



Report to the Committee on Homeland
Security and Governmental Affairs,
U.S. Senate

December 2006

HOMELAND SECURITY FIRST RESPONDER GRANTS

Cash Management Improvement Act Exemption and Cash Advance Funding Require Additional DHS Oversight



G A O

Accountability * Integrity * Reliability



Highlights of [GAO-07-68](#), a report to the Committee on Homeland Security and Governmental Affairs, U.S. Senate

Why GAO Did This Study

A key provision of the Cash Management Improvement Act (CMIA) of 1990 (P.L. 101-453), as amended, requires the federal government and the states to minimize the time between transfer of federal funds and payments made by states for federal grant program purposes. Concerns were expressed by representatives of local government subgrantees that more flexibility was needed in the receipt of federal funding for first responders. Congress exempted certain first responder grants from this CMIA provision in the Department of Homeland Security's (DHS) fiscal years 2005 and 2006 appropriations acts. Under the exemption, grantees can receive cash advance funding and hold such funds for extended periods of time prior to payment. GAO was asked to (1) assess whether this CMIA provision, prior to its exemption in fiscal year 2005, had prevented DHS grant recipients from receiving first responder grant funds when such funds were needed; and (2) identify any key fiscal and accountability implications of the exemption.

What GAO Recommends

GAO makes 7 recommendations to improve DHS's oversight of cash advance funding for first responder grants and associated interest liabilities. DHS stated that it will take the recommendations under advisement. Treasury and Office of Management and Budget (OMB) staff provided technical comments GAO addressed as appropriate.

www.gao.gov/cgi-bin/getrpt?GAO-07-68.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Stanley Czerwinski at (202) 512-6806 or czerwinski@gao.gov.

HOMELAND SECURITY FIRST RESPONDER GRANTS

Cash Management Improvement Act Exemption and Cash Advance Funding Require Additional DHS Oversight

What GAO Found

GAO found no substantial evidence that the CMIA provision that limits the extent to which grantees can hold federal funds before making program payments, prior to its exemption for certain first responder grants in fiscal year 2005, prevented first responders from receiving DHS grant funds when such funds were needed. The vast majority of the officials of State Administrative Agencies (SAA) and national associations contacted neither cited the CMIA as a contributing factor to funding delays nor provided information that demonstrated that the CMIA prevented state grantees or local government and other subgrantees from receiving first responder grant funding when such funding was needed. Rather, the officials generally attributed delays in first responder operations to factors other than the CMIA, such as vendor delays in delivering goods and services and problems related to a lack of human resources to deal with the large influx of grant awards after the September 11, 2001, attacks. The information GAO obtained from these officials was consistent with the findings of DHS's Homeland Security Advisory Council's Task Force on State and Local Homeland Security Funding, which found that numerous factors other than the CMIA contributed to funding delays for first responders.

According to DHS, as of March 2006, state grantees and local government subgrantees had used the CMIA exemption and DHS's corresponding 120-day cash advance funding provision, which DHS established to implement the CMIA exemption, only to a minimal extent. DHS's Office of Grant Operations is working with SAAs and local government entities to determine the extent to which the CMIA exemption may be used and the impact extensive use could have on DHS. According to a DHS official, extensive use of the CMIA exemption and DHS's 120-day cash advance funding provision could create management oversight difficulties for DHS.

Concerns about oversight difficulties are warranted, as DHS currently lacks the policies and procedures to track and report on specific cases of cash advance funding. Such advances are not subject to Treasury's oversight through its administration of the CMIA program. While states' single audits can be a tool for oversight, such audits are not designed to replace program management's oversight responsibilities, and GAO found that they may not cover all first responder grants because of the relatively small size of the grants. Importantly, case-by-case cash advance funding can be allowed by Treasury regulations implementing the CMIA and other applicable regulations. Such funding could enable DHS to focus its oversight efforts on grantees and subgrantees that have a demonstrated need for such funding. However, regardless of whether cash advance funding is available under the CMIA exemption and DHS's corresponding 120-day cash advance funding provision or on a case-by-case basis, proper oversight is critical to ensure that interest due the federal government resulting from cash advance funding is accurately recorded and promptly paid.

Contents

Letter	1
Results in Brief	2
Background	6
Scope and Methodology	10
We Found No Substantial Evidence That the CMIA Prevented First Responders from Receiving DHS Grant Funds When Such Funds Were Needed	11
Proper Oversight of Cash Advance Funding and Related Interest Liabilities Is Critical for Accountability	16
Conclusions	21
Recommendations for Executive Action	22
Agency Comments and Our Evaluation	23

Appendix I	GAO Contacts and Staff Acknowledgments	25
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United States Government Accountability Office
Washington, DC 20548

December 22, 2006

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Homeland Security and Governmental Affairs
United States Senate

In the years immediately following the attacks of September 11, 2001, the federal government emphasized quickly disbursing federal grant funds to “first responders”¹ at the state and local levels to enhance their ability to quickly address threats to our national security. Initially, certain grants for first responders were made directly to local government entities, bypassing the states’ traditional pass-through role, which includes certain oversight functions designed to promote accountability in grants management. However, more recently, the Department of Homeland Security (DHS) has awarded first responder grants to states to help improve coordination among states, local governmental entities, and nonprofit entities in planning, managing, and accounting for limited first responder grant funding.

The Cash Management Improvement Act (CMIA) of 1990 (P.L. 101-453), as amended, is intended to ensure greater efficiency, effectiveness, and equity in the exchange of funds between the federal government and the states. The CMIA requires, among other things, that federal agencies and the states minimize the time that elapses between transfers of funds to the states and payments for federal grant program purposes. In addition, the CMIA requires that the federal government pay interest to the states when it fails to disburse federal funds to them in a timely manner, and that the states pay interest to the federal government when they fail to timely spend federal funds.

¹First responders are public safety personnel working in law enforcement, emergency medical services, emergency management, fire services, public works, government administration, health care, and public health. They are responsible for preventing and responding to acts of terrorism.

Concerns were expressed by certain representatives of local governments that additional actions needed to be taken to provide more flexibility in making grant funds available to first responders. In fiscal years 2005 and 2006, Congress exempted certain DHS grant programs from the CMIA requirement to minimize the time elapsing between transfers of funds by the federal government and payments by the states. Thus, the CMIA exemption allows state grantees to draw down and hold federal grant funds for extended periods of time prior to payout for first responder purposes.² Importantly, such grantees are not exempt from the interest and accountability requirements of the CMIA.

In view of the actions that have been taken by the federal government to provide federal funding for first responders when such funding is needed, you noted that there may be trade-offs between rapid disbursements of federal grant funds and ensuring that such funds are spent in a manner that is accountable and effective. Recognizing that we had previously reported on such trade-offs and improvements needed for management of first responder grant programs³ and had ongoing work on streamlining overall federal grant management,⁴ you asked us to review the CMIA exemption for certain DHS first responder grants. Based on discussions with committee staff, we agreed to (1) assess whether the CMIA provision that limits the extent to which grantees can hold federal funds before payout, prior to its exemption for certain first responder grants in fiscal year 2005, prevented first responders from receiving DHS grant funds when such funds were needed; and (2) identify any key fiscal and accountability implications of the exemption of certain first responder grant programs from this CMIA provision.

Results in Brief

We found no substantial evidence that the CMIA provision that limits the extent to which grantees can hold federal funds before payout, prior to its exemption for certain first responder grants in fiscal year 2005, prevented first responders from receiving DHS grant funds when such funds were

² Payout means to debit the state's bank account in order to make a payment for federal grant program purposes.

³ GAO, *Homeland Security: Management of First Responder Grant Programs Has Improved, but Challenges Remain*, [GAO-05-121](#) (Washington, D.C.: Feb. 2, 2005).

⁴ Subsequent to your request, we issued the following report. GAO, *Grants Management: Grantees' Concerns with Efforts to Streamline and Simplify Processes*, [GAO-06-566](#) (Washington, D.C.: July 28, 2006).

needed. The vast majority of the officials of State Administrative Agencies (SAA)⁵ and national associations we contacted neither cited the CMIA as a contributing factor to funding delays nor provided information that demonstrated that the CMIA prevented state grantees or local government and other subgrantees from receiving first responder grant funding when such funding was needed.⁶ Rather, the officials generally attributed delays in first responder operations to factors other than the CMIA, such as vendor delays in delivering goods and services and problems related to a lack of human resources to deal with the large influx of grant awards after the September 11, 2001, terrorist attacks. The information we obtained from these officials was consistent with the findings of DHS's Homeland Security Advisory Council's (HSAC) Task Force on State and Local Homeland Security Funding,⁷ which found that numerous factors other than the CMIA had contributed to delays in funding for first responders.

According to DHS, as of March 2006, state grantees and local government subgrantees had used the CMIA exemption and DHS's corresponding 120-day cash advance funding provision, which DHS established to implement the CMIA exemption, only to a minimal extent.⁸ As part of its continuing efforts to strike a balance between minimizing the time it takes to distribute grant funds to state and local first responders and ensuring appropriate planning and accountability for the effective use of grant funds, DHS's Office of Grant Operations (OGO) is working with SAAs and local government entities to determine the extent to which the CMIA exemption may be used and the impact extensive use could have on DHS. According to a DHS official, extensive use of the CMIA exemption and

⁵The SAAs are responsible for administering first responder grants and obligating funds to local government and other subgrantees.

⁶Examples of other subgrantees are defined urban areas for Urban Areas Security Initiative (UASI) grants and Metropolitan Medical Response System (MMRS) jurisdictions for MMRS grants. In addition, first responder grant funding can include nongovernmental organizations, such as commercial trucking companies for Trucking Security grants, and passenger transportation services companies for Intercity Bus Security grants.

⁷DHS, Homeland Security Advisory Council, *A Report from the Task Force on State and Local Homeland Security Funding* (Washington, D.C.: June 2004). The HSAC Task Force was comprised of several governors, mayors, county officials, tribal leaders, and other elected and appointed officials from throughout the country brought together to examine the funding process and provide recommendations to expedite the flow of homeland security funds.

⁸DHS, *Congressional Report on the Status of Grant Expenditures, Part I, Office for Domestic Preparedness, FY 99-02, A Report to the Committees on Appropriations of the United States Senate and House of Representatives*, (March 2006).

DHS's 120-day cash advance funding provision could create management oversight difficulties for DHS.

Concerns about oversight difficulties associated with potential extensive use of the CMIA exemption and DHS's 120-day cash advance funding provision are warranted as the large number of state grantees and local government and other subgrantees that are eligible for cash advance funding under these provisions, combined with the differing interest requirements for states, local governments, and nonprofit organizations, create potential oversight challenges for DHS. According to DHS officials, DHS does not have policies and procedures to track and report on specific cases of cash advance funding to state grantees, including associated interest liabilities. In addition, DHS would not be able to readily determine the extent to which state grantees advance funds to local government and other subgrantees and the interest liabilities that should accrue to the subgrantees as a result of such advances. Moreover, specific cases of cash advance funding for first responder grants are not subject to oversight by the Department of the Treasury (Treasury) as part of its overall management of the CMIA. Although states' single audits can be a tool for oversight, such audits are not designed to replace program management's oversight responsibilities, and we found that they may not cover all first responder grants because of the relatively small size of the grants.⁹

In view of the fact that DHS is determining the extent to which the CMIA exemption will likely be used to fund first responder grants, it is important to emphasize that cash advance funding on a case-by-case basis can be allowed for the DHS first responder grants at issue by Treasury regulations implementing the CMIA and other applicable regulations. Providing cash advance funding on a case-by-case basis could enable DHS to focus its oversight efforts on those specific state grantees and local government and other subgrantees that demonstrate a need for such funding. Importantly, regardless of whether cash advance funding is made available under the CMIA exemption and DHS's 120-day cash advance funding provision, or on a case-by-case basis, it is critical for DHS to provide proper oversight of

⁹All nonfederal entities that expend \$500,000 or more of federal awards in a year are required to obtain an annual audit in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. Chapter 75. Guidance for such an audit is contained in the Office of Management and Budget's (OMB) Circular No. A-133, *Audits of States, Local Governments and Non-Profit Organizations*, and OMB's Circular No. A-133 Compliance Supplements.

such funding, including associated interest liabilities due to the federal government which should be accurately recorded and promptly paid.¹⁰

To improve the oversight of cash advance funding and associated interest liabilities for homeland security first responder grants, we make seven recommendations to the Secretary of the Department of Homeland Security. Specifically, we recommend that the Secretary direct the Executive Director of the Office of Grants and Training to complete ongoing monitoring efforts involving state grantees that receive DHS first responder grant funding and use information obtained from such monitoring to identify significant issues that have resulted in delays associated with first responders' ability to receive and use DHS grant funds when such funds were needed and assess the impact of the CMIA exemption on first responders' use of grant funds as well as the potential impact on DHS's ability to provide adequate oversight of such funds. In addition, these efforts should be used to determine whether case-by-case cash advance funding provides a reasonable alternative to the CMIA exemption and DHS's 120-day cash advance funding. We further recommend that, based on the results of its monitoring efforts, DHS take appropriate action to improve first responders' ability to receive and use DHS grant funds when needed and DHS's oversight of such funds. Also, to help ensure adequate oversight of cash advance funding and associated interest liabilities for first responder grants, we recommend that DHS (1) develop policies and procedures to handle requests for cash advance funding, including the ability for DHS to track specific cases of cash advance funding to state grantees and the related interest liabilities; and (2) develop policies and procedures to work with the SAA for any state that requests and receives cash advance funding to ensure that adequate policies and procedures are in place at the state grantee level to provide proper oversight of advances made to subgrantees.

As discussed in the "Agency Comments and Our Evaluation" section at the end of this report, we provided a draft of this report to DHS, Treasury, and OMB for comment. DHS stated that it would take the recommendations made in the draft report under advisement and would provide a detailed response to appropriate congressional committees and OMB approximately 60 days after release of the report, consistent with the

¹⁰31 U.S.C. § 6503(c)(2) provides that amounts received by the federal government as payment of such interest shall be deposited in the Treasury and credited as miscellaneous receipts.

reporting requirements of 31 U.S.C. Part 720. Treasury stated that it agreed with our conclusion that the requirements of the CMIA did not prevent grantees from receiving grant funds when needed, and provided technical comments that have been addressed as appropriate in the report. OMB staff provided a technical comment that we addressed in the report.

Background

The CMIA is critically important to the federal government's efforts to promote accountability in the use of federal grant funds. Currently administered by Treasury's Financial Management Service (FMS), the CMIA is the cornerstone of cash management policy for federal grants to the states. Specifically, the CMIA requires the Secretary of the Treasury, along with the states, to establish equitable funds transfer procedures so that federal financial assistance is paid to states in a timely manner and funds are not withdrawn from Treasury earlier than they are needed by the states for grant program purposes. The act requires that states pay interest to the federal government if they draw down funds in advance of need and requires the federal government to pay interest to states if federal program agencies do not make program payments in a timely manner.

According to Treasury regulations implementing the CMIA,¹¹ funding techniques for federal financial assistance to the states should be efficient and minimize the exchange of interest between federal agencies and the states. Various funding techniques can be agreed to between Treasury and the states, including cash advance funding, whereby the federal program agency transfers the actual amount of federal funds to a state prior to the

¹¹31 C.F.R. Part 205, *Rules and Procedures for Efficient Federal-State Funds Transfers*.

day the state actually pays the funds out of its own account.¹² The limit on such cash advance funding is 3 business days prior to payout.¹³

Before the terrorist attacks of September 11, 2001, the Department of Justice (Justice) managed several grants designed to enhance the capability of state and local first responders to handle incidents involving nuclear, biological, and chemical terrorism. Since 1999, these programs have grown dramatically. In March 2003, responsibility for these grant programs shifted to DHS, and they continued to grow. Initially, DHS provided some of these grants directly to local government entities; however, the requirements were changed so that grants were awarded first to states and then passed through to local governments and other subgrantees. Despite increased funding, many local governments—cities in particular—complained that they were not receiving the funds that they expected and could not disburse them as fast as they wanted.¹⁴

In response to complaints about delays in the disbursement of first responder grants, on March 15, 2004, the Secretary of the Department of Homeland Security established the HSAC Task Force on State and Local Homeland Security Funding. The task force's objective was to examine the homeland security grant funding process and provide recommendations to expedite the flow of homeland security funds to those responsible for preventing and responding to acts of terrorism. The task force recommended, among other things, that Congress exempt certain DHS homeland security grants for fiscal year 2005 from the CMIA in order to

¹²Treasury's implementing regulations for CMIA state that Treasury and a state may negotiate the use of mutually agreed-upon funding techniques. In addition to cash advance funding, techniques cited in the regulations include: zero balance accounting, which means that a federal program agency transfers the actual amount of federal funds to a state that are paid out by the state each day; projected clearance, which means that a federal program agency transfers to a state the projected amount of funds that the state pays out each day determined by applying a clearance pattern to the total amount the state will disburse; and reimbursable funding, which means that a federal program agency transfers federal funds to a state after the state has already paid out the funds for federal assistance program purposes.

¹³The 3-business-day limit is not applicable to certain grant programs that fall below Treasury's established financial thresholds for major programs. Rather, for such programs, federal agencies and the states are required to minimize the time elapsing between transfer of funds from the federal government and payout by the states.

¹⁴According to DHS, as of March 2006, about \$7 billion of the \$12 billion in first responder grants awarded during fiscal years 2002 to 2005 (or about 58 percent) had been drawn down.

allow funds to be provided to state and municipal entities up to 120 days in advance of expenditure. The task force indicated that more flexibility was needed in providing grant funding to first responders because, in some instances, the 3-day time frame for receiving grant funds prior to making payments was insufficient to prevent municipal jurisdictions from having to make payments to vendors in advance of receiving the DHS grant funds. In other cases, the municipal jurisdictions required cash on hand in their municipal treasuries prior to commencing the procurement process.

Subsequent to the task force's recommendations, Congress exempted for fiscal year 2005 certain DHS first responder grant programs from the provision of the CMIA that limits the extent to which grantees can hold federal funds prior to payout by requiring federal agencies and states to minimize the time elapsing between transfer of funds from Treasury and payment by the states.¹⁵ In fiscal year 2006, this exemption was made permanent.¹⁶ Importantly, the CMIA exemption only pertains to the requirement to minimize the time elapsing between transfer of funds from Treasury and payments for program purposes. The CMIA exemption did not exempt certain first responder grant programs from the other provisions of the CMIA which address interest payments and accountability.

To implement the CMIA exemption, DHS's *Program Guidelines and Application Kit for the Fiscal Year 2005 Homeland Security Grant Program* (HSGP) and guidance for certain other homeland security first responder grants state that grantees and subgrantees will be permitted to

¹⁵Section 521 of DHS's Appropriations Act for fiscal year 2005 (P.L. 108-334) exempted the State Homeland Security Program (SHSP), the Law Enforcement Terrorism Prevention Program (LETPP), UASI, the Rail and Transit Security Program, the Port Security Program, the Intercity Bus Security Program, and the Trucking Security Program from Section 6503(a) of Title 31, United States Code, which requires federal agencies and states to minimize the time between transfer of funds from Treasury and payout by the states.

¹⁶Section 517 of DHS's Appropriations Act for fiscal year 2006 (P.L. 109-90) permanently exempts from Section 6503 (a) of Title 31, United States Code, the programs that were exempted in fiscal year 2005 and adds the Buffer Zone Protection Program (BZPP) to the CMIA exemption.

draw down funds up to 120 days prior to expenditure or disbursement.¹⁷ For the majority of the grant programs, the guidance requires all federal funding to go to state grantees prior to being passed through to local government and other subgrantees, and requires both grantees and subgrantees to place funds received in an interest-bearing account. The guidance states that both grantees and subgrantees must pay interest on funding advances in accordance with federal regulations.¹⁸ In addition, according to the guidance, state grantees are subject to the interest requirements of the CMIA and its implementing regulations. The guidance states that interest under the CMIA will accrue from the time federal funds are credited to a state account until the time the state pays out the funds to a subgrantee or otherwise for program purposes.

In January 2006, DHS's Preparedness Directorate issued its *Financial Management Guide*.¹⁹ The guide is intended to be used as a financial policy reference for all fiscal year 2006 and future first responder grants. Consistent with DHS's fiscal year 2005 guidance for the HSGP and certain other first responder programs, the guide states that grant recipients may elect to draw down funds up to 120 days prior to expenditure or disbursement and that state grantees are subject to the interest requirements of the CMIA. The guide further states that all local units of

¹⁷For fiscal year 2005, DHS consolidated various homeland security first responder grants into a single application package called the Homeland Security Grant Program, which included SHSP, UASI, and LETPP, as well as the Emergency Management Performance Grants (EMPG), MMRS, and the Citizen Corps Program (CCP). Separate application packages were established for other first responder grant programs which allowed drawdown of funds up to 120 days prior to expenditure or disbursement, including the BZPP, the Port Security Grant Program, and the Intercity Bus Security Program.

¹⁸The regulations cited in the guidance are 28 C.F.R. Part 66, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*; and 28 C.F.R. Part 70, *Uniform Administrative Requirements for Grants and Agreements (Including Subawards) with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*. These regulations state that grantees and subgrantees are required to promptly remit interest earned on advances to the federal government.

¹⁹DHS, Preparedness Directorate, Office of Grants and Training, Office of Grant Operations, *Financial Management Guide*, (January 2006).

government must account for interest earned on federal grant funds and remit such interest to appropriate federal agencies.²⁰

Scope and Methodology

To assess whether the CMIA provision that limits the extent to which grantees can hold federal funds before payout, prior to its exemption for certain DHS first responder grants in fiscal year 2005, had prevented first responders from receiving DHS grant funds when such funds were needed, we interviewed key officials from 13 SAAs.²¹ These SAAs involved states from most geographic areas of the country and, when taken together, were awarded about 40 percent of DHS's first responder grants that were subject to the CMIA exemption in fiscal year 2005. In addition, we interviewed key officials and obtained and analyzed pertinent documents from nine national associations which represent state and local governmental entities including the National Governors Association and the U.S. Conference of Mayors.²² We also reviewed the key report issued by the HSAC Task Force, *A Report from the Task Force on State and Local Homeland Security Funding*, and reports issued by DHS's Inspector General.

To identify key fiscal and accountability implications associated with the CMIA exemption for certain DHS first responder grant programs, we reviewed the CMIA and Treasury's implementing regulations, the CMIA exemption for certain first responder grants, DHS's program guidance for those grants, and GAO's prior report covering the implementation of the CMIA. In addition, we interviewed key officials and obtained and analyzed pertinent documents from DHS, Treasury, OMB, and Justice, all of which are responsible to varying degrees for administering or overseeing the implementation of the CMIA or various aspects of DHS's first responder grant programs. We also reviewed OMB Circular No. A-133, *Audits of*

²⁰Local units of government include cities, towns, counties, and special districts created by state law. For grants made through the Office of Grants and Training, interest earned must be remitted to the Department of Health and Human Services' (HHS) Division of Payment Management Services. For Assistance to Firefighters Grants, interest earned should be remitted to the Federal Emergency Management Agency—Accounting Services Division.

²¹We contacted the SAAs in California, Colorado, Illinois, Indiana, Maine, Missouri, New Jersey, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, and Washington.

²²We also contacted the National Association of County Officials; the National Association of Development Organizations; the National Association of Regional Councils; the National Association of State Auditors, Comptrollers, and Treasurers; the National Emergency Managers Association; the National League of Cities; and the Urban Institute.

States, Local Governments, and Non-Profit Organizations, and OMB's 2005 and 2006 Compliance Supplements, which comprise the current key guidance used by auditors to conduct single audits covering federal grant programs. Our work was performed in accordance with generally accepted government auditing standards from August 2005 through July 2006.

In responding to a draft of our report, DHS stated that it would take the recommendations made in the draft report under advisement and would provide a detailed response to appropriate congressional committees and OMB approximately 60 days after release of the report, consistent with the reporting requirements of 31 U.S.C. Part 720. Treasury stated that it agreed with our conclusion that the requirements of the CMIA did not prevent grantees from receiving grant funds when needed. Both Treasury and OMB staff provided technical comments that have been addressed as appropriate in this report.

We Found No Substantial Evidence That the CMIA Prevented First Responders from Receiving DHS Grant Funds When Such Funds Were Needed

We found no substantial evidence that the CMIA provision that limits the extent to which grantees can hold federal funds before payout, prior to its exemption for certain first responder grants in fiscal year 2005, had prevented first responders from receiving DHS grant funds when such funds were needed. Specifically, the majority of SAAs we contacted did not cite the CMIA as a contributing factor to first responder funding delays, and the National Governors Association, U.S. Conference of Mayors, and other associations we contacted did not provide information that demonstrated that the CMIA prevented local governments and other subgrantees from receiving first responder grant funding when they needed it. In addition, according to a report prepared by the HSAC Task Force, numerous factors, only one of which was related to the CMIA, have been responsible for first responder funding delays.

Importantly, as we reported in February 2005, a major challenge in managing first responder grants is balancing two goals: minimizing the time it takes to distribute grant funds to state and local first responders, and ensuring appropriate planning and accountability for the effective use of grant funds. DHS's approach to striking this balance has been evolving from experience, congressional action, and feedback from states and local governments.²³ In March 2006, DHS reported that the CMIA exemption had

²³ [GAO-05-121](#).

been used only to a minimal extent and, according to a DHS official, DHS is meeting with SAAs and local governments to determine the impacts, if any, of the CMIA exemption on first responder grant funding.

Most SAAs Contacted Did Not Cite the CMIA as a Delaying Factor

Of the 13 SAAs we contacted to determine whether the CMIA had prevented first responders from receiving DHS grant funds when such funds were needed, officials from six of these agencies told us that their state agency had experienced delays in getting first responder funds to subgrantees; however, most characterized the delays as not serious. Only one state agency official attributed the delays directly to the CMIA. According to that official, under the funding technique for the CMIA that was agreed to between the state and Treasury for fiscal year 2004, the state was to be reimbursed by the federal government for eligible grant-related expenditures. However, certain smaller subgrantees, such as volunteer fire departments, did not have the financial resources to purchase specialized equipment with their own funds and then wait for reimbursement from the state. The official stated that, contrary to the agreement with Treasury, the state began advancing federal funds to the subgrantees to enable them to purchase the equipment.²⁴

Generally, however, the SAA officials were more apt to tie delays in operations related to first responders to factors other than the CMIA. For example, officials of six of the SAAs noted that delays in the use of the funds have been due directly to certain local governments not having the manpower to deal with the large influx of grant funding that was experienced in the wake of the terrorist attacks. In addition, officials of six of the SAAs stated that state and local requirements related to purchase authorizations caused delays in getting goods and services delivered to first responders in a timely manner, and officials of six of the SAAs cited vendor problems as causing such delays.

²⁴Importantly, these state advances were discovered during the state's single audit for fiscal year 2004. According to the state's single audit report for state fiscal year 2004, the state did not have adequate internal controls to ensure compliance with CMIA requirements for drawing down cash for federal programs. The audit report cited internal control weaknesses related to the state's Web-based cash management system; instances in which funds were being drawn down inappropriately; and various inconsistencies in the data used to compile interest liabilities for major programs.

National Associations Contacted Did Not Provide Evidence Supporting a Need for the CMIA Exemption

None of the officials from the nine national associations representing state and local governments we contacted provided information that demonstrated that the CMIA prevented first responders from receiving DHS grant funds when such funds were needed. For example, an official from the National Governors Association stated that the association did not take a position on whether the CMIA impacted funding for first responders. Rather, he stated that funding delays are often caused by local procurement procedures and acquisition approval requirements of local government subgrantees. The official cited one case where a local government could not spend first responder funds for a major purchase until the city council voted and approved the purchase. He emphasized that such local approval requirements and processes can take several months. The official also stated that funding delays have resulted from local government subgrantees being unaware of DHS's requirement that all equipment be included on DHS's approved equipment listings prior to acquisition.²⁵

In addition, according to an official from the U.S. Conference of Mayors, which was a leading proponent of the CMIA exemption for first responder grants, delays in first responder grant funding have resulted primarily from the many, sometimes conflicting, state and local requirements that local government subgrantees have to meet to receive grant funds. The official stated that the conference supported an exemption from the CMIA for first responder grants and that this support was driven primarily by an expectation that relaxing the requirements for funds transfers between the federal government and the states would lead to overall improvements in addressing local first responder needs. However, the official said that the conference does not have evidence that the requirements of the CMIA

²⁵The HSGPs for fiscal years 2005 and 2006 authorized expenditures for planning, organizational activities, equipment acquisition, training, exercises, and management and administration. For each program contained in the HSGP, an approved Web-based equipment listing was included.

have created specific funding delays for first responders, or that the CMIA exemption has improved grant funding for first responders.²⁶

HSAC Task Force Reports That Numerous Factors Have Contributed to First Responder Funding Delays

In June 2004, the HSAC Task Force issued its report on state and local homeland security funding. According to the report, there is no single issue or level of government that has been responsible for delays in first responder funding. The report stated that the reimbursement requirement of the CMIA is problematic for many, particularly cash-strapped municipalities; however, the report does not address how the CMIA exemption will mitigate such problems at this level as the CMIA applies only to funds transfers to the states.

Moreover, the report discusses numerous factors other than the CMIA that contribute significantly to funding delays. Specifically, according to the report, the need for state, county, municipal, and tribal entities to rapidly procure and deploy homeland security-related equipment can conflict with state and municipal buying regulations that encourage a deliberate process of acquisition of budgeted necessities at the lowest possible price. Furthermore, many state and local governments lack the purchasing power to obtain the goods and services in a timely fashion. In addition, the report stated that the lack of national standards guiding the distribution, tracking, and oversight of homeland security-related grant funds contributed to delays in disbursement. The report also emphasized that state and local governments are often overwhelmed and understaffed to deal with the complex grant system and have not put the necessary infrastructure in place to deal with the increased workload associated with first responder grant funding. Finally, the report cited unavoidable equipment backlogs and vendor delays as causing delays in first responder grant funding.

²⁶We asked the conference official to provide information it used to support the CMIA exemption. The official provided reports of surveys completed by certain of its members covering first responder grant funding problems, including funding delays. In reviewing the reports, we noted that the primary concern expressed by the members on the surveys was that states' pass-through processes and procedures caused delays in the receipt and utilization of federal funds for first responders. The reports of the surveys did not cite the transfer of funds from the federal government to the states under CMIA as a delaying factor.

DHS Working to Determine Impact of the CMIA Exemption

In February 2005, we reported that DHS's approach to striking a balance between, on one hand, minimizing the time it takes to distribute grant funds to state and local first responders, and on the other hand, ensuring that appropriate planning and accountability for the effective use of grant funds has been evolving from experience, congressional action, and feedback from states and local governments. We emphasized that, as DHS continues to administer its first responder grant programs, it will be important DHS to listen and respond fully to the concerns of states, local governments, and other interested parties to ensure that there is adequate collaboration and guidance for moving forward.²⁷ In March 2006, DHS reported that grantees and subgrantees have used the CMIA exemption and DHS's 120-day cash advance funding provision only to a minimal extent.²⁸ According to a DHS official, DHS's new OGO, which began operations in October 2005, is in the process of meeting with SAAs and local governments to discuss the CMIA exemption and cash advance funding. OGO has conducted several regional financial management training conferences with SAAs and local representatives and has attended other similar forums that bring these same stakeholders together. In addition, OGO's *Monitoring Program Plan* for fiscal year 2006 includes at least 20 states and territories, and OGO plans to include the remaining states and territories in the near future.

According to the DHS official, through its discussions and monitoring efforts, OGO intends to determine whether the CMIA exemption actually poses a problem or conversely creates an opportunity for first responders in their ability to obtain and use grant funds when needed. In addition, OGO is seeking to identify the significant issues behind the drawdown and disbursement, or lack of such, of DHS grant funds. These issues may involve legislative, procurement, programmatic, timeliness, and jurisdictional concerns. Finally, OGO is attempting to assess the impact the CMIA exemption could have on DHS if states were to use it extensively. According to the official, if grantees and subgrantees began using the CMIA exemption and DHS's 120-day cash advance funding provision, it would present oversight difficulties for DHS.

²⁷[GAO-05-121](#).

²⁸DHS, *Congressional Report on the Status of Grant Expenditures, Part I, Office for Domestic Preparedness, FY 99-02, A Report to the Committees on Appropriations of the United States Senate and House of Representatives*, (March 2006).

Proper Oversight of Cash Advance Funding and Related Interest Liabilities Is Critical for Accountability

DHS's OGO's concern about the potential use of the CMIA exemption and DHS's 120-day cash advance funding provision and the oversight difficulties extensive use of these provisions could entail is warranted. Specifically, the large number of state grantees and local government and other subgrantees that are eligible for cash advance funding resulting from the CMIA exemption and DHS's 120-day cash advance funding provision, combined with the differing interest requirements for states, local governments, and nonprofit organizations, could create potential oversight challenges for DHS. Currently, DHS does not have policies and procedures to meet the oversight challenges of tracking cash advance funding and associated interest liabilities for first responder grants. Moreover, Treasury, in its administration of the CMIA, does not receive information pertaining to specific advances for such grants. While state single audits can be an important oversight tool for cash advance funding, they are not designed to replace program management's oversight responsibilities. Further, those audits may not cover all first responder grants because of the grants' relatively small dollar amounts, and single audit guidance does not include all grants for which DHS's 120-day cash advance funding applies.

In addition, it is important to emphasize that cash advance funding, which is available on a case-by-case basis for first responder grants independent of the CMIA exemption and DHS's 120-day cash advance funding provision, would allow DHS to focus its oversight efforts on specific grantees and subgrantees that can demonstrate a need for such funding. Regardless of whether cash advance funding for first responder grants is made available under the CMIA exemption and DHS's 120-day cash advance funding provision or on a case-by-case basis, it is critical for DHS to provide proper oversight of cash advance funding to help ensure that associated interest liabilities due to the federal government are accurately recorded by grantees and subgrantees and promptly paid.

Large Number of Grantees and Subgrantees and Differing Interest Requirements Create Oversight Challenges

DHS is faced with potential oversight challenges regarding cash advance funding for homeland security first responder grants resulting from the large number of state grantees and local government and other subgrantees and the fact that interest liabilities and payment responsibilities vary for states, local governments, and nonprofit organizations. Specifically, according to DHS, for fiscal years 2005 and 2006, the initial years for which the CMIA exemption and DHS's 120-day cash advance funding provision have been in effect, DHS has awarded in total about \$5.5 billion of first responder grants to the 50 states, the District of Columbia, and 5 U.S. territories. Further, DHS required a

minimum of 80 percent of certain grants to be passed through by the states to numerous city, county, local government, and other subgrantees. For example, for fiscal year 2005, at least 80 percent of the funding for UASI grants was allocated to 50 urban areas, and 124 distinct jurisdictions were to receive at least 80 percent of the funding for MMRS grants. According to DHS's guidance, 120-day cash advance funding for homeland security first responder grants was available to all eligible state grantees and local government and other subgrantees.²⁹

Further, interest liabilities associated with cash advance funding depend upon the size of the grant as well as whether the recipient is a state, local government, or nonprofit organization. Specifically, state interest liabilities and payment responsibilities are governed by Treasury's implementing regulations for the CMIA.³⁰ Under these regulations, interest liabilities for relatively large grants that meet the requirements for being classified as major programs³¹ are typically settled as part of Treasury's annual interest exchange with the states and U.S. territories using the interest rate set forth in the regulations.³² The interest liabilities and payment responsibilities of local government and nonprofit organizations are governed by regulations covering these entities.³³ In general, local

²⁹Eligible beneficiaries for the HSGP include any state of the United States; the District of Columbia; the Commonwealth of Puerto Rico; the Virgin Islands; Guam; American Samoa; the Commonwealth of the Northern Mariana Islands; any possession of the United States; and local governments, which refers to any county, city, village, town, district, borough, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state.

³⁰31 C.F.R. Part 205.

³¹31 C.F.R. Part 205 sets forth the following thresholds for major federal assistance programs. If the state's total amount of federal assistance for all programs is between zero and \$100 million, major programs would include any program that exceeds 0.6 percent of the total amount of federal assistance. If the state's total amount of federal assistance for all programs is over \$100 million but less than or equal to \$10 billion, major programs would include any program that exceeds 0.6 percent of the total amount of federal assistance. If the state's total amount of federal assistance for all programs is over \$10 billion, major programs would include any program that is at least 0.3 percent of the total amount of federal assistance. However, in such cases, the minimum threshold for inclusion as a major program is \$60 million.

³²The interest rate, which is provided by Treasury to each state, is the annualized rate equal to the average equivalent yields of 13-week Treasury Bills auctioned during a state's fiscal year.

³³28 C.F.R. Part 66 and 28 C.F.R. Part 70, respectively.

government and nonprofit entities are required to make periodic interest payments to HHS' Division of Payment Management Services.

DHS Lacks Policies and Procedures to Meet Oversight Challenges

According to DHS officials, policies and procedures do not exist to track and report on specific cases of cash advance funding to state grantees including associated interest liabilities. Moreover, the officials stated that DHS would not be able to readily determine the extent to which state grantees advance funds to local government and other subgrantees and the interest liabilities that should accrue to the subgrantees as a result of such advances.

According to DHS's *Financial Management Guide*, the state grantee is responsible for all aspects of preparedness grant funding, including cash management, accounting, and financial recordkeeping by the subgrantee. DHS officials emphasized that DHS relies on the states for management and oversight of grant funds, recognizing that the states rely, in part, on the single audits of grantees and subgrantees to help ensure proper accountability over cash advance funding including associated interest liabilities.

Treasury Does Not Receive Information on Specific Cases of Cash Advance Funding and Related Interest Liabilities

Treasury's FMS manages the CMIA program; however, its roles and responsibilities in this capacity do not include obtaining information regarding specific funding advances for homeland security first responder grants made to states or the related state interest liabilities. Under Treasury's implementing regulations for the CMIA, states and FMS must enter into Treasury-State Agreements (TSA) that outline, by major program, the funding technique, including cash advance funding if applicable, the states will use to draw down funds from the federal government. Each year, the states and U.S. territories submit reports to FMS indicating the cumulative interest liabilities calculated for major grant programs covered under their respective TSAs. Based on input from the federal agencies and the states and territories, FMS makes a final determination on each of the state and territory interest liability claims and then calculates net interest liabilities using the interest rate defined in Treasury's implementing regulations and conducts the annual interest exchange with the states and territories.

According to Treasury officials, the vast majority of homeland security first responder grants were not included in the TSAs for fiscal years 2005 and 2006. Generally, to be included in the TSA, a grant program should be considered a major program by meeting the dollar thresholds which are

set forth in Treasury regulations. Importantly, for grants not included in the TSAs, FMS does not receive any information about the grant, including whether states received cash advance funding for the grant or whether states incurred any associated interest liabilities. Moreover, according to Treasury officials, FMS has no oversight responsibilities of cash advances and associated interest liabilities involving local government and other subgrantees, regardless of whether the specific grants are major or nonmajor. The officials emphasized that FMS relies, primarily, on state single audits to provide oversight for CMIA-related activities, including interest liabilities associated with cash advance funding.

Single Audits Are a Limited Tool for Oversight of First Responder Grants

In our January 1996 report on the implementation of the CMIA, we concluded that FMS's plans to emphasize the use of results of single audits as a means of overseeing state activities and enforcing the CMIA requirements should improve the act's effectiveness and help alleviate any concerns about administrative burden.³⁴ Similarly, single audits, if performed adequately, can be a tool to enhance DHS's oversight of first responder grant funding including cash advance funding and associated interest liabilities. However, such audits are not designed to replace program management's oversight responsibilities and may not cover all first responder grants due to the grants' relatively small dollar amounts.

For single audits, auditors use OMB's Circular No. A-133 Compliance Supplement, which provides an invaluable tool to both federal agencies and the auditors in establishing the important provisions of federal grant programs. The supplement enables federal agencies to effectively communicate items that they believe are important to understanding the legislative intent, as well as promoting successful program management. As such, the supplement requires constant review and update.

DHS is responsible for working with OMB to ensure that audit guidance contained in the supplement that is applicable to its programs is complete and updated. For fiscal year 2005, the supplement included guidance covering DHS's 120-day cash advance funding provision; however, the only programs cited were SHSP and LETPP, even though the CMIA exemption and the 120-day cash advance funding provision applied to numerous other homeland security first responder grants. OMB's most recent

³⁴GAO, *Financial Management: Implementation of the Cash Management Improvement Act*, [GAO/AIMD-96-4](#) (Washington, D.C.: January 1996).

compliance supplement, dated March 2006, expanded the guidance for the 120-day cash advance funding provision to include HSGP grants awarded for fiscal years 2005 and 2006. However, the supplement still does not include all of the programs for which the CMIA exemption and the 120-day cash advance funding provision apply. Specifically, the supplement does not include, among others, the Port Security Program, the Rail and Transit Security Program, the Intercity Bus Security Program, or the Trucking Security Program.

According to an OMB representative, certain first responder grant programs were not included in the compliance supplements because they were not, at the time, considered major programs. However, DHS officials stated that DHS recognizes the importance of alerting auditors to the CMIA exemption and the 120-day cash advance funding provision for all of its first responder grants. As such, these officials stated that DHS intends to notify OMB that the 120-day cash advance funding provision used to implement the CMIA exemption applies to all grant programs administered by DHS's Office of Grants and Training so that such information can be included in OMB's 2007 Compliance Supplement.

It is important to note that even with comprehensive guidance for auditors, single audits are at best only a tool for program management oversight of grant funding. Such audits are not intended to replace program management's overall responsibility for establishing and maintaining internal control to achieve the objectives of effective and efficient grant operations, reliable grant reporting, and compliance with applicable laws and regulations. Further, single audits may not always cover all homeland security first responder grants received by the audited entity, as only the larger and inherently riskier programs are typically subject to review as part of the overall audit.³⁵

³⁵OMB Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, which sets forth the uniform standards to be used for the audit of such entities that expend federal awards, requires auditors to use a risk-based approach in selecting which grants to include in the audit. A key criterion for selection is the dollar amount expended by the auditee for the grant relative to all of the auditee's grant expenditures. Auditors are required to audit at least 50 percent of total federal awards expended. However, if the auditee meets the criteria for a low-risk auditee, the auditor is only required to audit federal awards expended that, in the aggregate, encompass at least 25 percent of total federal awards expended.

Cash Advance Funding Can Be Allowed on a Case-by-Case Basis for Certain First Responder Grants

Treasury's regulations implementing the CMIA are intended to provide Treasury and states flexibility and latitude in funding grant programs. Specifically, according to Treasury, the CMIA requires states to time their drawdown of federal funds in a way that minimizes the time between receipt of the funds and payments for federal program purposes. For cash advance funding, this is defined by regulation as not more than 3 business days prior to the date of disbursement of the funds. However, according to Treasury officials, if it can be demonstrated that there is a program need for funds more than 3 days, or even 120 days, in advance of payment, a funding arrangement that allows for such cash advance funding would not be inconsistent with the CMIA and its implementing regulations. In other words, the CMIA does not prohibit such flexibility to be provided on a program by program, or case-by-case, basis.

Moreover, cash advance funding arrangements made by a state can be extended to the state's subgrantees. Specifically, under the *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.³⁶ As such, cash advance funding arrangements made by the states for specific programs that have a demonstrated need for cash advance funding in excess of the 3-day rule, can apply to local government subgrantees on an as-needed, or case-by-case, basis as determined by the state. Therefore, under Treasury regulations implementing the CMIA and other applicable regulations, cash advance funding for homeland security first responder grants can be allowed on a case-by-case basis independent of the CMIA exemption and DHS's 120-day cash advance funding provision.

Conclusions

We found no substantial evidence that the CMIA funds transfer requirements, prior to the exemption for certain first responder grants in fiscal year 2005, prevented first responders from receiving DHS grant funds when such funds were needed. However, DHS's current efforts to monitor state grantees should help to identify problems, if any, associated with the CMIA and the CMIA exemption, as well as other issues that impact grant administration and first responders' ability to receive and use DHS grant funds when needed. Going forward, these efforts should also enable DHS to determine the extent to which cash advance funding for

³⁶28 C.F.R. § 66.20(b)(7).

first responder grants will likely be needed. This is important because DHS lacks the policies and procedures necessary to provide adequate oversight of cash advance funding, regardless of whether the cash advance funding is made widely available under the CMIA exemption and DHS's corresponding 120-day cash advance funding provision, or on a case-by-case basis as allowed under Treasury regulations implementing the CMIA. Such oversight is critical to ensure that interest due to the federal government associated with cash advance funding is accurately recorded and promptly paid.

Recommendations for Executive Action

We make seven recommendations to improve oversight of cash advance funding and associated interest liabilities for homeland security first responder grants. Specifically, we recommend that the Secretary of the Department of Homeland Security direct the Executive Director of the Office of Grants and Training to complete ongoing monitoring efforts involving state grantees that receive DHS first responder grant funding and use information obtained from such monitoring to

- identify the significant issues that have resulted in delays in the drawdown and disbursement of DHS grant funds;
- determine the impact of the CMIA exemption on first responders in their ability to obtain and use grant funds to meet program needs;
- assess the impact the CMIA exemption and DHS's 120-day cash advance funding provision could have on DHS's ability to provide adequate oversight if state grantees and local government subgrantees were to use them extensively;
- determine whether case-by-case cash advance funding provides a reasonable alternative to the CMIA exemption and DHS's 120-day cash advance funding provision; and
- based on the results of the monitoring efforts, take appropriate actions, which could include making either legislative or operational recommendations, to improve first responders' ability to receive and use DHS grant funds when needed and DHS's oversight of such funds.

In addition, we recommend that the Secretary of the Department of Homeland Security direct the Executive Director of the Office of Grants and Training to

- develop policies and procedures to handle requests for cash advance funding, including the ability for DHS to track specific cases of cash advance funding to state grantees and the related interest liabilities; and

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- develop policies and procedures to work with the SAA for any state that requests and receives cash advance funding to ensure that adequate policies and procedures are in place at the state grantee level to provide proper oversight of advances made to subgrantees, including the accurate recording of interest accruals on the advances and prompt payment of such interest to the federal government.

Agency Comments and Our Evaluation

We provided a draft of this report to DHS, Treasury, and OMB for comment. DHS stated that it would take our recommendations under advisement. DHS also noted that it will provide a detailed response to appropriate congressional committees and OMB in accordance with applicable reporting requirements.

Treasury provided technical comments that have been addressed as appropriate in this report. In providing such comments, Treasury stated that it agreed with our conclusion that the requirements of the CMIA did not prevent grantees from receiving grant funds when needed and noted that it believes the CMIA statute and regulations provide inherent flexibility to ensure that the program purposes are served while minimizing the time between the transfer of federal funds and the disbursement of funds by the state for federal grant program purposes. In addition, OMB staff provided a technical comment that has been addressed as appropriate in this report.

We are sending copies of this report to other interested congressional committees, the Secretary of the Department of Homeland Security, the Secretary of the Department of the Treasury, the Director of the Office of Management and Budget, and the Attorney General. Copies will be made available to others upon request. This report will also be available at no charge on GAO's Web site at <http://www.gao.gov>.

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Appendix I: GAO Contacts and Staff Acknowledgments

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