

108TH CONGRESS
2D SESSION

S. 2275

To amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Ms. MIKULSKI (for herself, Mr. SPECTER, Mrs. MURRAY, Mrs. CLINTON, Ms. LANDRIEU, Mr. SCHUMER, Mr. LIEBERMAN, Mr. DASCHLE, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) to provide for homeland security assistance for high-risk nonprofit organizations, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “High Risk Nonprofit
5 Security Enhancement Act of 2004”.

1 **SEC. 2. FINDING.**

2 Congress finds that there is a public interest in pro-
3 tecting high-risk nonprofit organizations from inter-
4 national terrorist attacks that would disrupt the vital serv-
5 ices such organizations provide to the people of the United
6 States and threaten the lives and well-being of United
7 States citizens who operate, utilize, and live or work in
8 proximity to such organizations.

9 **SEC. 3. PURPOSES.**

10 The purposes of this Act are to—

11 (1) establish within the Department of Home-
12 land Security a program to protect United States
13 citizens at or near high-risk nonprofit organizations
14 from international terrorist attacks through loan
15 guarantees and Federal contracts for security en-
16 hancements and technical assistance;

17 (2) establish a program within the Department
18 of Homeland Security to provide grants to local gov-
19 ernments to assist with incremental costs associated
20 with law enforcement in areas in which there are a
21 high concentration of high-risk nonprofit organiza-
22 tions vulnerable to international terrorist attacks;
23 and

24 (3) establish an Office of Community Relations
25 and Civic Affairs within the Department of Home-
26 land Security to focus on security needs of high-risk

1 nonprofit organizations with respect to international
 2 terrorist threats.

3 **SEC. 4. AUTHORITY TO ENTER INTO CONTRACTS AND**
 4 **ISSUE FEDERAL LOAN GUARANTEES.**

5 The Homeland Security Act of 2002 (6 U.S.C. 101
 6 et seq.) is amended by adding at the end the following:

7 **“TITLE XVIII—PROTECTION OF**
 8 **CITIZENS AT HIGH-RISK NON-**
 9 **PROFIT ORGANIZATIONS**

10 **“SEC. 1801. DEFINITIONS.**

11 “In this title:

12 “(1) **CONTRACT.**—The term ‘contract’ means a
 13 contract between the Federal Government and a
 14 contractor selected from the list of certified contrac-
 15 tors to perform security enhancements or provide
 16 technical assistance approved by the Secretary under
 17 this title.

18 “(2) **FAVORABLE REPAYMENT TERMS.**—The
 19 term ‘favorable repayment terms’ means the repay-
 20 ment terms of loans offered to nonprofit organiza-
 21 tions under this title that—

22 “(A) are determined by the Secretary, in
 23 consultation with the Secretary of the Treasury,
 24 to be favorable under current market condi-
 25 tions;

1 “(B) have interest rates at least 1 full per-
2 centage point below the market rate; and

3 “(C) provide for repayment over a term
4 not less than 25 years.

5 “(3) NONPROFIT ORGANIZATION.—The term
6 ‘nonprofit organization’ means an organization
7 that—

8 “(A) is described under section 501(c)(3)
9 of the Internal Revenue Code of 1986 and ex-
10 empt from taxation under section 501(a) of
11 such Code; and

12 “(B) is designated by the Secretary under
13 section 1803(a).

14 “(4) SECURITY ENHANCEMENTS.—The term
15 ‘security enhancements’—

16 “(A) means the purchase and installation
17 of security equipment in real property (includ-
18 ing buildings and improvements), owned or
19 leased by a nonprofit organization, specifically
20 in response to the risk of attack at a nonprofit
21 organization by an international terrorist orga-
22 nization;

23 “(B) includes software security measures;
24 and

1 “(C) does not include enhancements that
2 would otherwise have been reasonably necessary
3 due to nonterrorist threats.

4 “(5) TECHNICAL ASSISTANCE.—The term ‘tech-
5 nical assistance’—

6 “(A) means guidance, assessment, rec-
7 ommendations, and any other provision of infor-
8 mation or expertise which assists nonprofit or-
9 ganizations in—

10 “(i) identifying security needs;

11 “(ii) purchasing and installing secu-
12 rity enhancements;

13 “(iii) training employees to use and
14 maintain security enhancements; or

15 “(iv) training employees to recognize
16 and respond to international terrorist
17 threats; and

18 “(B) does not include technical assistance
19 that would otherwise have been reasonably nec-
20 essary due to nonterrorist threats.

21 **“SEC. 1802. AUTHORITY TO ENTER INTO CONTRACTS AND**
22 **ISSUE FEDERAL LOAN GUARANTEES.**

23 “(a) IN GENERAL.—The Secretary may—

1 “(1) enter into contracts with certified contrac-
2 tors for security enhancements and technical assist-
3 ance for nonprofit organizations; and

4 “(2) issue Federal loan guarantees to financial
5 institutions in connection with loans made by such
6 institutions to nonprofit organizations for security
7 enhancements and technical assistance.

8 “(b) LOANS.—The Secretary may guarantee loans
9 under this title—

10 “(1) only to the extent provided for in advance
11 by appropriations Acts; and

12 “(2) only to the extent such loans have favor-
13 able repayment terms.

14 **“SEC. 1803. ELIGIBILITY CRITERIA.**

15 “(a) IN GENERAL.—The Secretary shall designate
16 nonprofit organizations as high-risk nonprofit organiza-
17 tions eligible for contracts or loans under this title based
18 on the vulnerability of the specific site of the nonprofit
19 organization to international terrorist attacks.

20 “(b) VULNERABILITY DETERMINATION.—In deter-
21 mining vulnerability to international terrorist attacks and
22 eligibility for security enhancements or technical assist-
23 ance under this title, the Secretary shall consider—

24 “(1) threats of international terrorist organiza-
25 tions (as designated by the State Department)

1 against any group of United States citizens who oper-
2 ate or are the principal beneficiaries or users of the
3 nonprofit organization;

4 “(2) prior attacks, within or outside the United
5 States, by international terrorist organizations
6 against the nonprofit organization or entities associ-
7 ated with or similarly situated as the nonprofit orga-
8 nization;

9 “(3) the symbolic value of the site as a highly
10 recognized United States cultural or historical insti-
11 tution that renders the site a possible target of
12 international terrorism;

13 “(4) the role of the nonprofit organization in
14 responding to international terrorist attacks; and

15 “(5) any recommendations of the applicable
16 State Homeland Security Authority established
17 under section 1806 or Federal, State, and local law
18 enforcement authorities.

19 “(c) DOCUMENTATION.—In order to be eligible for
20 security enhancements, technical assistance or loan guar-
21 antees under this title, the nonprofit organization shall
22 provide the Secretary with documentation that—

23 “(1) the nonprofit organization hosted a gath-
24 ering of at least 100 or more persons at least once

1 each month at the nonprofit organization site during
 2 the preceding 12 months; or

3 “(2) the nonprofit organization provides serv-
 4 ices to at least 500 persons each year at the non-
 5 profit organization site.

6 “(d) TECHNICAL ASSISTANCE ORGANIZATIONS.—If 2
 7 or more nonprofit organizations establish another non-
 8 profit organization to provide technical assistance, that es-
 9 tablished organization shall be eligible to receive security
 10 enhancements and technical assistance under this title
 11 based upon the collective risk of the nonprofit organiza-
 12 tions it serves.

13 **“SEC. 1804. USE OF LOAN GUARANTEES.**

14 “Funds borrowed from lending institutions, which
 15 are guaranteed by the Federal Government under this
 16 title, may be used for technical assistance and security en-
 17 hancements.

18 **“SEC. 1805. NONPROFIT ORGANIZATION APPLICATIONS.**

19 “(a) IN GENERAL.—A nonprofit organization desir-
 20 ing assistance under this title shall submit a separate ap-
 21 plication for each specific site needing security enhance-
 22 ments or technical assistance.

23 “(b) CONTENT.—Each application shall include—

24 “(1) a detailed request for security enhance-
 25 ments and technical assistance, from a list of ap-

1 proved enhancements and assistance issued by the
2 Secretary under this title;

3 “(2) a description of the intended uses of funds
4 to be borrowed under Federal loan guarantees; and
5 “(3) such other information as the Secretary
6 shall require.

7 “(c) JOINT APPLICATION.—Two or more nonprofit
8 organizations located on contiguous sites may submit a
9 joint application.

10 **“SEC. 1806. REVIEW BY STATE HOMELAND SECURITY AU-**
11 **THORITIES.**

12 “(a) ESTABLISHMENT OF STATE HOMELAND SECU-
13 RITY AUTHORITIES.—In accordance with regulations pre-
14 scribed by the Secretary, each State may establish a State
15 Homeland Security Authority to carry out this title.

16 “(b) APPLICATIONS.—

17 “(1) SUBMISSION.—Applications shall be sub-
18 mitted to the applicable State Homeland Security
19 Authority.

20 “(2) EVALUATION.—After consultation with
21 Federal, State, and local law enforcement authori-
22 ties, the State Homeland Security Authority shall
23 evaluate all applications using the criteria under sec-
24 tion 1803 and transmit all qualifying applications to

1 the Secretary ranked by severity of risk of inter-
2 national terrorist attack.

3 “(3) APPEAL.—An applicant may appeal the
4 finding that an application is not a qualifying appli-
5 cation to the Secretary under procedures that the
6 Secretary shall issue by regulation not later than 90
7 days after the date of enactment of this title.

8 **“SEC. 1807. SECURITY ENHANCEMENT AND TECHNICAL AS-**
9 **SISTANCE CONTRACTS AND LOAN GUARAN-**
10 **TEES.**

11 “(a) IN GENERAL.—Upon receipt of the applications,
12 the Secretary shall select applications for execution of se-
13 curity enhancement and technical assistance contracts, or
14 issuance of loan guarantees, giving preference to the non-
15 profit organizations determined to be at greatest risk of
16 international terrorist attack based on criteria under sec-
17 tion 1803.

18 “(b) SECURITY ENHANCEMENTS AND TECHNICAL
19 ASSISTANCE; FOLLOWED BY LOAN GUARANTEES.—The
20 Secretary shall execute security enhancement and tech-
21 nical assistance contracts for the highest priority appli-
22 cants until available funds are expended, after which loan
23 guarantees shall be made available for additional appli-
24 cants determined to be at high risk, up to the authorized
25 amount of loan guarantees. The Secretary may provide

1 with respect to a single application a combination of such
2 contracts and loan guarantees.

3 “(c) JOINT APPLICATIONS.—Special preference shall
4 be given to joint applications submitted on behalf of mul-
5 tiple nonprofit organizations located in contiguous set-
6 tings.

7 “(d) MAXIMIZING AVAILABLE FUNDS.—Subject to
8 subsection (b), the Secretary shall execute security en-
9 hancement and technical assistance contracts in such
10 amounts as to maximize the number of high-risk appli-
11 cants nationwide receiving assistance under this title.

12 “(e) APPLICANT NOTIFICATION.—Upon selecting a
13 nonprofit organization for assistance under this title, the
14 Secretary shall notify the nonprofit organization that the
15 Federal Government is prepared to enter into a contract
16 with certified contractors to install specified security en-
17 hancements or provide specified technical assistance at the
18 site of the nonprofit organization.

19 “(f) CERTIFIED CONTRACTORS.—

20 “(1) IN GENERAL.—Upon receiving a notifica-
21 tion under subsection (e), the nonprofit organization
22 shall select a certified contractor to perform the
23 specified security enhancements, from a list of cer-
24 tified contractors issued and maintained by the Sec-
25 retary under subsection (j).

1 “(2) LIST.—The list referred to in paragraph
2 (1) shall be comprised of contractors selected on the
3 basis of—

4 “(A) technical expertise;

5 “(B) performance record including quality
6 and timeliness of work performed;

7 “(C) adequacy of employee criminal back-
8 ground checks; and

9 “(D) price competitiveness.

10 “(3) OTHER CERTIFIED CONTRACTORS.—The
11 Secretary shall include on the list of certified con-
12 tractors additional contractors selected by senior of-
13 ficials at State Homeland Security Authorities and
14 the chief executives of county and other local juris-
15 dictions. Such additional certified contractors shall
16 be selected on the basis of the criteria under para-
17 graph (2).

18 “(g) ENSURING THE AVAILABILITY OF CONTRAC-
19 TORS.—If the list of certified contractors under this sec-
20 tion does not include any contractors who can begin work
21 on the security enhancements or technical assistance with-
22 in 60 days after applicant notification, the nonprofit orga-
23 nization may submit a contractor not currently on the list
24 to the Secretary for the Secretary’s review. If the Sec-
25 retary does not include the submitted contractor on the

1 list of certified contractors within 60 days after the sub-
2 mission and does not place an alternative contractor on
3 the list within the same time period (who would be avail-
4 able to begin the specified work within that 60-day pe-
5 riod), the Secretary shall immediately place the submitted
6 contractor on the list of certified contractors and such con-
7 tractor shall remain on such list until—

8 “(1) the specified work is completed; or

9 “(2) the Secretary can show cause why such
10 contractor may not retain certification, with such de-
11 terminations subject to review by the Comptroller
12 General of the United States.

13 “(h) CONTRACTS.—Upon selecting a certified con-
14 tractor to provide security enhancements and technical as-
15 sistance approved by the Secretary under this title, the
16 nonprofit organization shall notify the Secretary of such
17 selection. The Secretary shall deliver a contract to such
18 contractor within 10 business days after such notification.

19 “(i) CONTRACTS FOR ADDITIONAL WORK OR UP-
20 GRADES.—A nonprofit organization, using its own funds,
21 may enter into an additional contract with the certified
22 contractor, for additional or upgraded security enhance-
23 ments or technical assistance. Such additional contracts
24 shall be separate contracts between the nonprofit organi-
25 zation and the contractor.

1 “(j) EXPEDITING ASSISTANCE.—In order to expedite
2 assistance to nonprofit organizations, the Secretary
3 shall—

4 “(1) compile a list of approved technical assist-
5 ance and security enhancement activities within 45
6 days after the date of enactment of this title;

7 “(2) publish in the Federal Register within 60
8 days after such date of enactment a request for con-
9 tractors to submit applications to be placed on the
10 list of certified contractors under this section;

11 “(3) after consultation with the Secretary of
12 the Treasury, publish in the Federal Register within
13 60 days after such date of enactment, prescribe reg-
14 ulations setting forth the conditions under which
15 loan guarantees shall be issued under this title, in-
16 cluding application procedures, expeditious review of
17 applications, underwriting criteria, assignment of
18 loan guarantees, modifications, commercial validity,
19 defaults, and fees; and

20 “(4) publish in the Federal Register within 120
21 days after such date of enactment (and every 30
22 days thereafter) a list of certified contractors, in-
23 cluding those selected by State Homeland Security
24 Authorities, county, and local officials, with coverage

1 of all 50 States, the District of Columbia, and the
2 territories.

3 **“SEC. 1808. LOCAL LAW ENFORCEMENT ASSISTANCE**
4 **GRANTS.**

5 “(a) IN GENERAL.—The Secretary may provide
6 grants to units of local government to offset incremental
7 costs associated with law enforcement in areas where there
8 is a high concentration of nonprofit organizations.

9 “(b) USE.—Grant funds received under this section
10 may be used only for personnel costs or for equipment
11 needs specifically related to such incremental costs.

12 “(c) MAXIMIZATION OF IMPACT.—The Secretary
13 shall award grants in such amounts as to maximize the
14 impact of available funds in protecting nonprofit organiza-
15 tions nationwide from international terrorist attacks.

16 **“SEC. 1809. OFFICE OF COMMUNITY RELATIONS AND CIVIC**
17 **AFFAIRS.**

18 “(a) IN GENERAL.—There is established within the
19 Department, the Office of Community Relations and Civic
20 Affairs to administer grant programs for nonprofit organi-
21 zations and local law enforcement assistance.

22 “(b) ADDITIONAL RESPONSIBILITIES.—The Office of
23 Community Relations and Civic Affairs shall—

24 “(1) coordinate community relations efforts of
25 the Department;

1 “(2) serve as the official liaison of the Secretary
2 to the nonprofit, human and social services, and
3 faith-based communities; and

4 “(3) assist in coordinating the needs of those
5 communities with the Citizen Corps program.

6 **“SEC. 1810. AUTHORIZATION OF APPROPRIATIONS AND**
7 **LOAN GUARANTEES.**

8 “(a) NONPROFIT ORGANIZATIONS PROGRAM.—There
9 are authorized to be appropriated to the Department to
10 carry out the nonprofit organization program under this
11 title, \$100,000,000 for fiscal year 2005 and such sums
12 as may be necessary for fiscal years 2006 and 2007.

13 “(b) LOCAL LAW ENFORCEMENT ASSISTANCE
14 GRANTS.—There are authorized to be appropriated to the
15 Department for local law enforcement assistance grants
16 under section 1808, \$50,000,000 for fiscal year 2005 and
17 such sums as may be necessary for fiscal years 2006 and
18 2007.

19 “(c) OFFICE OF COMMUNITY RELATIONS AND CIVIC
20 AFFAIRS.—There are authorized to be appropriated to the
21 Department for the Office of Community Relations and
22 Civic Affairs under section 1809, \$5,000,000 for fiscal
23 year 2005 and such sums as may be necessary for fiscal
24 years 2006 and 2007.

25 “(d) LOAN GUARANTEES.—

1 “(1) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated in each of
 3 fiscal years 2005, 2006, and 2007, such amounts as
 4 may be required under the Federal Credit Act with
 5 respect to Federal loan guarantees authorized by
 6 this title, which shall remain available until ex-
 7 pended.

8 “(2) LIMITATION.—The aggregate value of all
 9 loans for which loan guarantees are issued under
 10 this title by the Secretary may not exceed
 11 \$250,000,000 in each of fiscal years 2005, 2006,
 12 and 2007.”.

13 **SEC. 5. TECHNICAL AND CONFORMING AMENDMENT.**

14 The table of contents under section 1(b) of the Home-
 15 land Security Act of 2002 (6 U.S.C. 101(b)) is amended
 16 by adding at the end the following:

“TITLE XVIII—PROTECTION OF CITIZENS AT HIGH-RISK
 NONPROFIT ORGANIZATIONS

“Sec. 1801. Definitions.

“Sec. 1802. Authority to enter into contracts and issue Federal loan guaran-
 tees.

“Sec. 1803. Eligibility criteria.

“Sec. 1804. Use of loan guarantees.

“Sec. 1805. Nonprofit organization applications.

“Sec. 1806. Review by State Homeland Security Authorities.

“Sec. 1807. Security enhancement and technical assistance contracts and loan
 guarantees.

“Sec. 1808. Local law enforcement assistance grants.

“Sec. 1809. Office of Community Relations and Civic Affairs.

“Sec. 1810. Authorization of appropriations and loan guarantees.”.

