

§ 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.

(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-

¹ See References in Text note below.

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

(1) Application requirement

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.

(2) Review process

The Administrator shall implement a uniform process for reviewing applications that, in accordance with paragraph (1), contain explanations to use grants provided under section 604 or 605 of this title to purchase equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 747 of this title.

(3) Factors

In carrying out the review process under paragraph (2), the Administrator shall consider the following:

(A) Current or past use of proposed equipment or systems by Federal agencies or the Armed Forces.

(B) The absence of a national voluntary consensus standard for such equipment or systems.

(C) The existence of an international consensus standard for such equipment or systems, and whether such equipment or systems meets such standard.

(D) The nature of the capability gap identified by the applicant and how such equipment or systems will address such gap.

(E) The degree to which such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed existing consensus standards.

(F) Any other factor determined appropriate by the Administrator.

(g) Review process

The Administrator shall implement a uniform process for reviewing applications to use grants provided under section 604 or 605 of this title to purchase equipment or systems not included on

the Authorized Equipment List maintained by the Administrator.

(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 LXXXI, §7101(c), Dec. 23, 2022, 136 Stat. 3619; Pub. L. 118–165, §2(a), Dec. 23, 2024, 138 Stat. 2581.)

Editorial Notes

REFERENCES IN TEXT

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.

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.

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

2024—Subsec. (f). Pub. L. 118–165, §2(a)(1), designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

Subsec. (g). Pub. L. 118–165, §2(a)(2), added subsec. (g).
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