended that Congress waive the Cash Management Improvement Act (CMIA) in order to expedite funding for the primary costs of equipment, training, and exercises. The Committee is committed to addressing and overcoming the bureaucratic obstacles that delay first responder funding. Indeed, the Committee issued its own report in April 2004 on the delays in first responding funding. Given the complexity of issues involved in waiving the CMIA and the possible unintended consequences of doing so, the Committee directs the Department, in consultation with the Department of Treasury, to examine the waiver question and to draft a report, with specific recommendations. The Department shall submit this report to Congress within 90 days of the enactment of this Act.

SECTION 6. GAO REPORT

This section directs the Comptroller General of the United States to report to Congress on the first responder training programs of the Department of Homeland Security and other Departments and agencies of the Federal government. Specifically, the report shall, among other things, assess the effectiveness of the structure, coordination, and organization of such training programs, identify any duplication or redundancy among them, describe how States and local governments have used DHS terrorism preparedness grants for training purposes, and discuss the role of State, local, and DHS' first responder training institutions in the design and implementation of terrorism preparedness training courses. For purposes of this report, the Committee recommends that the Government Accountability Office consider the effectiveness and expertise of national programs that provide training in local communities and regional training institutions.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

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.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) * * *

* * * * *

(6) The term “emergency response providers” [includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.] includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.

* * * * *

TITLE XVIII—FUNDING FOR FIRST RESPONDERS

SEC. 1801. DEFINITIONS.

In this title:

(1) BOARD.—The term “Board” means the First Responder Grants Board established under section 1804.

(2) COVERED GRANT.—The term “covered grant” means any grant to which this title applies under section 1802.

(3) DIRECTLY ELIGIBLE TRIBE.—The term “directly eligible tribe” means any Indian tribe or consortium of Indian tribes that—

(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

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

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

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

(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

(4) **ELEVATIONS IN THE THREAT ALERT LEVEL.**—The term “elevations in the threat alert level” means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

(5) **EMERGENCY PREPAREDNESS.**—The term “emergency preparedness” shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

(6) **ESSENTIAL CAPABILITIES.**—The term “essential capabilities” means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

(7) **FIRST RESPONDER.**—The term “first responder” shall have the same meaning as the term “emergency response provider”.

(8) **INDIAN TRIBE.**—The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) **REGION.**—The term “region” means—

(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

(ii) the incorporated municipalities, counties, and parishes that they encompass.

(10) **TASK FORCE.**—The term “Task Force” means the Task Force on Terrorism Preparedness for First Responders established under section 1805.

(11) **TERRORISM PREPAREDNESS.**—The term “terrorism preparedness” means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

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

(1) **STATE HOMELAND SECURITY GRANT PROGRAM.**—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

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

(3) **LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.**—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

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

(1) **NONDEPARTMENT PROGRAMS.**—Any Federal grant program that is not administered by the Department.

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

(3) **EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.**—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

(a) **GRANT ELIGIBILITY.**—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

(b) **GRANT CRITERIA.**—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

(c) **STATE HOMELAND SECURITY PLANS.**—

(1) **SUBMISSION OF PLANS.**—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

(A) describes the essential capabilities that communities within the State should possess, or to which they should

have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department's goals for terrorism preparedness;

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

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

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

(E) describes how the State intends—

(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

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

(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

(2) **CONSULTATION.**—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

(3) **APPROVAL BY SECRETARY.**—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

(4) **REVISIONS.**—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

(d) **CONSISTENCY WITH STATE PLANS.**—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

(e) **APPLICATION FOR GRANT.**—

(1) **IN GENERAL.**—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

(2) **DEADLINES FOR APPLICATIONS AND AWARDS.**—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which

they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities for terrorism preparedness specified in such plan or plans;

(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

(E) if the applicant is a region—

(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

(iii) a designation of a specific individual to serve as regional liaison;

(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

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

(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

(5) REGIONAL APPLICATIONS.—

(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

(ii) shall supplement and avoid duplication with such State application; and

(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: Provided, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

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

(6) TRIBAL APPLICATIONS.—

(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

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

(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

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

(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

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

(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus

standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

(a) FIRST RESPONDER GRANTS BOARD.—

(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

(A) the Secretary;

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

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

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

(E) the Under Secretary for Science and Technology;

(F) the Director of the Office for Domestic Preparedness;
and

(G) the Administrator of the United States Fire Administration.

(2) CHAIRMAN.—

(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—

The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

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

(c) PRIORITIZATION OF GRANT APPLICATIONS.—

(1) FACTORS TO BE CONSIDERED.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

(2) CRITICAL INFRASTRUCTURE SECTORS.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

(A) Agriculture and food.

(B) Banking and finance.

(C) Chemical industries.

(D) The defense industrial base.

(E) Emergency services.

(F) Energy.

(G) Government facilities.

(H) Postal and shipping.

(I) Public health and health care.

- (J) Information technology.
- (K) Telecommunications.
- (L) Transportation systems.
- (M) Water.
- (N) Dams.
- (O) Commercial facilities.
- (P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

(3) *TYPES OF THREAT.*—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

- (A) Biological threats.
- (B) Nuclear threats.
- (C) Radiological threats.
- (D) Incendiary threats.
- (E) Chemical threats.
- (F) Explosives.
- (G) Suicide bombers.
- (H) Cyber threats.

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

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

(4) *CONSIDERATION OF ADDITIONAL FACTORS.*—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

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

(A) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

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

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

(6) **ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.**—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

(A) having a significant international land border; or

(B) adjoining a body of water within North America through which an international boundary line extends.

(d) **EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.**—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

(a) **ESTABLISHMENT.**—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

(b) **UPDATE, REVISE, OR REPLACE.**—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

(c) **REPORT.**—

(1) **IN GENERAL.**—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

(2) **CONTENTS.**—Each report shall—

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

(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

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

(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

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

(4) *COMPREHENSIVENESS.*—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

(5) *PRIOR MEASURES.*—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent, prepare for, respond to, or recover from terrorist attacks.

(d) *MEMBERSHIP.*—

(1) *IN GENERAL.*—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major

political parties, an equal number of elected officials shall be selected from each such party.

(2) **COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.**—*In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.*

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

(e) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—*Notwithstanding section 871(a), the Federal Advisory Committee Act (5 App. U.S.C.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.*

SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

(a) **IN GENERAL.**—*A covered grant may be used for—*

(1) *purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;*

(2) *exercises to strengthen terrorism preparedness;*

(3) *training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;*

(4) *developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;*

(5) *establishing or enhancing mechanisms for sharing terrorism threat information;*

(6) *systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;*

(7) *additional personnel costs resulting from—*

(A) *elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;*

(B) *travel to and participation in exercises and training in the use of equipment and on prevention activities; and*

(C) *the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;*

(8) *the costs of equipment (including software) required to receive, transmit, handle, and store classified information;*

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

(A) *\$1,000,000 per project; or*

(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

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

(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

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

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

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

(b) **PROHIBITED USES.**—Funds provided as a covered grant may not be used—

(1) to supplant State or local funds;

(2) to construct buildings or other physical facilities;

(3) to acquire land; or

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

(c) **MULTIPLE-PURPOSE FUNDS.**—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary.

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

(e) **ASSISTANCE REQUIREMENT.**—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

(f) **FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.**—Upon request by the recipient of a covered grant, the Sec-

retary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

(2) COST SHARING.—

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

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

(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

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

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

(B) the amount expended by that recipient in that quarter; and

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

(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each

Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

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

(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

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

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

(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds

that are not required to be passed through under subsection (g)(1); or

(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

(2) *EXTENSION OF PERIOD.*—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

(3) *PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.*—

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

(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

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

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

(B) *SHOWING REQUIRED.*—To receive a payment under this paragraph, a local government must demonstrate that—

(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

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

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

(C) *EFFECT OF PAYMENT.*—Payment of grant funds to a local government under this paragraph—

(i) shall not affect any payment to another local government under this paragraph; and

(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

(D) *DEADLINE FOR ACTION BY SECRETARY.*—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

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

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

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

(3) describing—

(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

(a) *EQUIPMENT STANDARDS.*—

(1) *IN GENERAL.*—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

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

(2) *REQUIRED CATEGORIES.*—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

(A) Thermal imaging equipment.

(B) Radiation detection and analysis equipment.

(C) Biological detection and analysis equipment.

(D) Chemical detection and analysis equipment.

(E) Decontamination and sterilization equipment.

(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

(G) Respiratory protection equipment.

(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

(I) Explosive mitigation devices and explosive detection and analysis equipment.

(J) Containment vessels.

(K) Contaminant-resistant vehicles.

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

(b) TRAINING STANDARDS.—

(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

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

(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

(A) Regional planning.

(B) Joint exercises.

(C) Intelligence collection, analysis, and sharing.

(D) Emergency notification of affected populations.

(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

(1) the National Institute of Standards and Technology;

(2) the National Fire Protection Association;

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

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

(5) the American National Standards Institute;

(6) the National Institute of Justice;

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

(8) *the National Public Health Performance Standards Program;*

(9) *the National Institute for Occupational Safety and Health;*

(10) *ASTM International;*

(11) *the International Safety Equipment Association;*

(12) *the Emergency Management Accreditation Program; and*

(13) *to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.*

(d) *COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.*

LETTERS AND CORRESPONDENCE

CHRISTOPHER COX, CALIFORNIA
CHAIRMANSERGE Q. THOMPSON, MISSISSIPPI
RANKING MEMBER

One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

April 25, 2005

The Honorable Don Young
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your recent letter expressing the Transportation and Infrastructure Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Transportation and Infrastructure Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Transportation and Infrastructure Committee does not waive any jurisdiction it may have over H.R. 1544. In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Transportation and Infrastructure Committee, I will support your request to be conferees with respect to those provisions during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the *Congressional Record* during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,
Handwritten signature of Christopher Cox in cursive.

Christopher Cox,
Chairman

<http://homeland.house.gov>

cc: The Honorable J. Dennis Hastert, Speaker
The Honorable Bennie Thompson, Ranking Member
The Honorable James L. Oberstar, Ranking Member
Committee on Transportation & Infrastructure



U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

April 25, 2005

Lloyd A. Jones, Chief of Staff
Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

The Honorable Christopher Cox
Chairman
Committee on Homeland Security
202 Adams Building
Washington, DC 20515

Dear Mr. Chairman:

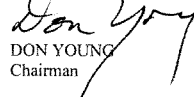
I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005.

Our Committee recognizes the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the *Congressional Record* when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,


DON YOUNG
Chairman

cc: Hon. James L. Oberstar
Hon. John V. Sullivan

F. JAMES SENSENBRENNER, JR., Wisconsin
CHAIRMAN

HENRY J. HYDE, Florida
HOWARD COBLE, North Carolina
LAMAR S. SMITH, Texas
ELTON GALLEGOS, California
BOB LUDWIG, Virginia
STEVE THIBODT, Ohio
DANIEL L. LUNGREN, California
WILLIAM L. JENKINS, Tennessee
CHRIS CANNON, Utah
SPENCER BACCHUS, Alabama
BOB INGLIS, South Carolina
JOHN W. JOHSTETTER, Indiana
MARK GREEN, Wisconsin
KE KELLER, Florida
DARRYL ISSA, California
JERRY FLAKE, Arizona
MAE RENCE, Indiana
J. RANDY FORBES, Virginia
STEVIE KING, Ohio
TOM HENNEY, Florida
TRIST FRANKS, Michigan
LOUIS GOHmert, Texas

ONE HUNDRED NINTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

April 28, 2005

The Honorable Christopher Cox
Chairman
Committee on Homeland Security
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Cox:

On April 21, 2005, the Committee on Homeland Security ordered reported H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." In recognition of the desire to expedite floor consideration of H.R. 1544, the Committee on the Judiciary hereby waives any consideration of the bill.

Several sections of H.R. 1544 contain matters within the Committee on the Judiciary's Rule X jurisdiction. The centrality of law enforcement to the primary purposes of this legislation brings it within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(1)(1)(7) ("Criminal law enforcement") and rule X(1)(1)(19) ("Subversive activities affecting the internal security of the United States"). A summary of principal provisions within the Committee on the Judiciary's jurisdiction follows.

Sec. 3 (new section 1801(9)(B)(i)) establishes grant eligibility for a State or States located in a region "established by a compact between two or more States." These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(1)(10) ("Interstate compacts generally"). Sec. 3 (new section 1802(a)(3)) ("Law Enforcement Terrorism Prevention Program") falls within the Committee's jurisdiction under rule X(1)(1)(7) ("Criminal law enforcement") and rule X(1)(1)(19) ("Subversive activities affecting the internal security of the United States"). Sec. 3 (new section 1803) ("Covered Grant Eligibility and Criteria") establishes standards by which States and localities receive funding for, among other things, "unique aspects of terrorism." These matters fall within the Committee's jurisdiction under rule X(1)(1)(7) ("Criminal law enforcement") and rule X(1)(1)(19) ("Subversive activities affecting the internal security of the United States").

JOHN CONYERS, JR., Michigan
RANKING MEMBER

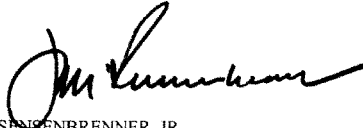
HOWARD I. BERMAN, California
BOB ROYCE, Virginia
JERROLD NAJLER, New York
ROBERT C. SCOTT, Virginia
MELVIN L. WATTE, South Carolina
ZOE LIGONEN, California
SHELIA JACKSON LEE, Texas
MARINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. STEARNS, Massachusetts
ROBERT WEXLER, Florida
JACOBUS WIEBER, New York
ADAM B. SCHIFF, California
LINDA T. SANDOZ, California
ADAM SMITH, Washington
CHRIS VAN HOLLEN, Maryland

The Honorable Christopher Cox
April 28, 2005
Page 2

Sec. 3 (new section 1804) ("Risk-based Evaluation and Prioritization") establishes a "First Responder Grants Board" with broad authority to assess a range of domestic security threats, including those based on "acts of terrorism of the known activity of any terrorist organization." Domestic security threats clearly fall within the Committee on the Judiciary's jurisdiction under rule X(1)(1)(7) ("Criminal law enforcement") and rule X(1)(1)(19) ("Subversive activities affecting the internal security of the United States"). Sec. 3 (new Section 1804(c)(3)) ("Types of Threat") directs the Secretary of Homeland Security to consider a variety of threats to critical infrastructure, including: biological threats; nuclear threats; radiological threats; incendiary threats; chemical threats; explosives; suicide bombers; cyber threats; and any other threats based on proximity to specific past acts of terrorism or the known activity of a terrorist group. Much of this information could be acquired only with the active participation of law enforcement and antiterrorism agencies, including the Department of Justice and its relevant components. These matters fall within the Committee on the Judiciary's legislative and oversight jurisdiction under rule X(1)(1)(7) ("Criminal law enforcement") and rule X(1)(1)(19) ("Subversive activities affecting the internal security of the United States").

The Committee on the Judiciary agrees to waive any formal consideration of the bill with the understanding that its jurisdiction over these and other provisions contained in the legislation is no way altered or diminished. The Committee on the Judiciary also reserves the right to seek appointment to any House-Senate conference on this legislation. I would appreciate your including this letter in your Committee's report on H.R. 1544 and the *Congressional Record* during consideration of H.R. 1544 on the House floor. Thank you for your attention to these matters.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

cc: The Honorable J. Dennis Hastert, Speaker
The Honorable John Conyers, Jr., Ranking Member
The Honorable Bennie Thompson, Ranking Member,
The Honorable John Sullivan, Parliamentarian



**One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515**

April 28, 2005

The Honorable F. James Sensenbrenner, Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

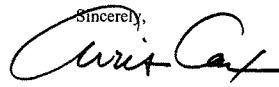
Thank you for your recent letter regarding the Judiciary Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Judiciary Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544, in order to expedite proceedings on this legislation. I acknowledge the Judiciary Committee's Rule X jurisdiction over matters relating to criminal law enforcement and subversive activities affecting the internal security of the United States, and recognize the Committee's strong jurisdictional interest in this legislation. I agree that by waiving further consideration of the bill, the Judiciary Committee does not waive any jurisdiction it may have over H.R. 1544 or similar legislation. In addition, I agree that for provisions of the bill that are determined to be within the jurisdiction of the Judiciary Committee, I will support representation for your Committee during conference with the Senate.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the *Congressional Record* during consideration of the legislation on the House floor.

The Honorable F. James Sensenbrenner
April 28, 2005
Page 2

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,


Christopher Cox,
Chairman

cc: The Honorable J. Dennis Hastert, Speaker
The Honorable Bennie Thompson, Ranking Member
The Honorable John Conyers, Jr., Ranking Member
Committee on the Judiciary

RALPH M. HALL, TEXAS
MICHAEL BLUMRADE, FLORIDA
VICE CHAIRMAN
FRED LUTON, MICHIGAN
CLIFF STEARNS, FLORIDA
PAUL E. DILLON, OHIO
MATMAN ORAL, GEORGIA
ED WHITFIELD, KENTUCKY
CHARLIE NORWOOD, GEORGIA
BARBARA CUBIN, WYOMING
JOHN SHAWKUS, ILLINOIS
HEATHER WALSON, NEW MEXICO
JOHN B. SHADDEG, ARIZONA
CHARLES W. "CHIP" FOCKERING, MISSISSIPPI
VICE CHAIRMAN
VITO FOSSELLA, NEW YORK
ROY BLUNT, MISSOURI
STEVE BRIDGES, INDIANA
GEORGE RADANOVICH, CALIFORNIA
CHARLES F. BASS, NEW HAMPSHIRE
JOSEPH R. PITTS, PENNSYLVANIA
MARY BONO, CALIFORNIA
GREG WALDEN, OREGON
LEE TERRY, NEBRASKA
MIKE PERDUON, NEW JERSEY
MIKE ROGERS, MICHIGAN
CL. "BUTCH" OTTER, IDAHO
SUE MYRICK, NORTH CAROLINA
JOHN BULLMAN, OKLAHOMA
TIM MURPHY, PENNSYLVANIA
MICHAEL C. BURRESS, TEXAS
MARSHA BLACKBURN, TENNESSEE

RUD ALBRIGHT, STAFF DIRECTOR

The Honorable Christopher Cox
Chairman
Committee on Homeland Security
U.S. House of Representatives
202 Adams Building
Washington, DC 20515

Dear Chairman Cox:

I am writing with regard to H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005, which was ordered reported by the Committee on Homeland Security on April 21, 2005. As you know, the Energy and Commerce Committee has jurisdiction over matters involving public health contained within section 3 of H.R. 1544 as reported.

Section 3 of H.R. 1544, as reported, requires the Secretary of Health and Human Services to appoint *ex officio* members and coordinate with the Secretary of Homeland Security with respect to the selection of emergency medical professionals to serve as members of a task force on terrorism preparedness. In addition, the bill requires that, in establishing any national voluntary consensus standards for first responder equipment or training that involve or relate to health professionals, the Secretary of Homeland Security must coordinate with the Secretary of Health and Human Services. This language is substantially similar to provisions contained in the Energy and Commerce reported version of H.R. 3266 from the 108th Congress.

I recognize your desire to bring this legislation before the House in an expeditious manner. Accordingly, I will not exercise my Committee's right to a referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 1544. In addition, the Energy and Commerce Committee reserves its right to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 1544 or similar legislation.

ONE HUNDRED NINTH CONGRESS
U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

JOE BARTON, TEXAS
CHAIRMAN

April 28, 2005

JOHN D. DINGELL, MICHIGAN
RANKING MEMBER
HENRY A. WAXMANN, CALIFORNIA
EDWARD J. MARKEY, MASSACHUSETTS
ROCK BUCKNER, VIRGINIA
ED OLPALUS TOWNS, NEW YORK
FRANK PALLONE, JR., NEW JERSEY
SHERRID BROWN, OHIO
BART GONZON, TENNESSEE
BOBBY L. FISCH, ILLINOIS
ANNA G. ESHOO, CALIFORNIA
BART STUPAK, MICHIGAN
ELIOT L. ENGE, NEW YORK
ALBERT R. WYNN, MARYLAND
GENE GREEN, TEXAS
TED STRICKLAND, OHIO
DIANA DEGETTE, COLORADO
LOE GAPP, CALIFORNIA
MIKE DYALLE, PENNSYLVANIA
TOM ALLEN, MAINE
JIM DAVIS, FLORIDA
JAN SCHAKOWSKY, ILLINOIS
MEDA L. SOLES, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS
JAY INGLE, WASHINGTON
TAMMY BALDWIN, WISCONSIN
MIKE ROSS, ARKANSAS

April 28, 2005
Page 2

I request that you include this letter as part of the Committee's Report on H.R. 1544 and in the *Record* during consideration of the legislation on the House floor. Thank you for your attention to these matters.

Sincerely,


Joe Barton
Chairman

cc: The Honorable John D. Dingell
The Honorable Bennie G. Thompson
Mr. John Sullivan, Parliamentarian



**One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515**

April 28, 2005

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your recent letter regarding the Energy and Commerce Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Energy and Commerce Committee marked up and ordered reported during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that by not exercising your right to request a referral, the Energy and Commerce Committee does not waive any jurisdiction it may have over H.R. 1544. In addition, I agree that if any provisions of the bill are determined to be within the jurisdiction of the Energy and Commerce Committee, I will support representation for your Committee during conference with the Senate with respect to those provisions.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the *Congressional Record* during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Cox", written in a cursive style.

Christopher Cox,
Chairman

cc: The Honorable J. Dennis Hastert, Speaker
The Honorable Bennie Thompson, Ranking Member
The Honorable John D. Dingell, Ranking Member
Committee on Energy & Commerce

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
TTY: (202) 226-4410
<http://www.house.gov/science/welcome.htm>

April 25, 2005

The Honorable Christopher Cox
Chairman
Committee on Homeland Security
202 Adams Building
Washington, DC 20515

Dear Mr. Chairman:

I am writing to you concerning the jurisdictional interest of the Science Committee in matters being considered in H.R. 1544, the Faster and Smarter Funding for First Responders Act of 2005. Section 3 of this bill amends the Homeland Security Act of 2002 to add a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment. The development of such standards is of particular jurisdictional interest to the Science Committee.

The Science Committee acknowledges the importance of H.R. 1544 and the need for the legislation to move expeditiously. Therefore, while we have a claim to jurisdiction over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment), I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of your response will be included in the Committee report and in the *Congressional Record* when the bill is considered on the House Floor.

The Science Committee also asks that you support our request to be conferees on any provisions over which we have jurisdiction during House-Senate conference on this legislation.

Thank you for your attention to this matter.

Sincerely,



SHERWOOD BOEHLERT
Chairman

CHRISTOPHER COO, CALIFORNIA
CHAIRMAN



BENJAMIN G. THOMPSON, MISSISSIPPI
RANKING MEMBER

**One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515**

April 28, 2005

The Honorable Sherwood Boehlert
Chairman
Committee on Science
2320 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

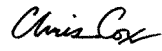
Thank you for your recent letter expressing the Science Committee's jurisdictional interest in H.R. 1544, the "Faster and Smarter Funding for First Responders Act of 2005." The bill was introduced on April 12, 2005, and referred solely to the Committee on Homeland Security. The Committee on Homeland Security marked up the bill and ordered it reported on April 21, 2005. The bill, as reported, is substantially similar to the amended version of H.R. 3266 that the Science Committee agreed to discharge during the 108th Congress, and it reflects compromises reached in consultation with your Committee during the last Congress.

I appreciate your willingness to waive further consideration of H.R. 1544 in order to expedite proceedings on this legislation. I agree that, by not exercising your right to request a referral, the Science Committee does not waive jurisdiction it may have over section three of the bill (adding a new section 1807 that addresses national voluntary consensus standards for the performance, use, and validation of first responder equipment). In addition, if those provisions are determined to be within the jurisdiction of the Science Committee, I will support representation for your Committee during any House-Senate conference on H.R. 1544 or similar legislation.

As you have requested, I will include a copy of your letter and this response as part of the Committee on Homeland Security's report and the *Congressional Record* during consideration of the legislation on the House floor.

Thank you for your cooperation as we work towards the enactment of H.R. 1544.

Sincerely,

A handwritten signature in black ink that reads "Chris Cox". The signature is written in a cursive, slightly slanted style.

Christopher Cox,
Chairman

cc: The Honorable J. Dennis Hastert, Speaker
The Honorable Bennie Thompson, Ranking Member
The Honorable Bart Gordon, Ranking Member
Committee on Science

○