

(5) performing such other duties relating to such responsibilities as the Secretary may require.

(Pub. L. 107-296, title XIX, §1931, as added Pub. L. 115-387, §2(c)(2), Dec. 21, 2018, 132 Stat. 5166.)

Statutory Notes and Related Subsidiaries

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in section 321e of this title prior to repeal by Pub. L. 115-387, §2(c)(1).

§ 597a. Medical countermeasures

(a) In general

Subject to the availability of appropriations, the Secretary shall, as appropriate, establish a medical countermeasures program within the components of the Department to—

(1) facilitate personnel readiness and protection for the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic; and

(2) support the mission continuity of the Department.

(b) Oversight

The Secretary, acting through the Chief Medical Officer of the Department, shall—

(1) provide programmatic oversight of the medical countermeasures program established under subsection (a); and

(2) develop standards for—

(A) medical countermeasure storage, security, dispensing, and documentation;

(B) maintaining a stockpile of medical countermeasures, including antibiotics, antivirals, antidotes, therapeutics, and radiological countermeasures, as appropriate;

(C) ensuring adequate partnerships with manufacturers and executive agencies that enable advance prepositioning by vendors of inventories of appropriate medical countermeasures in strategic locations nationwide, based on risk and employee density, in accordance with applicable Federal statutes and regulations;

(D) providing oversight and guidance regarding the dispensing of stockpiled medical countermeasures;

(E) ensuring rapid deployment and dispensing of medical countermeasures in a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic;

(F) providing training to employees of the Department on medical countermeasures; and

(G) supporting dispensing exercises.

(c) Medical countermeasures working group

The Secretary, acting through the Chief Medical Officer of the Department, shall establish a medical countermeasures working group comprised of representatives from appropriate components and offices of the Department to ensure that medical countermeasures standards are maintained and guidance is consistent.

(d) Medical countermeasures management

Not later than 120 days after the date on which appropriations are made available to carry out subsection (a), the Chief Medical Officer shall develop and submit to the Secretary an integrated logistics support plan for medical countermeasures, including—

(1) a methodology for determining the ideal types and quantities of medical countermeasures to stockpile and how frequently such methodology shall be reevaluated;

(2) a replenishment plan; and

(3) inventory tracking, reporting, and reconciliation procedures for existing stockpiles and new medical countermeasure purchases.

(e) Transfer

Not later than 120 days after December 27, 2021, the Secretary shall transfer all medical countermeasures-related programmatic and personnel resources from the Under Secretary for Management to the Chief Medical Officer.

(f) Stockpile elements

In determining the types and quantities of medical countermeasures to stockpile under subsection (d), the Secretary, acting through the Chief Medical Officer of the Department—

(1) shall use a risk-based methodology for evaluating types and quantities of medical countermeasures required; and

(2) may use, if available—

(A) chemical, biological, radiological, and nuclear risk assessments of the Department; and

(B) guidance on medical countermeasures of the Office of the Assistant Secretary for Preparedness and Response and the Centers for Disease Control and Prevention.

(g) Briefing

Not later than 180 days after December 27, 2021, the Secretary shall provide a briefing to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding—

(1) the plan developed under subsection (d); and

(2) implementation of the requirements of this section.

(h) Definition

In this section, the term “medical countermeasures” means antibiotics, antivirals, antidotes, therapeutics, radiological countermeasures, and other countermeasures that may be deployed to protect the employees and working animals of the Department in the event of a chemical, biological, radiological, nuclear, or explosives attack, naturally occurring disease outbreak, other event impacting health, or pandemic.

(Pub. L. 107-296, title XIX, §1932, as added Pub. L. 117-81, div. F, title LXIV, §6408(a), Dec. 27, 2021, 135 Stat. 2404.)

SUBCHAPTER XV—HOMELAND SECURITY GRANTS

§ 601. Definitions

In this subchapter, the following definitions shall apply:

(1) Administrator

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) Appropriate committees of Congress

The term “appropriate committees of Congress” means—

- (A) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (B) those committees of the House of Representatives that the Speaker of the House of Representatives determines appropriate.

(3) Critical infrastructure sectors

The term “critical infrastructure sectors” means the following sectors, in both urban and rural areas:

- (A) Agriculture and food.
- (B) Banking and finance.
- (C) Chemical industries.
- (D) Commercial facilities.
- (E) Commercial nuclear reactors, materials, and waste.
- (F) Dams.
- (G) The defense industrial base.
- (H) Emergency services.
- (I) Energy.
- (J) Government facilities.
- (K) Information technology.
- (L) National monuments and icons.
- (M) Postal and shipping.
- (N) Public health and health care.
- (O) Telecommunications.
- (P) Transportation systems.
- (Q) Water.

(4) Directly eligible tribe

The term “directly eligible tribe” means—

- (A) any Indian tribe—
 - (i) that is located in the continental United States;
 - (ii) that operates a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services;
 - (iii)(I) that is located on or near an international border or a coastline bordering an ocean (including the Gulf of Mexico) or international waters;
 - (II) that is located within 10 miles of a system or asset included on the prioritized critical infrastructure list established under section 664(a)(2) of this title or has such a system or asset within its territory;
 - (III) that is located within or contiguous to 1 of the 50 most populous metropolitan statistical areas in the United States; or
 - (IV) the jurisdiction of which includes not less than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18; and
 - (iv) that certifies to the Secretary that a State has not provided funds under section 604 or 605 of this title to the Indian tribe or consortium of Indian tribes for the purpose for which direct funding is sought; and
- (B) a consortium of Indian tribes, if each tribe satisfies the requirements of subparagraph (A).

(5) Eligible metropolitan area

The term “eligible metropolitan area” means any of the 100 most populous metropolitan statistical areas in the United States.

(6) High-risk urban area

The term “high-risk urban area” means a high-risk urban area designated under section 604(b)(3)(A) of this title.

(7) Indian tribe

The term “Indian tribe” has the meaning given that term in section 5304(e) of title 25.

(8) Metropolitan statistical area

The term “metropolitan statistical area” means a metropolitan statistical area, as defined by the Office of Management and Budget.

(9) National Special Security Event

The term “National Special Security Event” means a designated event that, by virtue of its political, economic, social, or religious significance, may be the target of terrorism or other criminal activity.

(10) Population

The term “population” means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

(11) Population density

The term “population density” means population divided by land area in square miles.

(12) Qualified intelligence analyst

The term “qualified intelligence analyst” means an intelligence analyst (as that term is defined in section 124h(j) of this title), including law enforcement personnel—

(A) who has successfully completed training to ensure baseline proficiency in intelligence analysis and production, as determined by the Secretary, which may include training using a curriculum developed under section 124f of this title; or

(B) whose experience ensures baseline proficiency in intelligence analysis and production equivalent to the training required under subparagraph (A), as determined by the Secretary.

(13) Target capabilities

The term “target capabilities” means the target capabilities for Federal, State, local, and tribal government preparedness for which guidelines are required to be established under section 746(a) of this title.

(14) Tribal government

The term “tribal government” means the government of an Indian tribe.

(Pub. L. 107–296, title XX, §2001, as added Pub. L. 110–53, title I, §101, Aug. 3, 2007, 121 Stat. 271; amended Pub. L. 115–278, §2(g)(7)(A), Nov. 16, 2018, 132 Stat. 4180.)

Editorial Notes**AMENDMENTS**

2018—Par. (4)(A)(iii)(II). Pub. L. 115–278 substituted “section 664(a)(2) of this title” for “section 124(a)(2) of this title”.

PART A—GRANTS TO STATES AND HIGH-RISK
URBAN AREAS

§ 603. Homeland security grant programs

(a) Grants authorized

The Secretary, through the Administrator, may award grants under sections 604, 605, and 609a of this title to State, local, and tribal governments.

(b) Programs not affected

This part shall not be construed to affect any of the following Federal programs:

(1) Firefighter and other assistance programs authorized under the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

(2) Grants authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(3) Emergency Management Performance Grants under the amendments made by title II of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(4) Grants to protect critical infrastructure, including port security grants authorized under section 70107 of title 46 and the grants authorized under title¹ XIV and XV of the Implementing Recommendations of the 9/11 Commission Act of 2007 [6 U.S.C. 1131 et seq., 1151 et seq.] and the amendments made by such titles.

(5) The Metropolitan Medical Response System authorized under section 723 of this title.

(6) The Interoperable Emergency Communications Grant Program authorized under subchapter XIII.

(7) Grant programs other than those administered by the Department.

(c) Relationship to other laws

(1) In general

The grant programs authorized under sections 604 and 605 of this title shall supercede all grant programs authorized under section 1014 of the USA PATRIOT Act (42 U.S.C. 3714).²

(2) Allocation

The allocation of grants authorized under section 604 or 605 of this title shall be governed by the terms of this part and not by any other provision of law.

(Pub. L. 107-296, title XX, § 2002, as added Pub. L. 110-53, title I, § 101, Aug. 3, 2007, 121 Stat. 273; amended Pub. L. 116-108, § 2(b), Jan. 24, 2020, 133 Stat. 3295.)

Editorial Notes

REFERENCES IN TEXT

The Federal Fire Prevention and Control Act of 1974, referred to in subsec. (b)(1), is Pub. L. 93-498, Oct. 29, 1974, 88 Stat. 1535, which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 15 and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(2), is

Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (b)(3), (4), is Pub. L. 110-53, Aug. 3, 2007, 121 Stat. 266. Title II of the Act amended section 762 of this title and section 5196c of Title 42, The Public Health and Welfare. Title XIV of the Act is classified generally to subchapter III (§ 1131 et seq.) of chapter 4 of this title. Title XV of the Act is classified principally to subchapter IV (§ 1151 et seq.) of chapter 4 of this title. For complete classification of this Act to the Code, see Short Title of 2007 Amendment note set out under section 101 of this title and Tables.

Section 1014 of the USA PATRIOT Act, referred to in subsec. (c)(1), is section 1014 of Pub. L. 107-56, which is set out as a note under this section.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116-108 substituted “sections 604, 605, and 609a” for “sections 604 and 605”.

Statutory Notes and Related Subsidiaries

GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC
PREPAREDNESS SUPPORT

Pub. L. 107-56, title X, § 1014, Oct. 26, 2001, 115 Stat. 399, as amended by Pub. L. 107-273, div. C, title I, § 11003, Nov. 2, 2002, 116 Stat. 1816, provided that:

“(a) IN GENERAL.—The Office for Domestic Preparedness of the Office of Justice Programs shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, to enhance the capability of State and local jurisdictions to prepare for and respond to terrorist acts including events of terrorism involving weapons of mass destruction and biological, nuclear, radiological, incendiary, chemical, and explosive devices.

“(b) USE OF GRANT AMOUNTS.—Grants under this section may be used to purchase needed equipment and to provide training and technical assistance to State and local first responders. In addition, grants under this section may be used to construct, develop, expand, modify, operate, or improve facilities to provide training or assistance to State and local first responders.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section such sums as necessary for each of fiscal years 2002 through 2007.

“(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

“(3) MINIMUM AMOUNT.—Each State shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, America Samoa, Guam, and the Northern Mariana Islands each shall be allocated not less than 0.25 percent.”

[For transfer of functions, personnel, assets, and liabilities of the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(5), 551(d), 552(d), and 557 of this title and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of this title.]

§ 604. Urban Area Security Initiative

(a) Establishment

There is established an Urban Area Security Initiative to provide grants to assist high-risk urban areas in preventing, preparing for, pro-

¹ So in original. Probably should be “titles”.

² See References in Text note below.

tecting against, and responding to acts of terrorism.

(b) Assessment and designation of high-risk urban areas

(1) In general

The Administrator shall designate high-risk urban areas to receive grants under this section based on procedures under this subsection.

(2) Initial assessment

(A) In general

For each fiscal year, the Administrator shall conduct an initial assessment of the relative threat, vulnerability, and consequences from acts of terrorism faced by each eligible metropolitan area, including consideration of—

- (i) the factors set forth in subparagraphs (A) through (H) and (K) of section 608(a)(1) of this title; and
- (ii) information and materials submitted under subparagraph (B).

(B) Submission of information by eligible metropolitan areas

Prior to conducting each initial assessment under subparagraph (A), the Administrator shall provide each eligible metropolitan area with, and shall notify each eligible metropolitan area of, the opportunity to—

- (i) submit information that the eligible metropolitan area believes to be relevant to the determination of the threat, vulnerability, and consequences it faces from acts of terrorism; and
- (ii) review the risk assessment conducted by the Department of that eligible metropolitan area, including the bases for the assessment by the Department of the threat, vulnerability, and consequences from acts of terrorism faced by that eligible metropolitan area, and remedy erroneous or incomplete information.

(3) Designation of high-risk urban areas

(A) Designation

(i) In general

For each fiscal year, after conducting the initial assessment under paragraph (2), and based on that assessment, the Administrator shall designate high-risk urban areas that may submit applications for grants under this section.

(ii) Additional areas

Notwithstanding paragraph (2), the Administrator may—

- (I) in any case where an eligible metropolitan area consists of more than 1 metropolitan division (as that term is defined by the Office of Management and Budget) designate more than 1 high-risk urban area within a single eligible metropolitan area; and
- (II) designate an area that is not an eligible metropolitan area as a high-risk urban area based on the assessment by the Administrator of the relative threat, vulnerability, and consequences from acts of terrorism faced by the area.

(iii) Rule of construction

Nothing in this subsection may be construed to require the Administrator to—

- (I) designate all eligible metropolitan areas that submit information to the Administrator under paragraph (2)(B)(i) as high-risk urban areas; or
- (II) designate all areas within an eligible metropolitan area as part of the high-risk urban area.

(B) Jurisdictions included in high-risk urban areas

(i) In general

In designating high-risk urban areas under subparagraph (A), the Administrator shall determine which jurisdictions, at a minimum, shall be included in each high-risk urban area.

(ii) Additional jurisdictions

A high-risk urban area designated by the Administrator may, in consultation with the State or States in which such high-risk urban area is located, add additional jurisdictions to the high-risk urban area.

(c) Application

(1) In general

An area designated as a high-risk urban area under subsection (b) may apply for a grant under this section.

(2) Minimum contents of application

In an application for a grant under this section, a high-risk urban area shall submit—

- (A) a plan describing the proposed division of responsibilities and distribution of funding among the local and tribal governments in the high-risk urban area;
- (B) the name of an individual to serve as a high-risk urban area liaison with the Department and among the various jurisdictions in the high-risk urban area; and
- (C) such information in support of the application as the Administrator may reasonably require.

(3) Annual applications

Applicants for grants under this section shall apply or reapply on an annual basis.

(4) State review and transmission

(A) In general

To ensure consistency with State homeland security plans, a high-risk urban area applying for a grant under this section shall submit its application to each State within which any part of that high-risk urban area is located for review before submission of such application to the Department.

(B) Deadline

Not later than 30 days after receiving an application from a high-risk urban area under subparagraph (A), a State shall transmit the application to the Department.

(C) Opportunity for State comment

If the Governor of a State determines that an application of a high-risk urban area is inconsistent with the State homeland secu-

rity plan of that State, or otherwise does not support the application, the Governor shall—

- (i) notify the Administrator, in writing, of that fact; and
- (ii) provide an explanation of the reason for not supporting the application at the time of transmission of the application.

(5) Opportunity to amend

In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

(d) Distribution of awards

(1) In general

If the Administrator approves the application of a high-risk urban area for a grant under this section, the Administrator shall distribute the grant funds to the State or States in which that high-risk urban area is located.

(2) State distribution of funds

(A) In general

Not later than 45 days after the date that a State receives grant funds under paragraph (1), that State shall provide the high-risk urban area awarded that grant not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items, services, or activities that benefit the high-risk urban area.

(B) Funds retained

A State shall provide each relevant high-risk urban area with an accounting of the items, services, or activities on which any funds retained by the State under subparagraph (A) were expended.

(3) Interstate urban areas

If parts of a high-risk urban area awarded a grant under this section are located in 2 or more States, the Administrator shall distribute to each such State—

- (A) a portion of the grant funds in accordance with the proposed distribution set forth in the application; or
- (B) if no agreement on distribution has been reached, a portion of the grant funds determined by the Administrator to be appropriate.

(4) Certifications regarding distribution of grant funds to high-risk urban areas

A State that receives grant funds under paragraph (1) shall certify to the Administrator that the State has made available to the applicable high-risk urban area the required funds under paragraph (2).

(e) Authorization of appropriations

There are authorized to be appropriated for grants under this section—

- (1) \$850,000,000 for fiscal year 2008;
- (2) \$950,000,000 for fiscal year 2009;
- (3) \$1,050,000,000 for fiscal year 2010;
- (4) \$1,150,000,000 for fiscal year 2011;
- (5) \$1,300,000,000 for fiscal year 2012; and
- (6) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

(Pub. L. 107-296, title XX, § 2003, as added Pub. L. 110-53, title I, § 101, Aug. 3, 2007, 121 Stat. 274.)

§ 605. State Homeland Security Grant Program

(a) Establishment

There is established a State Homeland Security Grant Program to assist State, local, and tribal governments in preventing, preparing for, protecting against, and responding to acts of terrorism.

(b) Application

(1) In general

Each State may apply for a grant under this section, and shall submit such information in support of the application as the Administrator may reasonably require.

(2) Minimum contents of application

The Administrator shall require that each State include in its application, at a minimum—

- (A) the purpose for which the State seeks grant funds and the reasons why the State needs the grant to meet the target capabilities of that State;
- (B) a description of how the State plans to allocate the grant funds to local governments and Indian tribes; and
- (C) a budget showing how the State intends to expend the grant funds.

(3) Annual applications

Applicants for grants under this section shall apply or reapply on an annual basis.

(c) Distribution to local and tribal governments

(1) In general

Not later than 45 days after receiving grant funds, any State receiving a grant under this section shall make available to local and tribal governments, consistent with the applicable State homeland security plan—

- (A) not less than 80 percent of the grant funds;
- (B) with the consent of local and tribal governments, items, services, or activities having a value of not less than 80 percent of the amount of the grant; or
- (C) with the consent of local and tribal governments, grant funds combined with other items, services, or activities having a total value of not less than 80 percent of the amount of the grant.

(2) Certifications regarding distribution of grant funds to local governments

A State shall certify to the Administrator that the State has made the distribution to local and tribal governments required under paragraph (1).

(3) Extension of period

The Governor of a State may request in writing that the Administrator extend the period under paragraph (1) for an additional period of time. The Administrator may approve such a request if the Administrator determines that the resulting delay in providing grant funding to the local and tribal governments is necessary to promote effective investments to prevent, prepare for, protect against, or respond to acts of terrorism.

(4) Exception

Paragraph (1) shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

(5) Direct funding

If a State fails to make the distribution to local or tribal governments required under paragraph (1) in a timely fashion, a local or tribal government entitled to receive such distribution may petition the Administrator to request that grant funds be provided directly to the local or tribal government.

(d) Multistate applications**(1) In general**

Instead of, or in addition to, any application for a grant under subsection (b), 2 or more States may submit an application for a grant under this section in support of multistate efforts to prevent, prepare for, protect against, and respond to acts of terrorism.

(2) Administration of grant

If a group of States applies for a grant under this section, such States shall submit to the Administrator at the time of application a plan describing—

- (A) the division of responsibilities for administering the grant; and
- (B) the distribution of funding among the States that are parties to the application.

(e) Minimum allocation**(1) In general**

In allocating funds under this section, the Administrator shall ensure that—

- (A) except as provided in subparagraph (B), each State receives, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount equal to—
 - (i) 0.375 percent of the total funds appropriated for grants under this section and section 604 of this title in fiscal year 2008;
 - (ii) 0.365 percent of the total funds appropriated for grants under this section and section 604 of this title in fiscal year 2009;
 - (iii) 0.36 percent of the total funds appropriated for grants under this section and section 604 of this title in fiscal year 2010;
 - (iv) 0.355 percent of the total funds appropriated for grants under this section and section 604 of this title in fiscal year 2011; and
 - (v) 0.35 percent of the total funds appropriated for grants under this section and section 604 of this title in fiscal year 2012 and in each fiscal year thereafter; and

(B) for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive, from the funds appropriated for the State Homeland Security Grant Program established under this section, not less than an amount equal to 0.08 percent of the total funds appropriated for grants under this section and section 604 of this title.

(2) Effect of multistate award on State minimum

Any portion of a multistate award provided to a State under subsection (d) shall be considered in calculating the minimum State allocation under this subsection.

(f) Authorization of appropriations

There are authorized to be appropriated for grants under this section—

- (1) \$950,000,000 for each of fiscal years 2008 through 2012; and
- (2) such sums as are necessary for fiscal year 2013, and each fiscal year thereafter.

(Pub. L. 107-296, title XX, § 2004, as added Pub. L. 110-53, title I, § 101, Aug. 3, 2007, 121 Stat. 277.)

§ 606. Grants to directly eligible tribes**(a) In general**

Notwithstanding section 605(b) of this title, the Administrator may award grants to directly eligible tribes under section 605 of this title.

(b) Tribal applications

A directly eligible tribe may apply for a grant under section 605 of this title by submitting an application to the Administrator that includes, as appropriate, the information required for an application by a State under section 605(b) of this title.

(c) Consistency with State plans**(1) In general**

To ensure consistency with any applicable State homeland security plan, a directly eligible tribe applying for a grant under section 605 of this title shall provide a copy of its application to each State within which any part of the tribe is located for review before the tribe submits such application to the Department.

(2) Opportunity for comment

If the Governor of a State determines that the application of a directly eligible tribe is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, not later than 30 days after the date of receipt of that application the Governor shall—

- (A) notify the Administrator, in writing, of that fact; and
- (B) provide an explanation of the reason for not supporting the application.

(d) Final authority

The Administrator shall have final authority to approve any application of a directly eligible tribe. The Administrator shall notify each State within the boundaries of which any part of a directly eligible tribe is located of the approval of an application by the tribe.

(e) Prioritization

The Administrator shall allocate funds to directly eligible tribes in accordance with the factors applicable to allocating funds among States under section 608 of this title.

(f) Distribution of awards to directly eligible tribes

If the Administrator awards funds to a directly eligible tribe under this section, the Ad-

ministrator shall distribute the grant funds directly to the tribe and not through any State.

(g) Minimum allocation

(1) In general

In allocating funds under this section, the Administrator shall ensure that, for each fiscal year, directly eligible tribes collectively receive, from the funds appropriated for the State Homeland Security Grant Program established under section 605 of this title, not less than an amount equal to 0.1 percent of the total funds appropriated for grants under sections 604 and 605 of this title.

(2) Exception

This subsection shall not apply in any fiscal year in which the Administrator—

- (A) receives fewer than 5 applications under this section; or
- (B) does not approve at least 2 applications under this section.

(h) Tribal liaison

A directly eligible tribe applying for a grant under section 605 of this title shall designate an individual to serve as a tribal liaison with the Department and other Federal, State, local, and regional government officials concerning preventing, preparing for, protecting against, and responding to acts of terrorism.

(i) Eligibility for other funds

A directly eligible tribe that receives a grant under section 605 of this title may receive funds for other purposes under a grant from the State or States within the boundaries of which any part of such tribe is located and from any high-risk urban area of which it is a part, consistent with the homeland security plan of the State or high-risk urban area.

(j) State obligations

(1) In general

States shall be responsible for allocating grant funds received under section 605 of this title to tribal governments in order to help those tribal communities achieve target capabilities not achieved through grants to directly eligible tribes.

(2) Distribution of grant funds

With respect to a grant to a State under section 605 of this title, an Indian tribe shall be eligible for funding directly from that State, and shall not be required to seek funding from any local government.

(3) Imposition of requirements

A State may not impose unreasonable or unduly burdensome requirements on an Indian tribe as a condition of providing the Indian tribe with grant funds or resources under section 605 of this title.

(k) Rule of construction

Nothing in this section shall be construed to affect the authority of an Indian tribe that receives funds under this part.

(Pub. L. 107–296, title XX, § 2005, as added Pub. L. 110–53, title I, § 101, Aug. 3, 2007, 121 Stat. 279.)

§ 607. Terrorism prevention

(a) Law enforcement terrorism prevention program

(1) In general

The Administrator shall ensure that not less than 25 percent of the total combined funds appropriated for grants under sections 604 and 605 of this title is used for law enforcement terrorism prevention activities.

(2) Law enforcement terrorism prevention activities

Law enforcement terrorism prevention activities include—

- (A) information sharing and analysis;
- (B) target hardening;
- (C) threat recognition;
- (D) terrorist interdiction;
- (E) training exercises to enhance preparedness for and response to mass casualty and active shooter incidents and security events at public locations, including airports and mass transit systems;
- (F) overtime expenses consistent with a State homeland security plan, including for the provision of enhanced law enforcement operations in support of Federal agencies, including for increased border security and border crossing enforcement;
- (G) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 124h(i) of this title;
- (H) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts;
- (I) any other activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the Law Enforcement Terrorism Prevention Program; and
- (J) any other terrorism prevention activity authorized by the Administrator.

(3) Participation of underrepresented communities in fusion centers

The Administrator shall ensure that grant funds described in paragraph (1) are used to support the participation, as appropriate, of law enforcement and other emergency response providers from rural and other underrepresented communities at risk from acts of terrorism in fusion centers.

(b) Office for State and Local Law Enforcement

(1) Establishment

There is established in the Policy Directorate of the Department an Office for State and Local Law Enforcement, which shall be headed by an Assistant Secretary for State and Local Law Enforcement.

(2) Qualifications

The Assistant Secretary for State and Local Law Enforcement shall have an appropriate background with experience in law enforcement, intelligence, and other counterterrorism functions.

(3) Assignment of personnel

The Secretary shall assign to the Office for State and Local Law Enforcement permanent

staff and, as appropriate and consistent with sections 316(c)(2), 381, and 468(d) of this title, other appropriate personnel detailed from other components of the Department to carry out the responsibilities under this subsection.

(4) Responsibilities

The Assistant Secretary for State and Local Law Enforcement shall—

(A) lead the coordination of Department-wide policies relating to the role of State and local law enforcement in preventing, preparing for, protecting against, and responding to natural disasters, acts of terrorism, and other man-made disasters within the United States;

(B) serve as a liaison between State, local, and tribal law enforcement agencies and the Department;

(C) coordinate with the Office of Intelligence and Analysis to ensure the intelligence and information sharing requirements of State, local, and tribal law enforcement agencies are being addressed;

(D) work with the Administrator to ensure that law enforcement and terrorism-focused grants to State, local, and tribal government agencies, including grants under sections 604 and 605 of this title, the Commercial Equipment Direct Assistance Program, and other grants administered by the Department to support fusion centers and law enforcement-oriented programs, are appropriately focused on terrorism prevention activities;

(E) coordinate with the Science and Technology Directorate, the Federal Emergency Management Agency, the Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for training and personal protective equipment to be used in a tactical environment by law enforcement officers; and

(F) conduct, jointly with the Administrator, a study to determine the efficacy and feasibility of establishing specialized law enforcement deployment teams to assist State, local, and tribal governments in responding to natural disasters, acts of terrorism, or other man-made disasters and report on the results of that study to the appropriate committees of Congress.

(5) Rule of construction

Nothing in this subsection shall be construed to diminish, supercede, or replace the responsibilities, authorities, or role of the Administrator.

(Pub. L. 107–296, title XX, § 2006, as added Pub. L. 110–53, title I, § 101, Aug. 3, 2007, 121 Stat. 280; amended Pub. L. 114–190, title III, § 3602, July 15, 2016, 130 Stat. 665.)

Editorial Notes

AMENDMENTS

2016—Subsec. (a)(2)(E) to (J). Pub. L. 114–190 added subpar. (E) and redesignated former subpars. (E) to (I) as (F) to (J), respectively.

§ 608. Prioritization

(a) In general

In allocating funds among States and high-risk urban areas applying for grants under section 604 or 605 of this title, the Administrator shall consider, for each State or high-risk urban area—

(1) its relative threat, vulnerability, and consequences from acts of terrorism, including consideration of—

(A) its population, including appropriate consideration of military, tourist, and commuter populations;

(B) its population density;

(C) its history of threats, including whether it has been the target of a prior act of terrorism;

(D) its degree of threat, vulnerability, and consequences related to critical infrastructure (for all critical infrastructure sectors) or key resources identified by the Administrator or the State homeland security plan, including threats, vulnerabilities, and consequences related to critical infrastructure or key resources in nearby jurisdictions;

(E) the most current threat assessments available to the Department;

(F) whether the State has, or the high-risk urban area is located at or near, an international border;

(G) whether it has a coastline bordering an ocean (including the Gulf of Mexico) or international waters;

(H) its likely need to respond to acts of terrorism occurring in nearby jurisdictions;

(I) the extent to which it has unmet target capabilities;

(J) in the case of a high-risk urban area, the extent to which that high-risk urban area includes—

(i) those incorporated municipalities, counties, parishes, and Indian tribes within the relevant eligible metropolitan area, the inclusion of which will enhance regional efforts to prevent, prepare for, protect against, and respond to acts of terrorism; and

(ii) other local and tribal governments in the surrounding area that are likely to be called upon to respond to acts of terrorism within the high-risk urban area; and

(K) such other factors as are specified in writing by the Administrator; and

(2) the anticipated effectiveness of the proposed use of the grant by the State or high-risk urban area in increasing the ability of that State or high-risk urban area to prevent, prepare for, protect against, and respond to acts of terrorism, to meet its target capabilities, and to otherwise reduce the overall risk to the high-risk urban area, the State, or the Nation.

(b) Types of threat

In assessing threat under this section, the Administrator shall consider the following types of threat to critical infrastructure sectors and to populations in all areas of the United States, urban and rural:

(1) Biological.

- (2) Chemical.
- (3) Cyber.
- (4) Explosives.
- (5) Incendiary.
- (6) Nuclear.
- (7) Radiological.
- (8) Suicide bombers.
- (9) Such other types of threat determined relevant by the Administrator.

(Pub. L. 107-296, title XX, §2007, as added Pub. L. 110-53, title I, §101, Aug. 3, 2007, 121 Stat. 282.)

§ 609. Use of funds

(a) Permitted uses

The Administrator shall permit the recipient of a grant under section 604 or 605 of this title to use grant funds to achieve target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, including by working in conjunction with a National Laboratory (as defined in section 15801(3) of title 42), through—

- (1) developing and enhancing homeland security, emergency management, or other relevant plans, assessments, or mutual aid agreements;
- (2) designing, conducting, and evaluating training and exercises, including training and exercises conducted under section 321a of this title and section 748 of this title;
- (3) protecting a system or asset included on the prioritized critical infrastructure list established under section 664(a)(2) of this title;
- (4) purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software;
- (5) ensuring operability and achieving interoperability of emergency communications;
- (6) responding to an increase in the threat level under the Homeland Security Advisory System, or to the needs resulting from a National Special Security Event;
- (7) establishing, enhancing, and staffing with appropriately qualified personnel State, local, and regional fusion centers that comply with the guidelines established under section 124h(i) of this title;
- (8) enhancing school preparedness;
- (9) enhancing the security and preparedness of secure and nonsecure areas of eligible airports and surface transportation systems;
- (10) supporting public safety answering points;
- (11) paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts, regardless of whether such analysts are current or new full-time employees or contract employees;
- (12) paying expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;
- (13) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program, the Urban Area Security Initiative

(including activities permitted under the full-time counterterrorism staffing pilot), or the Law Enforcement Terrorism Prevention Program;

(14) migrating any online service (as defined in section 3 of the DOTGOV Online Trust in Government Act of 2020)¹ to the .gov internet domain; and

(15) any other appropriate activity, as determined by the Administrator.

(b) Limitations on use of funds

(1) In general

Funds provided under section 604 or 605 of this title may not be used—

(A) to supplant State or local funds, except that nothing in this paragraph shall prohibit the use of grant funds provided to a State or high-risk urban area for otherwise permissible uses under subsection (a) on the basis that a State or high-risk urban area has previously used State or local funds to support the same or similar uses; or

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

(2) Personnel

(A) In general

Not more than 50 percent of the amount awarded to a grant recipient under section 604 or 605 of this title in any fiscal year may be used to pay for personnel, including overtime and backfill costs, in support of the permitted uses under subsection (a).

(B) Waiver

At the request of the recipient of a grant under section 604 or 605 of this title, the Administrator may grant a waiver of the limitation under subparagraph (A).

(3) Limitations on discretion

(A) In general

With respect to the use of amounts awarded to a grant recipient under section 604 or 605 of this title for personnel costs in accordance with paragraph (2) of this subsection, the Administrator may not—

(i) impose a limit on the amount of the award that may be used to pay for personnel, or personnel-related, costs that is higher or lower than the percent limit imposed in paragraph (2)(A); or

(ii) impose any additional limitation on the portion of the funds of a recipient that may be used for a specific type, purpose, or category of personnel, or personnel-related, costs.

(B) Analysts

If amounts awarded to a grant recipient under section 604 or 605 of this title are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10),¹ the Administrator shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.

¹ See References in Text note below.

(4) Construction**(A) In general**

A grant awarded under section 604 or 605 of this title may not be used to acquire land or to construct buildings or other physical facilities.

(B) Exceptions**(i) In general**

Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of a grant awarded under section 604 or 605 of this title to achieve target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism, including through the alteration or remodeling of existing buildings for the purpose of making such buildings secure against acts of terrorism.

(ii) Requirements for exception

No grant awarded under section 604 or 605 of this title may be used for a purpose described in clause (i) unless—

(I) specifically approved by the Administrator;

(II) any construction work occurs under terms and conditions consistent with the requirements under section 5196(j)(9) of title 42; and

(III) the amount allocated for purposes under clause (i) does not exceed the greater of \$1,000,000 or 15 percent of the grant award.

(5) Recreation

Grants awarded under this part may not be used for recreational or social purposes.

(c) Multiple-purpose funds

Nothing in this part shall be construed to prohibit State, local, or tribal governments from using grant funds under sections 604, 605, and 609a of this title in a manner that enhances preparedness for disasters unrelated to acts of terrorism, if such use assists such governments in achieving target capabilities related to preventing, preparing for, protecting against, or responding to acts of terrorism.

(d) Reimbursement of costs**(1) Paid-on-call or volunteer reimbursement**

In addition to the activities described in subsection (a), a grant under section 604 or 605 of this title may be used to provide a reasonable stipend to paid-on-call or volunteer emergency response providers who are not otherwise compensated for travel to or participation in training or exercises related to the purposes of this part. Any such reimbursement shall not be considered compensation for purposes of rendering an emergency response provider an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) Performance of Federal duty

An applicant for a grant under section 604 or 605 of this title may petition the Administrator to use the funds from its grants under those sections for the reimbursement of the cost of any activity relating to preventing, preparing for, protecting against, or respond-

ing to acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government under agreement with a Federal agency.

(e) Flexibility in unspent homeland security grant funds

Upon request by the recipient of a grant under section 604, 605, or 609a of this title, the Administrator may authorize the grant recipient to transfer all or part of the grant funds from uses specified in the grant agreement to other uses authorized under this section, if the Administrator determines that such transfer is in the interests of homeland security.

(f) Equipment standards

If an applicant for a grant under section 604 or 605 of this title proposes to upgrade or purchase, with assistance provided under that grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 747 of this title, the applicant shall include in its 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.

(Pub. L. 107-296, title XX, §2008, as added Pub. L. 110-53, title I, §101, Aug. 3, 2007, 121 Stat. 283; amended Pub. L. 110-412, §2, Oct. 14, 2008, 122 Stat. 4336; Pub. L. 114-113, div. M, title VII, §711, Dec. 18, 2015, 129 Stat. 2934; Pub. L. 114-190, title III, §3603, July 15, 2016, 130 Stat. 665; Pub. L. 115-278, §2(g)(7)(B), Nov. 16, 2018, 132 Stat. 4180; Pub. L. 116-260, div. U, title IX, §904(c), Dec. 27, 2020, 134 Stat. 2302; Pub. L. 117-263, div. G, title LXXI, §7101(c), Dec. 23, 2022, 136 Stat. 3619.)

Editorial Notes

REFERENCES IN TEXT

Subsection (a)(10), referred to in subsec. (b)(3)(B), was redesignated subsec. (a)(11) by Pub. L. 114-190, title III, §3603(1), July 15, 2016, 130 Stat. 665.

Section 3 of the DOTGOV Online Trust in Government Act of 2020, referred to in subsec. (a)(14), probably means section 903 of title IX of div. U of Pub. L. 116-260, which defines “online service” and is set out as a note under section 665 of this title.

The Fair Labor Standards Act of 1938, referred to in subsec. (d)(1), is act June 25, 1938, ch. 676, 52 Stat. 1060, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

2022—Subsec. (c). Pub. L. 117-263, §7101(c)(1), substituted “sections 604, 605, and 609a of this title” for “sections 604 and 605 of this title”.

Subsec. (e). Pub. L. 117-263, §7101(c)(2), substituted “section 604, 605, or 609a of this title” for “section 604 or 605 of this title”.

2020—Subsec. (a)(14), (15). Pub. L. 116-260 added par. (14) and redesignated former par. (14) as (15).

2018—Subsec. (a)(3). Pub. L. 115-278 substituted “section 664(a)(2) of this title” for “section 124(a)(2) of this title”.

2016—Subsec. (a)(9) to (14). Pub. L. 114-190 added par. (9) and redesignated former pars. (9) to (13) as (10) to (14), respectively.

2015—Subsec. (a). Pub. L. 114-113 inserted “including by working in conjunction with a National Laboratory

(as defined in section 15801(3) of title 42),” after “plans,” in introductory provisions.

2008—Subsec. (a). Pub. L. 110-412, §2(1)(A), substituted “The Administrator shall permit the recipient of a grant under section 604 or 605 of this title to use grant funds” for “Grants awarded under section 604 or 605 of this title may be used” in introductory provisions.

Subsec. (a)(10). Pub. L. 110-412, §2(1)(B), inserted “, regardless of whether such analysts are current or new full-time employees or contract employees” after “analysts”.

Subsec. (b)(3) to (5). Pub. L. 110-412, §2(2), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

§ 609a. Nonprofit Security Grant Program

(a) Establishment

There is established in the Department a program to be known as the “Nonprofit Security Grant Program” (in this section referred to as the “Program”). Under the Program, the Secretary, acting through the Administrator, shall make grants to eligible nonprofit organizations described in subsection (b), through the State in which such organizations are located, for target hardening and other security enhancements to protect against terrorist attacks or other threats.

(b) Eligible recipients

Eligible nonprofit organizations described in this subsection are organizations that are—

- (1) described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title; and
- (2) determined by the Secretary to be at risk of terrorist attacks or other threats.

(c) Permitted uses

(1) In general

The recipient of a grant under this section may use such grant for any of the following uses:

(A) Target hardening activities, including physical security enhancement equipment, inspection and screening systems, and alteration or remodeling of existing buildings or physical facilities.

(B) Fees for security training relating to physical security and cybersecurity, target hardening, terrorism awareness, and employee awareness.

(C) Facility security personnel costs.

(D) Expenses directly related to the administration of the grant, except that those expenses may not exceed 5 percent of the amount of the grant.

(E) Any other appropriate activity, including cybersecurity resilience activities, as determined by the Administrator.

(2) Retention

Each State through which a recipient receives a grant under this section may retain not more than 5 percent of each grant for expenses directly related to the administration of the grant.

(3) Outreach and technical assistance

(A) In general

If the Administrator establishes target allocations in determining award amounts under the Program, a State may request a

project to use a portion of the target allocation for outreach and technical assistance if the State does not receive enough eligible applications from nonprofit organizations located outside high-risk urban areas.

(B) Priority

Any outreach or technical assistance described in subparagraph (A) should prioritize underserved communities and nonprofit organizations that are traditionally underrepresented in the Program.

(C) Parameters

In determining grant guidelines under subsection (g), the Administrator may determine the parameters for outreach and technical assistance.

(d) Period of performance

The Administrator shall make funds provided under this section available for use by a recipient of a grant for a period of not less than 36 months.

(e) Report

The Administrator shall annually for each of fiscal years 2022 through 2028 submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report containing information on the following:

- (1) The expenditure by each grant recipient of grant funds made under this section.
- (2) The number of applications submitted by eligible nonprofit organizations to each State.
- (3) The number of applications submitted by each State to the Administrator.
- (4) The operations of the program office of the Program, including staffing resources and efforts with respect to subparagraphs (A) through (D) of subsection (c)(1).

(f) Administration

Not later than 120 days after December 23, 2022, the Administrator shall ensure that within the Federal Emergency Management Agency a program office for the Program (in this subsection referred to as the “program office”) shall—

(1) be headed by a senior official of the Agency; and

(2) administer the Program (including, where appropriate, in coordination with States), including relating to—

(A) outreach, engagement, education, and technical assistance and support to eligible nonprofit organizations described in subsection (b), with particular attention to those organizations in underserved communities, before, during, and after the awarding of grants, including web-based training videos for eligible nonprofit organizations that provide guidance on preparing an application and the environmental planning and historic preservation process;

(B) the establishment of mechanisms to ensure program office processes are conducted in accordance with constitutional, statutory, and regulatory requirements that protect civil rights and civil liberties and advance equal access for members of underserved communities;

(C) the establishment of mechanisms for the Administrator to provide feedback to eligible nonprofit organizations that do not receive grants;

(D) the establishment of mechanisms to identify and collect data to measure the effectiveness of grants under the Program;

(E) the establishment and enforcement of standardized baseline operational requirements for States, including requirements for States to eliminate or prevent any administrative or operational obstacles that may impact eligible nonprofit organizations described in subsection (b) from receiving grants under the Program;

(F) carrying out efforts to prevent waste, fraud, and abuse, including through audits of grantees; and

(G) promoting diversity in the types and locations of eligible nonprofit organizations that are applying for grants under the Program.

(g) Grant guidelines

For each fiscal year, before awarding grants under this section, the Administrator—

(1) shall publish guidelines, including a notice of funding opportunity or similar announcement, as the Administrator determines appropriate; and

(2) may prohibit States from closing application processes before the publication of those guidelines.

(h) Paperwork Reduction Act

Chapter 35 of title 44 (commonly known as the “Paperwork Reduction Act”) shall not apply to any changes to the application materials, Program forms, or other core Program documentation intended to enhance participation by eligible nonprofit organizations in the Program.

(i) Authorization of appropriations

(1) In general

There is authorized to be appropriated \$360,000,000 for each of fiscal years 2023 through 2028 for grants under this section, of which—

(A) \$180,000,000 each such fiscal year shall be for recipients in high-risk urban areas that receive funding under section 2003; and

(B) \$180,000,000 each such fiscal year shall be for recipients in jurisdictions that do not so receive such funding.

(2) Operations and support

There is authorized to be appropriated \$18,000,000 for each of fiscal years 2023 through 2028 for Operations and Support at the Federal Emergency Management Agency for costs incurred for the management and administration (including evaluation) of this section.

(Pub. L. 107–296, title XX, § 2009, as added Pub. L. 116–108, § 2(a), Jan. 24, 2020, 133 Stat. 3294; amended Pub. L. 117–263, div. G, title LXXI, § 7101(a), Dec. 23, 2022, 136 Stat. 3616.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263, § 7101(a)(1), inserted “or other threats” before period at end.

Subsec. (b). Pub. L. 117–263, § 7101(a)(2)(A), struck out “(a)” after “this subsection” in introductory provisions.

Subsec. (b)(2). Pub. L. 117–263, § 7101(a)(2)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “determined to be at risk of a terrorist attack by the Administrator.”

Subsec. (c). Pub. L. 117–263, § 7101(a)(3)(A), (B), (D), (E), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) to (3) as subpars. (A), (B), and (E), respectively, of par. (1) and realigned margins, added subpars. (C) and (D) of par. (1), and added pars. (2) and (3).

Subsec. (c)(1)(A). Pub. L. 117–263, § 7101(a)(3)(C), substituted “equipment, inspection and screening systems, and alteration or remodeling of existing buildings or physical facilities” for “equipment and inspection and screening systems”.

Subsec. (e). Pub. L. 117–263, § 7101(a)(4)(B), (C), substituted “on the following:” and “(1) The expenditure” for “on the expenditure” and added pars. (2) to (4).

Pub. L. 117–263, § 7101(a)(4)(A), substituted “2022 through 2028” for “2020 through 2024”.

Subsecs. (f) to (i). Pub. L. 117–263, § 7101(a)(5), added subsecs. (f) to (i) and struck out former subsec. (f) which related to authorization of appropriations for fiscal years 2020 through 2024.

PART B—GRANTS ADMINISTRATION

§ 611. Administration and coordination

(a) Regional coordination

The Administrator shall ensure that—

(1) all recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 2003, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) coordinate, as appropriate, their prevention, preparedness, and protection efforts with neighboring State, local, and tribal governments; and

(2) all high-risk urban areas and other recipients of grants administered by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters (excluding assistance provided under section 2003, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.)) that include or substantially affect parts or all of more than 1 State coordinate, as appropriate, across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans.

(b) Planning committees

(1) In general

Any State or high-risk urban area receiving a grant under section 604 or 605 of this title shall establish a State planning committee or urban area working group to assist in preparation and revision of the State, regional, or local homeland security plan or the threat and hazard identification and risk assessment, as the case may be, and to assist in determining effective funding priorities for grants under such sections.

(2) Composition

(A) In general

The State planning committees and urban area working groups referred to in paragraph

(1) shall include at least one representative from each of the following significant stakeholders:

- (i) Local or tribal government officials.
- (ii) Emergency response providers, which shall include representatives of the fire service, law enforcement, emergency medical services, and emergency managers.
- (iii) Public health officials and other appropriate medical practitioners.
- (iv) Individuals representing educational institutions, including elementary schools, community colleges, and other institutions of higher education.
- (v) State and regional interoperable communications coordinators, as appropriate.
- (vi) State and major urban area fusion centers, as appropriate.

(B) Geographic representation

The members of the State planning committee or urban area working group, as the case may be, shall be a representative group of individuals from the counties, cities, towns, and Indian tribes within the State or high-risk urban area, including, as appropriate, representatives of rural, high-population, and high-threat jurisdictions.

(3) Existing planning committees

Nothing in this subsection may be construed to require that any State or high-risk urban area create a State planning committee or urban area working group, as the case may be, if that State or high-risk urban area has established and uses a multijurisdictional planning committee or commission that meets the requirements of this subsection.

(c) Sense of Congress

It is the sense of Congress that, in order to ensure that the Nation is most effectively able to prevent, prepare for, protect against, and respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters—

- (1) the Department should administer a coherent and coordinated system of both terrorism-focused and all-hazards grants;
- (2) there should be a continuing and appropriate balance between funding for terrorism-focused and all-hazards preparedness, as reflected in the authorizations of appropriations for grants under the amendments made by titles I and II, as applicable, of the Implementing Recommendations of the 9/11 Commission Act of 2007; and
- (3) with respect to terrorism-focused grants, it is necessary to ensure both that the target capabilities of the highest risk areas are achieved quickly and that basic levels of preparedness, as measured by the attainment of target capabilities, are achieved nationwide.

(Pub. L. 107-296, title XX, § 2021, as added Pub. L. 110-53, title I, § 101, Aug. 3, 2007, 121 Stat. 285; amended Pub. L. 114-328, div. A, title XIX, § 1911, Dec. 23, 2016, 130 Stat. 2682; Pub. L. 115-278, § 2(g)(7)(C), Nov. 16, 2018, 132 Stat. 4180.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143. Section 203 of the Act is classified to section 5133 of Title 42, The Public Health and Welfare. Titles IV and V of the Act are classified generally to subchapters IV (§5170 et seq.) and IV-A (§5191 et seq.), respectively, of chapter 68 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (c)(2), is Pub. L. 110-53, Aug. 3, 2007, 121 Stat. 266. Title I of the Act enacted this subchapter and amended sections 318, 321a, 594, 596, and 752 of this title. Title II of the Act amended section 762 of this title and section 5196c of Title 42, The Public Health and Welfare. For complete classification of titles I and II to the Code, see Tables.

AMENDMENTS

2018—Subsecs. (c), (d). Pub. L. 115-278 redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, subsec. (c) related to interagency coordination.

2016—Subsec. (b). Pub. L. 114-328 amended subsec. (b) generally. Prior to amendment, subsec. (b) related to planning committees to assist in preparation and revision of State, regional, or local homeland security plans, and to assist in determining effective funding priorities for grants under sections 604 and 605 of this title.

§ 612. Accountability

(a) Audits of grant programs

(1) Compliance requirements

(A) Audit requirement

Each recipient of a grant administered by the Department that expends not less than \$500,000 in Federal funds during its fiscal year shall submit to the Administrator a copy of the organization-wide financial and compliance audit report required under chapter 75 of title 31.

(B) Access to information

The Department and each recipient of a grant administered by the Department shall provide the Comptroller General and any officer or employee of the Government Accountability Office with full access to information regarding the activities carried out related to any grant administered by the Department.

(C) Improper payments

Consistent with subchapter IV of chapter 33 of title 31, for each of the grant programs under sections 604 and 605 of this title and section 762 of this title, the Administrator shall specify policies and procedures for—

- (i) identifying activities funded under any such grant program that are susceptible to significant improper payments; and
- (ii) reporting any improper payments to the Department.

(2) Agency program review

(A) In general

Not less than once every 2 years, the Administrator shall conduct, for each State

and high-risk urban area receiving a grant administered by the Department, a programmatic and financial review of all grants awarded by the Department to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, or other man-made disasters, excluding assistance provided under section 203, title IV, or title V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133, 5170 et seq., and 5191 et seq.).

(B) Contents

Each review under subparagraph (A) shall, at a minimum, examine—

- (i) whether the funds awarded were used in accordance with the law, program guidance, and State homeland security plans or other applicable plans; and
- (ii) the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism, and other man-made disasters.

(C) Authorization of appropriations

In addition to any other amounts authorized to be appropriated to the Administrator, there are authorized to be appropriated to the Administrator for reviews under this paragraph—

- (i) \$8,000,000 for each of fiscal years 2008, 2009, and 2010; and
- (ii) such sums as are necessary for fiscal year 2011, and each fiscal year thereafter.

(3) Performance assessment

In order to ensure that States and high-risk urban areas are using grants administered by the Department appropriately to meet target capabilities and preparedness priorities, the Administrator shall—

- (A) ensure that any such State or high-risk urban area conducts or participates in exercises under section 748(b) of this title;
- (B) use performance metrics in accordance with the comprehensive assessment system under section 749 of this title and ensure that any such State or high-risk urban area regularly tests its progress against such metrics through the exercises required under subparagraph (A);
- (C) use the remedial action management program under section 750 of this title; and
- (D) ensure that each State receiving a grant administered by the Department submits a report to the Administrator on its level of preparedness, as required by section 752(c) of this title.

(4) Consideration of assessments

In conducting program reviews and performance audits under paragraph (2), the Administrator and the Inspector General of the Department shall take into account the performance assessment elements required under paragraph (3).

(5) Recovery audits

The Administrator shall conduct a recovery audit under section 3352(i) of title 31 for any grant administered by the Department with a total value of not less than \$1,000,000, if the Administrator finds that—

- (A) a financial audit has identified improper payments that can be recouped; and
- (B) it is cost effective to conduct a recovery audit to recapture the targeted funds.

(6) Remedies for noncompliance

(A) In general

If, as a result of a review or audit under this subsection or otherwise, the Administrator finds that a recipient of a grant under this subchapter has failed to substantially comply with any provision of law or with any regulations or guidelines of the Department regarding eligible expenditures, the Administrator shall—

- (i) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not properly expended by the recipient;
- (ii) limit the use of grant funds to programs, projects, or activities not affected by the failure to comply;
- (iii) refer the matter to the Inspector General of the Department for further investigation;
- (iv) terminate any payment of grant funds to be made to the recipient; or
- (v) take such other action as the Administrator determines appropriate.

(B) Duration of penalty

The Administrator shall apply an appropriate penalty under subparagraph (A) until such time as the Administrator determines that the grant recipient is in full compliance with the law and with applicable guidelines or regulations of the Department.

(b) Reports by grant recipients

(1) Quarterly reports on homeland security spending

(A) In general

As a condition of receiving a grant under section 604 or 605 of this title, a State, high-risk urban area, or directly eligible tribe shall, not later than 30 days after the end of each Federal fiscal quarter, submit to the Administrator a report on activities performed using grant funds during that fiscal quarter.

(B) Contents

Each report submitted under subparagraph (A) shall at a minimum include, for the applicable State, high-risk urban area, or directly eligible tribe, and each subgrantee thereof—

- (i) the amount obligated to that recipient under section 604 or 605 of this title in that quarter;
- (ii) the amount of funds received and expended under section 604 or 605 of this title by that recipient in that quarter; and
- (iii) a summary description of expenditures made by that recipient using such funds, and the purposes for which such expenditures were made.

(C) End-of-year report

The report submitted under subparagraph (A) by a State, high-risk urban area, or di-

rectly eligible tribe relating to the last quarter of any fiscal year shall include—

(i) the amount and date of receipt of all funds received under the grant during that fiscal year;

(ii) the identity of, and amount provided to, any subgrantee for that grant during that fiscal year;

(iii) the amount and the dates of disbursements of all such funds expended in compliance with section 611(a)(1) of this title or under mutual aid agreements or other sharing arrangements that apply within the State, high-risk urban area, or directly eligible tribe, as applicable, during that fiscal year; and

(iv) how the funds were used by each recipient or subgrantee during that fiscal year.

(2) Annual report

Any State applying for a grant under section 605 of this title shall submit to the Administrator annually a State preparedness report, as required by section 752(c) of this title.

(c) Reports by the Administrator

(1) Federal Preparedness Report

The Administrator shall submit to the appropriate committees of Congress annually the Federal Preparedness Report required under section 752(a) of this title.

(2) Risk assessment

(A) In general

For each fiscal year, the Administrator shall provide to the appropriate committees of Congress a detailed and comprehensive explanation of the methodologies used to calculate risk and compute the allocation of funds for grants administered by the Department, including—

(i) all variables included in the risk assessment and the weights assigned to each such variable;

(ii) an explanation of how each such variable, as weighted, correlates to risk, and the basis for concluding there is such a correlation; and

(iii) any change in the methodologies from the previous fiscal year, including changes in variables considered, weighting of those variables, and computational methods.

(B) Classified annex

The information required under subparagraph (A) shall be provided in unclassified form to the greatest extent possible, and may include a classified annex if necessary.

(C) Deadline

For each fiscal year, the information required under subparagraph (A) shall be provided on the earlier of—

(i) October 31; or

(ii) 30 days before the issuance of any program guidance for grants administered by the Department.

(3) Tribal funding report

At the end of each fiscal year, the Administrator shall submit to the appropriate com-

mittees of Congress a report setting forth the amount of funding provided during that fiscal year to Indian tribes under any grant program administered by the Department, whether provided directly or through a subgrant from a State or high-risk urban area.

(Pub. L. 107-296, title XX, § 2022, as added Pub. L. 110-53, title I, § 101, Aug. 3, 2007, 121 Stat. 287; amended Pub. L. 111-204, § 2(h)(6)(B)(iii), July 22, 2010, 124 Stat. 2231; Pub. L. 113-284, § 2(c)(1), (2), Dec. 18, 2014, 128 Stat. 3089; Pub. L. 116-117, § 3(b)(2), Mar. 2, 2020, 134 Stat. 133.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(2)(A), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143. Section 203 of the Act is classified to section 5133 of Title 42, The Public Health and Welfare. Titles IV and V of the Act are classified generally to subchapters IV (§5170 et seq.) and IV-A (§5191 et seq.), respectively, of chapter 68 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2020—Subsec. (a)(1)(C). Pub. L. 116-117, § 3(b)(2)(A), substituted “Consistent with subchapter IV of chapter 33 of title 31” for “Consistent with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note)” in introductory provisions.

Subsec. (a)(5). Pub. L. 116-117, § 3(b)(2)(B), substituted “section 3352(i) of title 31” for “section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note)” in introductory provisions.

2014—Subsec. (a)(3) to (7). Pub. L. 113-284 redesignated pars. (4) to (7) as (3) to (6), respectively, substituted, in par. (4), “paragraph (2)” for “paragraphs (2) and (3)” and “paragraph (3)” for “paragraph (4)”, and struck out former par. (3) which related to Office of Inspector General performance audits.

2010—Subsec. (a)(6). Pub. L. 111-204 substituted “under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note)” for “(as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-284, § 2(c)(3), Dec. 18, 2014, 128 Stat. 3090, provided that: “The amendments made by this subsection [amending this section] shall take effect on January 1, 2015.”

§ 613. Identification of reporting redundancies and development of performance metrics

(a) Definition

In this section, the term “covered grants” means grants awarded under section 604 of this title, grants awarded under section 605 of this title, and any other grants specified by the Administrator.

(b) Initial report

Not later than 90 days after October 12, 2010, the Administrator shall submit to the appropriate committees of Congress a report that includes—

(1) an assessment of redundant reporting requirements imposed by the Administrator on

State, local, and tribal governments in connection with the awarding of grants, including—

(A) a list of each discrete item of data requested by the Administrator from grant recipients as part of the process of administering covered grants;

(B) identification of the items of data from the list described in subparagraph (A) that are required to be submitted by grant recipients on multiple occasions or to multiple systems; and

(C) identification of the items of data from the list described in subparagraph (A) that are not necessary to be collected in order for the Administrator to effectively and efficiently administer the programs under which covered grants are awarded;

(2) a plan, including a specific timetable, for eliminating any redundant and unnecessary reporting requirements identified under paragraph (1); and

(3) a plan, including a specific timetable, for promptly developing a set of quantifiable performance measures and metrics to assess the effectiveness of the programs under which covered grants are awarded.

(c) Biennial reports

Not later than 1 year after the date on which the initial report is required to be submitted under subsection (b), and once every 2 years thereafter, the Administrator shall submit to the appropriate committees of Congress a grants management report that includes—

(1) the status of efforts to eliminate redundant and unnecessary reporting requirements imposed on grant recipients, including—

(A) progress made in implementing the plan required under subsection (b)(2);

(B) a reassessment of the reporting requirements to identify and eliminate redundant and unnecessary requirements;

(2) the status of efforts to develop quantifiable performance measures and metrics to assess the effectiveness of the programs under which the covered grants are awarded, including—

(A) progress made in implementing the plan required under subsection (b)(3);

(B) progress made in developing and implementing additional performance metrics and measures for grants, including as part of the comprehensive assessment system required under section 749 of this title; and

(3) a performance assessment of each program under which the covered grants are awarded, including—

(A) a description of the objectives and goals of the program;

(B) an assessment of the extent to which the objectives and goals described in subparagraph (A) have been met, based on the quantifiable performance measures and metrics required under this section, section 612(a)(4)¹ of this title, and section 749 of this title;

(C) recommendations for any program modifications to improve the effectiveness

of the program, to address changed or emerging conditions; and

(D) an assessment of the experience of recipients of covered grants, including the availability of clear and accurate information, the timeliness of reviews and awards, and the provision of technical assistance, and recommendations for improving that experience.

(d) Grants program measurement study

(1) In general

Not later than 30 days after October 12, 2010, the Administrator shall enter into a contract with the National Academy of Public Administration under which the National Academy of Public Administration shall assist the Administrator in studying, developing, and implementing—

(A) quantifiable performance measures and metrics to assess the effectiveness of grants administered by the Department, as required under this section and section 749 of this title; and

(B) the plan required under subsection (b)(3).

(2) Report

Not later than 1 year after the date on which the contract described in paragraph (1) is awarded, the Administrator shall submit to the appropriate committees of Congress a report that describes the findings and recommendations of the study conducted under paragraph (1).

(3) Authorization of appropriations

There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subsection.

(Pub. L. 107-296, title XX, § 2023, as added Pub. L. 111-271, § 2(a), Oct. 12, 2010, 124 Stat. 2852.)

Editorial Notes

REFERENCES IN TEXT

Section 612(a)(4) of this title, referred to in subsec. (c)(3)(B), was redesignated section 612(a)(3) of this title by Pub. L. 113-284, § 2(c)(2)(A), Dec. 18, 2014, 128 Stat. 3089.

SUBCHAPTER XVI—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

TERMINATION OF SUBCHAPTER

For termination of subchapter by section 5 of Pub. L. 113-254, see Effective and Termination Dates note set out under section 621 of this title.

§ 621. Definitions

In this subchapter—

(1) the term “CFATS regulation” means—

(A) an existing CFATS regulation; and

(B) any regulation or amendment to an existing CFATS regulation issued pursuant to the authority under section 627 of this title;

(2) the term “chemical facility of interest” means a facility that—

(A) holds, or that the Secretary has a reasonable basis to believe holds, a chemical of interest, as designated under Appendix A to

¹ See References in Text note below.