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109TH CONGRESS
1ST SESSION

H. R. 1544

[Report No. 109-65]

To provide faster and smarter funding for first responders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2005

Mr. COX (for himself, Mr. THOMPSON of Mississippi, Mr. YOUNG of Alaska, Mr. PASCRELL, Mr. SMITH of Texas, Ms. LORETTA SANCHEZ of California, Mr. WELDON of Pennsylvania, Mr. MARKEY, Mr. SHAYS, Mr. DICKS, Mr. KING of New York, Ms. HARMAN, Mr. LINDER, Mrs. LOWEY, Mr. SOUDER, Ms. NORTON, Mr. TOM DAVIS of Virginia, Ms. ZOE LOFGREN of California, Mr. DANIEL E. LUNGREN of California, Ms. JACKSON-LEE of Texas, Mr. GIBBONS, Mrs. CHRISTENSEN, Mr. SIMMONS, Mr. ETHERIDGE, Mr. ROGERS of Alabama, Mr. LANGEVIN, Mr. PEARCE, Mr. MEEK of Florida, Ms. HARRIS, Mr. JINDAL, Mr. REICHERT, Mr. McCAUL of Texas, Mr. DENT, and Mr. DEFazio) introduced the following bill; which was referred to the Committee on Homeland Security

APRIL 28, 2005

Additional sponsors: Mr. PRICE of Georgia, Mr. FRELINGHUYSEN, Mr. OWENS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP of Georgia, Mr. BERMAN, and Mr. WEXLER,

APRIL 28, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on April 12, 2005]

A BILL

To provide faster and smarter funding for first responders,
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 “Faster and Smarter*
5 *Funding for First Responders Act of 2005”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 (1) *In order to achieve its objective of preventing,*
9 *minimizing the damage from, and assisting in the re-*
10 *covery from terrorist attacks, the Department of*
11 *Homeland Security must play a leading role in as-*
12 *suming communities to reach the level of preparedness*
13 *they need to prevent and respond to a terrorist attack.*

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

17 (3) *To reform the current bureaucratic process so*
18 *that homeland security dollars reach the first respond-*
19 *ers who need it most, it is necessary to clarify and*

1 *consolidate the authority and procedures of the De-*
2 *partment of Homeland Security that support first re-*
3 *sponders.*

4 *(4) Ensuring adequate resources for the new na-*
5 *tional mission of homeland security, without degrad-*
6 *ing the ability to address effectively other types of*
7 *major disasters and emergencies, requires a discrete*
8 *and separate grant making process for homeland se-*
9 *curity funds for first response to terrorist acts, on the*
10 *one hand, and for first responder programs designed*
11 *to meet pre-September 11 priorities, on the other.*

12 *(5) While a discrete homeland security grant*
13 *making process is necessary to ensure proper focus on*
14 *the unique aspects of terrorism preparedness, it is es-*
15 *sential that State and local strategies for utilizing*
16 *such grants be integrated, to the greatest extent prac-*
17 *ticable, with existing State and local emergency man-*
18 *agement plans.*

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

1 (7) *The Nation's first response capabilities will*
2 *be improved by sharing resources, training, planning,*
3 *personnel, and equipment among neighboring juris-*
4 *dictions through mutual aid agreements and regional*
5 *cooperation. Such regional cooperation should be sup-*
6 *ported, where appropriate, through direct grants from*
7 *the Department of Homeland Security.*

8 (8) *An essential prerequisite to achieving the Na-*
9 *tion's homeland security objectives for first responders*
10 *is the establishment of well-defined national goals for*
11 *terrorism preparedness. These goals should delineate*
12 *the essential capabilities that every jurisdiction in the*
13 *United States should possess or to which it should*
14 *have access.*

15 (9) *A national determination of essential capa-*
16 *bilities is needed to identify levels of State and local*
17 *government terrorism preparedness, to determine the*
18 *nature and extent of State and local first responder*
19 *needs, to identify the human and financial resources*
20 *required to fulfill them, to direct funding to meet*
21 *those needs, and to measure preparedness levels on a*
22 *national scale.*

23 (10) *To facilitate progress in achieving, main-*
24 *taining, and enhancing essential capabilities for*
25 *State and local first responders, the Department of*

1 *Homeland Security should seek to allocate homeland*
2 *security funding for first responders to meet nation-*
3 *wide needs.*

4 (11) *Private sector resources and citizen volun-*
5 *teers can perform critical functions in assisting in*
6 *preventing and responding to terrorist attacks, and*
7 *should be integrated into State and local planning ef-*
8 *forts to ensure that their capabilities and roles are*
9 *understood, so as to provide enhanced State and local*
10 *operational capability and surge capacity.*

11 (12) *Public-private partnerships, such as the*
12 *partnerships between the Business Executives for Na-*
13 *tional Security and the States of New Jersey and*
14 *Georgia, can be useful to identify and coordinate pri-*
15 *vate sector support for State and local first respond-*
16 *ers. Such models should be expanded to cover all*
17 *States and territories.*

18 (13) *An important aspect of terrorism prepared-*
19 *ness is measurability, so that it is possible to deter-*
20 *mine how prepared a State or local government is*
21 *now, and what additional steps it needs to take, in*
22 *order to prevent, prepare for, respond to, mitigate*
23 *against, and recover from acts of terrorism.*

24 (14) *The Department of Homeland Security*
25 *should establish, publish, and regularly update na-*

1 *tional voluntary consensus standards for both equip-*
 2 *ment and training, in cooperation with both public*
 3 *and private sector standard setting organizations, to*
 4 *assist State and local governments in obtaining the*
 5 *equipment and training to attain the essential capa-*
 6 *bilities for first response to acts of terrorism, and to*
 7 *ensure that first responder funds are spent wisely.*

8 **SEC. 3. FASTER AND SMARTER FUNDING FOR FIRST RE-**
 9 **SPONDERS.**

10 *(a) IN GENERAL.—The Homeland Security Act of*
 11 *2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amend-*
 12 *ed—*

13 *(1) in section 1(b) in the table of contents by*
 14 *adding at the end the following:*

 “TITLE XVIII—FUNDING FOR FIRST RESPONDERS

 “Sec. 1801. Definitions.

 “Sec. 1802. Faster and Smarter Funding for First Responders.

 “Sec. 1803. Covered grant eligibility and criteria.

 “Sec. 1804. Risk-based evaluation and prioritization.

 “Sec. 1805. Task Force on Terrorism Preparedness for First Responders.

 “Sec. 1806. Use of funds and accountability requirements.

 “Sec. 1807. National standards for first responder equipment and training.”

15 *(2) by adding at the end the following:*

16 **“TITLE XVIII—FUNDING FOR**
 17 **FIRST RESPONDERS**

18 **“SEC. 1801. DEFINITIONS.**

19 *“In this title:*

1 “(1) *BOARD*.—The term ‘Board’ means the First
2 *Responder Grants Board* established under section
3 1804.

4 “(2) *COVERED GRANT*.—The term ‘covered grant’
5 means any grant to which this title applies under sec-
6 tion 1802.

7 “(3) *DIRECTLY ELIGIBLE TRIBE*.—The term ‘di-
8 rectly eligible tribe’ means any Indian tribe or con-
9 sortium of Indian tribes that—

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

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

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

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

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

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

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

14 “(5) *EMERGENCY PREPAREDNESS.*—The term
15 ‘emergency preparedness’ shall have the same mean-
16 ing that term has under section 602 of the Robert T.
17 Stafford Disaster Relief and Emergency Assistance
18 Act (42 U.S.C. 5195a).

19 “(6) *ESSENTIAL CAPABILITIES.*—The term ‘es-
20 sential capabilities’ means the levels, availability, and
21 competence of emergency personnel, planning, train-
22 ing, and equipment across a variety of disciplines
23 needed to effectively and efficiently prevent, prepare
24 for, respond to, and recover from acts of terrorism
25 consistent with established practices.

1 “(7) *FIRST RESPONDER*.—The term ‘first re-
2 sponder’ shall have the same meaning as the term
3 ‘emergency response provider’.

4 “(8) *INDIAN TRIBE*.—The term ‘Indian tribe’
5 means any Indian tribe, band, nation, or other orga-
6 nized group or community, including any Alaskan
7 Native village or regional or village corporation as
8 defined in or established pursuant to the Alaskan Na-
9 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
10 which is recognized as eligible for the special pro-
11 grams and services provided by the United States to
12 Indians because of their status as Indians.

13 “(9) *REGION*.—The term ‘region’ means—

14 “(A) any geographic area consisting of all
15 or parts of 2 or more contiguous States, counties,
16 municipalities, or other local governments that
17 have a combined population of at least 1,650,000
18 or have an area of not less than 20,000 square
19 miles, and that, for purposes of an application
20 for a covered grant, is represented by 1 or more
21 governments or governmental agencies within
22 such geographic area, and that is established by
23 law or by agreement of 2 or more such govern-
24 ments or governmental agencies in a mutual aid
25 agreement; or

1 “(B) any other combination of contiguous
2 local government units (including such a com-
3 bination established by law or agreement of two
4 or more governments or governmental agencies
5 in a mutual aid agreement) that is formally cer-
6 tified by the Secretary as a region for purposes
7 of this Act with the consent of—

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

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

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

17 “(11) *TERRORISM PREPAREDNESS*.—The term
18 ‘terrorism preparedness’ means any activity designed
19 to improve the ability to prevent, prepare for, respond
20 to, mitigate against, or recover from threatened or ac-
21 tual terrorist attacks.

22 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
23 **SPONDERS.**

24 “(a) *COVERED GRANTS*.—This title applies to grants
25 provided by the Department to States, regions, or directly

1 *eligible tribes for the primary purpose of improving the*
2 *ability of first responders to prevent, prepare for, respond*
3 *to, mitigate against, or recover from threatened or actual*
4 *terrorist attacks, especially those involving weapons of mass*
5 *destruction, administered under the following:*

6 “(1) *STATE HOMELAND SECURITY GRANT PRO-*
7 *GRAM.—The State Homeland Security Grant Pro-*
8 *gram of the Department, or any successor to such*
9 *grant program.*

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

13 “(3) *LAW ENFORCEMENT TERRORISM PREVEN-*
14 *TION PROGRAM.—The Law Enforcement Terrorism*
15 *Prevention Program of the Department, or any suc-*
16 *cessor to such grant program.*

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

20 “(1) *NONDEPARTMENT PROGRAMS.—Any Federal*
21 *grant program that is not administered by the De-*
22 *partment.*

23 “(2) *FIRE GRANT PROGRAMS.—The fire grant*
24 *programs authorized by sections 33 and 34 of the*

1 *Federal Fire Prevention and Control Act of 1974 (15*
2 *U.S.C. 2229, 2229a).*

3 “(3) *EMERGENCY MANAGEMENT PLANNING AND*
4 *ASSISTANCE ACCOUNT GRANTS.—The Emergency*
5 *Management Performance Grant program and the*
6 *Urban Search and Rescue Grants program authorized*
7 *by title VI of the Robert T. Stafford Disaster Relief*
8 *and Emergency Assistance Act (42 U.S.C. 5195 et*
9 *seq.); the Departments of Veterans Affairs and Hous-*
10 *ing and Urban Development, and Independent Agen-*
11 *cies Appropriations Act, 2000 (113 Stat. 1047 et*
12 *seq.); and the Earthquake Hazards Reduction Act of*
13 *1977 (42 U.S.C. 7701 et seq.).*

14 **“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.**

15 “(a) *GRANT ELIGIBILITY.—Any State, region, or di-*
16 *rectly eligible tribe shall be eligible to apply for a covered*
17 *grant.*

18 “(b) *GRANT CRITERIA.—The Secretary shall award*
19 *covered grants to assist States and local governments in*
20 *achieving, maintaining, and enhancing the essential capa-*
21 *bilities for terrorism preparedness established by the Sec-*
22 *retary.*

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

24 “(1) *SUBMISSION OF PLANS.—The Secretary*
25 *shall require that any State applying to the Secretary*

1 for a covered grant must submit to the Secretary a
2 3-year State homeland security plan that—

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

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

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

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

18 “(E) describes how the State intends—

19 “(i) to address such needs at the city,
20 county, regional, tribal, State, and inter-
21 state level, including a precise description of
22 any regional structure the State has estab-
23 lished for the purpose of organizing home-
24 land security preparedness activities funded
25 by covered grants;

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

4 “(iii) to give particular emphasis to
5 regional planning and cooperation, includ-
6 ing the activities of multijurisdictional
7 planning agencies governed by local offi-
8 cials, both within its jurisdictional borders
9 and with neighboring States;

10 “(F) with respect to the emergency pre-
11 paredness of first responders, addresses the
12 unique aspects of terrorism as part of a com-
13 prehensive State emergency management plan;
14 and

15 “(G) provides for coordination of response
16 and recovery efforts at the local level, including
17 procedures for effective incident command in
18 conformance with the National Incident Manage-
19 ment System.

20 “(2) CONSULTATION.—The State plan submitted
21 under paragraph (1) shall be developed in consulta-
22 tion with and subject to appropriate comment by
23 local governments and first responders within the
24 State.

1 “(3) *APPROVAL BY SECRETARY.*—*The Secretary*
2 *may not award any covered grant to a State unless*
3 *the Secretary has approved the applicable State home-*
4 *land security plan.*

5 “(4) *REVISIONS.*—*A State may revise the appli-*
6 *cable State homeland security plan approved by the*
7 *Secretary under this subsection, subject to approval of*
8 *the revision by the Secretary.*

9 “(d) *CONSISTENCY WITH STATE PLANS.*—*The Sec-*
10 *retary shall ensure that each covered grant is used to sup-*
11 *plement and support, in a consistent and coordinated man-*
12 *ner, the applicable State homeland security plan or plans.*

13 “(e) *APPLICATION FOR GRANT.*—

14 “(1) *IN GENERAL.*—*Except as otherwise provided*
15 *in this subsection, any State, region, or directly eligi-*
16 *ble tribe may apply for a covered grant by submitting*
17 *to the Secretary an application at such time, in such*
18 *manner, and containing such information as is re-*
19 *quired under this subsection, or as the Secretary may*
20 *reasonably require.*

21 “(2) *DEADLINES FOR APPLICATIONS AND*
22 *AWARDS.*—*All applications for covered grants must be*
23 *submitted at such time as the Secretary may reason-*
24 *ably require for the fiscal year for which they are sub-*
25 *mitted. The Secretary shall award covered grants*

1 *pursuant to all approved applications for such fiscal*
2 *year as soon as practicable, but not later than March*
3 *1 of such year.*

4 “(3) *AVAILABILITY OF FUNDS.—All funds award-*
5 *ed by the Secretary under covered grants in a fiscal*
6 *year shall be available for obligation through the end*
7 *of the subsequent fiscal year.*

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

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

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

1 “(C) a statement of whether a mutual aid
2 agreement applies to the use of all or any por-
3 tion of the covered grant funds;

4 “(D) if the applicant is a State, a descrip-
5 tion of how the State plans to allocate the cov-
6 ered grant funds to regions, local governments,
7 and Indian tribes;

8 “(E) if the applicant is a region—

9 “(i) a precise geographical description
10 of the region and a specification of all par-
11 ticipating and nonparticipating local gov-
12 ernments within the geographical area com-
13 prising that region;

14 “(ii) a specification of what govern-
15 mental entity within the region will admin-
16 ister the expenditure of funds under the cov-
17 ered grant; and

18 “(iii) a designation of a specific indi-
19 vidual to serve as regional liaison;

20 “(F) a capital budget showing how the ap-
21 plicant intends to allocate and expend the cov-
22 ered grant funds;

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

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

4 “(5) REGIONAL APPLICATIONS.—

5 “(A) RELATIONSHIP TO STATE APPLICA-
6 TIONS.—A regional application—

7 “(i) shall be coordinated with an ap-
8 plication submitted by the State or States of
9 which such region is a part;

10 “(ii) shall supplement and avoid du-
11 plication with such State application; and

12 “(iii) shall address the unique regional
13 aspects of such region’s terrorism prepared-
14 ness needs beyond those provided for in the
15 application of such State or States.

16 “(B) STATE REVIEW AND SUBMISSION.—To
17 ensure the consistency required under subsection
18 (d) and the coordination required under sub-
19 paragraph (A) of this paragraph, an applicant
20 that is a region must submit its application to
21 each State of which any part is included in the
22 region for review and concurrence prior to the
23 submission of such application to the Secretary.
24 The regional application shall be transmitted to
25 the Secretary through each such State within 30

1 *days of its receipt, unless the Governor of such*
2 *a State notifies the Secretary, in writing, that*
3 *such regional application is inconsistent with the*
4 *State’s homeland security plan and provides an*
5 *explanation of the reasons therefor.*

6 *“(C) DISTRIBUTION OF REGIONAL*
7 *AWARDS.—If the Secretary approves a regional*
8 *application, then the Secretary shall distribute a*
9 *regional award to the State or States submitting*
10 *the applicable regional application under sub-*
11 *paragraph (B), and each such State shall, not*
12 *later than the end of the 45-day period beginning*
13 *on the date after receiving a regional award,*
14 *pass through to the region all covered grant*
15 *funds or resources purchased with such funds, ex-*
16 *cept those funds necessary for the State to carry*
17 *out its responsibilities with respect to such re-*
18 *gional application: Provided, That in no such*
19 *case shall the State or States pass through to the*
20 *region less than 80 percent of the regional*
21 *award.*

22 *“(D) CERTIFICATIONS REGARDING DIS-*
23 *TRIBUTION OF GRANT FUNDS TO REGIONS.—Any*
24 *State that receives a regional award under sub-*
25 *paragraph (C) shall certify to the Secretary, by*

1 *not later than 30 days after the expiration of the*
2 *period described in subparagraph (C) with re-*
3 *spect to the grant, that the State has made avail-*
4 *able to the region the required funds and re-*
5 *sources in accordance with subparagraph (C).*

6 “(E) *DIRECT PAYMENTS TO REGIONS.*—*If*
7 *any State fails to pass through a regional award*
8 *to a region as required by subparagraph (C)*
9 *within 45 days after receiving such award and*
10 *does not request or receive an extension of such*
11 *period under section 1806(h)(2), the region may*
12 *petition the Secretary to receive directly the por-*
13 *tion of the regional award that is required to be*
14 *passed through to such region under subpara-*
15 *graph (C).*

16 “(F) *REGIONAL LIAISONS.*—*A regional liai-*
17 *son designated under paragraph (4)(E)(iii)*
18 *shall—*

19 “(i) *coordinate with Federal, State,*
20 *local, regional, and private officials within*
21 *the region concerning terrorism prepared-*
22 *ness;*

23 “(ii) *develop a process for receiving*
24 *input from Federal, State, local, regional,*
25 *and private sector officials within the re-*

1 *gion to assist in the development of the re-*
2 *gional application and to improve the re-*
3 *gion’s access to covered grants; and*

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

8 *“(6) TRIBAL APPLICATIONS.—*

9 *“(A) SUBMISSION TO THE STATE OR*
10 *STATES.—To ensure the consistency required*
11 *under subsection (d), an applicant that is a di-*
12 *rectly eligible tribe must submit its application*
13 *to each State within the boundaries of which any*
14 *part of such tribe is located for direct submission*
15 *to the Department along with the application of*
16 *such State or States.*

17 *“(B) OPPORTUNITY FOR STATE COMMENT.—*
18 *Before awarding any covered grant to a directly*
19 *eligible tribe, the Secretary shall provide an op-*
20 *portunity to each State within the boundaries of*
21 *which any part of such tribe is located to com-*
22 *ment to the Secretary on the consistency of the*
23 *tribe’s application with the State’s homeland se-*
24 *curity plan. Any such comments shall be sub-*

1 mitted to the Secretary concurrently with the
2 submission of the State and tribal applications.

3 “(C) *FINAL AUTHORITY.*—The Secretary
4 shall have final authority to determine the con-
5 sistency of any application of a directly eligible
6 tribe with the applicable State homeland security
7 plan or plans, and to approve any application
8 of such tribe. The Secretary shall notify each
9 State within the boundaries of which any part
10 of such tribe is located of the approval of an ap-
11 plication by such tribe.

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

14 “(i) coordinate with Federal, State,
15 local, regional, and private officials con-
16 cerning terrorism preparedness;

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

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

1 “(E) *LIMITATION ON THE NUMBER OF DI-*
2 *RECT GRANTS.—The Secretary may make cov-*
3 *ered grants directly to not more than 20 directly*
4 *eligible tribes per fiscal year.*

5 “(F) *TRIBES NOT RECEIVING DIRECT*
6 *GRANTS.—An Indian tribe that does not receive*
7 *a grant directly under this section is eligible to*
8 *receive funds under a covered grant from the*
9 *State or States within the boundaries of which*
10 *any part of such tribe is located, consistent with*
11 *the homeland security plan of the State as de-*
12 *scribed in subsection (c). If a State fails to com-*
13 *ply with section 1806(g)(1), the tribe may re-*
14 *quest payment under section 1806(h)(3) in the*
15 *same manner as a local government.*

16 “(7) *EQUIPMENT STANDARDS.—If an applicant*
17 *for a covered grant proposes to upgrade or purchase,*
18 *with assistance provided under the grant, new equip-*
19 *ment or systems that do not meet or exceed any appli-*
20 *cable national voluntary consensus standards estab-*
21 *lished by the Secretary, the applicant shall include in*
22 *the application an explanation of why such equip-*
23 *ment or systems will serve the needs of the applicant*
24 *better than equipment or systems that meet or exceed*
25 *such standards.*

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

2 “(a) *FIRST RESPONDER GRANTS BOARD.*—

3 “(1) *ESTABLISHMENT OF BOARD.*—*The Sec-*
4 *retary shall establish a First Responder Grants*
5 *Board, consisting of—*

6 “(A) *the Secretary;*

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

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

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

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

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

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

19 “(2) *CHAIRMAN.*—

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

22 “(B) *EXERCISE OF AUTHORITIES BY DEP-*
23 *UTY SECRETARY.*—*The Deputy Secretary of*
24 *Homeland Security may exercise the authorities*
25 *of the Chairman, if the Secretary so directs.*

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

6 “(c) *PRIORITIZATION OF GRANT APPLICATIONS.*—

7 “(1) *FACTORS TO BE CONSIDERED.*—*The Board*
8 *shall evaluate and annually prioritize all pending ap-*
9 *plications for covered grants based upon the degree to*
10 *which they would, by achieving, maintaining, or en-*
11 *hancing the essential capabilities of the applicants on*
12 *a nationwide basis, lessen the threat to, vulnerability*
13 *of, and consequences for persons (including transient*
14 *commuting and tourist populations) and critical in-*
15 *frastructure. Such evaluation and prioritization shall*
16 *be based upon the most current risk assessment avail-*
17 *able by the Directorate for Information Analysis and*
18 *Infrastructure Protection of the threats of terrorism*
19 *against the United States.*

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

24 “(A) *Agriculture and food.*

25 “(B) *Banking and finance.*

- 1 “(C) *Chemical industries.*
- 2 “(D) *The defense industrial base.*
- 3 “(E) *Emergency services.*
- 4 “(F) *Energy.*
- 5 “(G) *Government facilities.*
- 6 “(H) *Postal and shipping.*
- 7 “(I) *Public health and health care.*
- 8 “(J) *Information technology.*
- 9 “(K) *Telecommunications.*
- 10 “(L) *Transportation systems.*
- 11 “(M) *Water.*
- 12 “(N) *Dams.*
- 13 “(O) *Commercial facilities.*
- 14 “(P) *National monuments and icons.*

15 *The order in which the critical infrastructure sectors*
16 *are listed in this paragraph shall not be construed as*
17 *an order of priority for consideration of the impor-*
18 *tance of such sectors.*

19 “(3) *TYPES OF THREAT.—The Board specifically*
20 *shall consider the following types of threat to the crit-*
21 *ical infrastructure sectors described in paragraph (2),*
22 *and to populations in all areas of the United States,*
23 *urban and rural:*

24 “(A) *Biological threats.*

25 “(B) *Nuclear threats.*

1 “(C) *Radiological threats.*

2 “(D) *Incendiary threats.*

3 “(E) *Chemical threats.*

4 “(F) *Explosives.*

5 “(G) *Suicide bombers.*

6 “(H) *Cyber threats.*

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

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

14 “(4) *CONSIDERATION OF ADDITIONAL FAC-*
15 *TORS.—The Board shall take into account any other*
16 *specific threat to a population (including a transient*
17 *commuting or tourist population) or critical infra-*
18 *structure sector that the Board has determined to*
19 *exist. In evaluating the threat to a population or crit-*
20 *ical infrastructure sector, the Board shall give greater*
21 *weight to threats of terrorism based upon their speci-*
22 *ficity and credibility, including any pattern of repeti-*
23 *tion.*

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

4 “(A) *each of the States, other than the Vir-*
5 *gin Islands, American Samoa, Guam, and the*
6 *Northern Mariana Islands, that has an approved*
7 *State homeland security plan receives no less*
8 *than 0.25 percent of the funds available for cov-*
9 *ered grants for that fiscal year for purposes of*
10 *implementing its homeland security plan in ac-*
11 *cordance with the prioritization of needs under*
12 *section 1803(c)(1)(D);*

13 “(B) *each of the States, other than the Vir-*
14 *gin Islands, American Samoa, Guam, and the*
15 *Northern Mariana Islands, that has an approved*
16 *State homeland security plan and that meets one*
17 *or both of the additional high-risk qualifying cri-*
18 *teria under paragraph (6) receives no less than*
19 *0.45 percent of the funds available for covered*
20 *grants for that fiscal year for purposes of imple-*
21 *menting its homeland security plan in accord-*
22 *ance with the prioritization of needs under sec-*
23 *tion 1803(c)(1)(D);*

24 “(C) *the Virgin Islands, American Samoa,*
25 *Guam, and the Northern Mariana Islands each*

1 *receives no less than 0.08 percent of the funds*
2 *available for covered grants for that fiscal year*
3 *for purposes of implementing its approved State*
4 *homeland security plan in accordance with the*
5 *prioritization of needs under section*
6 *1803(c)(1)(D); and*

7 *“(D) directly eligible tribes collectively re-*
8 *ceive no less than 0.08 percent of the funds avail-*
9 *able for covered grants for such fiscal year for*
10 *purposes of addressing the needs identified in the*
11 *applications of such tribes, consistent with the*
12 *homeland security plan of each State within the*
13 *boundaries of which any part of any such tribe*
14 *is located, except that this clause shall not apply*
15 *with respect to funds available for a fiscal year*
16 *if the Secretary receives less than 5 applications*
17 *for such fiscal year from such tribes under sec-*
18 *tion 1803(e)(6)(A) or does not approve at least*
19 *one such application.*

20 *“(6) ADDITIONAL HIGH-RISK QUALIFYING CRI-*
21 *TERIA.—For purposes of paragraph (5)(B), addi-*
22 *tional high-risk qualifying criteria consist of—*

23 *“(A) having a significant international*
24 *land border; or*

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

4 “(d) *EFFECT OF REGIONAL AWARDS ON STATE MIN-*
5 *IMUM.*—Any regional award, or portion thereof, provided
6 to a State under section 1803(e)(5)(C) shall not be consid-
7 ered in calculating the minimum State award under sub-
8 section (c)(5) of this section.

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

11 “(a) *ESTABLISHMENT.*—To assist the Secretary in up-
12 dating, revising, or replacing essential capabilities for ter-
13 rorism preparedness, the Secretary shall establish an advi-
14 sory body pursuant to section 871(a) not later than 60 days
15 after the date of the enactment of this section, which shall
16 be known as the Task Force on Terrorism Preparedness for
17 First Responders.

18 “(b) *UPDATE, REVISE, OR REPLACE.*—The Secretary
19 shall regularly update, revise, or replace the essential capa-
20 bilities for terrorism preparedness as necessary, but not less
21 than every 3 years.

22 “(c) *REPORT.*—

23 “(1) *IN GENERAL.*—The Task Force shall submit
24 to the Secretary, by not later than 12 months after
25 its establishment by the Secretary under subsection

1 (a) and not later than every 2 years thereafter, a re-
2 port on its recommendations for essential capabilities
3 for terrorism preparedness.

4 “(2) CONTENTS.—Each report shall—

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

10 “(B) set forth a methodology by which any
11 State or local government will be able to deter-
12 mine the extent to which it possesses or has ac-
13 cess to the essential capabilities that States and
14 local governments having similar risks should
15 obtain;

16 “(C) describe the availability of national
17 voluntary consensus standards, and whether
18 there is a need for new national voluntary con-
19 sensus standards, with respect to first responder
20 training and equipment;

21 “(D) include such additional matters as the
22 Secretary may specify in order to further the ter-
23 rorism preparedness capabilities of first respond-
24 ers; and

1 “(E) include such revisions to the contents
2 of previous reports as are necessary to take into
3 account changes in the most current risk assess-
4 ment available by the Directorate for Informa-
5 tion Analysis and Infrastructure Protection or
6 other relevant information as determined by the
7 Secretary.

8 “(3) *CONSISTENCY WITH FEDERAL WORKING*
9 *GROUP.*—The Task Force shall ensure that its rec-
10 ommendations for essential capabilities for terrorism
11 preparedness are, to the extent feasible, consistent
12 with any preparedness goals or recommendations of
13 the Federal working group established under section
14 319F(a) of the Public Health Service Act (42 U.S.C.
15 247d–6(a)).

16 “(4) *COMPREHENSIVENESS.*—The Task Force
17 shall ensure that its recommendations regarding es-
18 sential capabilities for terrorism preparedness are
19 made within the context of a comprehensive State
20 emergency management system.

21 “(5) *PRIOR MEASURES.*—The Task Force shall
22 ensure that its recommendations regarding essential
23 capabilities for terrorism preparedness take into ac-
24 count any capabilities that State or local officials
25 have determined to be essential and have undertaken

1 *since September 11, 2001, to prevent, prepare for, re-*
2 *spond to, or recover from terrorist attacks.*

3 *“(d) MEMBERSHIP.—*

4 *“(1) IN GENERAL.—The Task Force shall consist*
5 *of 25 members appointed by the Secretary, and shall,*
6 *to the extent practicable, represent a geographic (in-*
7 *cluding urban and rural) and substantive cross sec-*
8 *tion of governmental and nongovernmental first re-*
9 *sponder disciplines from the State and local levels, in-*
10 *cluding as appropriate—*

11 *“(A) members selected from the emergency*
12 *response field, including fire service and law en-*
13 *forcement, hazardous materials response, emer-*
14 *gency medical services, and emergency manage-*
15 *ment personnel (including public works per-*
16 *sonnel routinely engaged in emergency response);*

17 *“(B) health scientists, emergency and inpa-*
18 *tient medical providers, and public health profes-*
19 *sionals, including experts in emergency health*
20 *care response to chemical, biological, radio-*
21 *logical, and nuclear terrorism, and experts in*
22 *providing mental health care during emergency*
23 *response operations;*

24 *“(C) experts from Federal, State, and local*
25 *governments, and the private sector, representing*

1 standards-setting organizations, including rep-
2 resentation from the voluntary consensus codes
3 and standards development community, particu-
4 larly those with expertise in first responder dis-
5 ciplines; and

6 “(D) State and local officials with expertise
7 in terrorism preparedness, subject to the condi-
8 tion that if any such official is an elected official
9 representing one of the two major political par-
10 ties, an equal number of elected officials shall be
11 selected from each such party.

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

18 “(3) EX OFFICIO MEMBERS.—The Secretary and
19 the Secretary of Health and Human Services shall
20 each designate one or more officers of their respective
21 Departments to serve as ex officio members of the
22 Task Force. One of the ex officio members from the
23 Department of Homeland Security shall be the des-
24 ignated officer of the Federal Government for pur-

1 *poses of subsection (e) of section 10 of the Federal Ad-*
2 *visory Committee Act (5 App. U.S.C.).*

3 “(e) *APPLICABILITY OF FEDERAL ADVISORY COM-*
4 *MITTEE ACT.—Notwithstanding section 871(a), the Federal*
5 *Advisory Committee Act (5 App. U.S.C.), including sub-*
6 *sections (a), (b), and (d) of section 10 of such Act, and sec-*
7 *tion 552b(c) of title 5, United States Code, shall apply to*
8 *the Task Force.*

9 “**SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIRE-**
10 **MENTS.**

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

12 “(1) *purchasing or upgrading equipment, in-*
13 *cluding computer software, to enhance terrorism pre-*
14 *paredness;*

15 “(2) *exercises to strengthen terrorism prepared-*
16 *ness;*

17 “(3) *training for prevention (including detec-*
18 *tion) of, preparedness for, response to, or recovery*
19 *from attacks involving weapons of mass destruction,*
20 *including training in the use of equipment and com-*
21 *puter software;*

22 “(4) *developing or updating State homeland se-*
23 *curity plans, risk assessments, mutual aid agree-*
24 *ments, and emergency management plans to enhance*
25 *terrorism preparedness;*

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

3 “(6) *systems architecture and engineering, pro-*
4 *gram planning and management, strategy formula-*
5 *tion and strategic planning, life-cycle systems design,*
6 *product and technology evaluation, and prototype de-*
7 *velopment for terrorism preparedness purposes;*

8 “(7) *additional personnel costs resulting from—*

9 “(A) *elevations in the threat alert level of*
10 *the Homeland Security Advisory System by the*
11 *Secretary, or a similar elevation in threat alert*
12 *level issued by a State, region, or local govern-*
13 *ment with the approval of the Secretary;*

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

17 “(C) *the temporary replacement of per-*
18 *sonnel during any period of travel to and par-*
19 *ticipation in exercises and training in the use of*
20 *equipment and on prevention activities;*

21 “(8) *the costs of equipment (including software)*
22 *required to receive, transmit, handle, and store classi-*
23 *fied information;*

24 “(9) *protecting critical infrastructure against*
25 *potential attack by the addition of barriers, fences,*

1 *gates, and other such devices, except that the cost of*
2 *such measures may not exceed the greater of—*

3 *“(A) \$1,000,000 per project; or*

4 *“(B) such greater amount as may be ap-*
5 *proved by the Secretary, which may not exceed*
6 *10 percent of the total amount of the covered*
7 *grant;*

8 *“(10) the costs of commercially available inter-*
9 *operable communications equipment (which, where*
10 *applicable, is based on national, voluntary consensus*
11 *standards) that the Secretary, in consultation with*
12 *the Chairman of the Federal Communications Com-*
13 *mission, deems best suited to facilitate interoper-*
14 *ability, coordination, and integration between and*
15 *among emergency communications systems, and that*
16 *complies with prevailing grant guidance of the De-*
17 *partment for interoperable communications;*

18 *“(11) educational curricula development for first*
19 *responders to ensure that they are prepared for ter-*
20 *rorist attacks;*

21 *“(12) training and exercises to assist public ele-*
22 *mentary and secondary schools in developing and im-*
23 *plementing programs to instruct students regarding*
24 *age-appropriate skills to prevent, prepare for, respond*

1 *to, mitigate against, or recover from an act of ter-*
2 *rorism;*

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

7 *“(14) paying for the conduct of any activity per-*
8 *mitted under the Law Enforcement Terrorism Preven-*
9 *tion Program, or any such successor to such program;*
10 *and*

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

13 *“(b) PROHIBITED USES.—Funds provided as a cov-*
14 *ered grant may not be used—*

15 *“(1) to supplant State or local funds;*

16 *“(2) to construct buildings or other physical fa-*
17 *cilities;*

18 *“(3) to acquire land; or*

19 *“(4) for any State or local government cost shar-*
20 *ing contribution.*

21 *“(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this*
22 *section shall be construed to preclude State and local gov-*
23 *ernments from using covered grant funds in a manner that*
24 *also enhances first responder preparedness for emergencies*
25 *and disasters unrelated to acts of terrorism, if such use as-*

1 *sists such governments in achieving essential capabilities*
2 *for terrorism preparedness established by the Secretary.*

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

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

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

1 “(g) *STATE, REGIONAL, AND TRIBAL RESPONSIBIL-*
2 *ITIES.—*

3 “(1) *PASS-THROUGH.—The Secretary shall re-*
4 *quire a recipient of a covered grant that is a State*
5 *to obligate or otherwise make available to local gov-*
6 *ernments, first responders, and other local groups, to*
7 *the extent required under the State homeland security*
8 *plan or plans specified in the application for the*
9 *grant, not less than 80 percent of the grant funds, re-*
10 *sources purchased with the grant funds having a*
11 *value equal to at least 80 percent of the amount of*
12 *the grant, or a combination thereof, by not later than*
13 *the end of the 45-day period beginning on the date the*
14 *grant recipient receives the grant funds.*

15 “(2) *COST SHARING.—*

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

22 “(B) *INTERIM RULE.—The Federal share of*
23 *the costs of an activity carried out with a cov-*
24 *ered grant awarded before the end of the 2-year*

1 *period beginning on the date of the enactment of*
2 *this section shall be 100 percent.*

3 “(C) *IN-KIND MATCHING.*—*Each recipient of*
4 *a covered grant may meet the matching require-*
5 *ment under subparagraph (A) by making in-*
6 *kind contributions of goods or services that are*
7 *directly linked with the purpose for which the*
8 *grant is made, including, but not limited to, any*
9 *necessary personnel overtime, contractor services,*
10 *administrative costs, equipment fuel and mainte-*
11 *nance, and rental space.*

12 “(3) *CERTIFICATIONS REGARDING DISTRIBUTION*
13 *OF GRANT FUNDS TO LOCAL GOVERNMENTS.*—*Any*
14 *State that receives a covered grant shall certify to the*
15 *Secretary, by not later than 30 days after the expira-*
16 *tion of the period described in paragraph (1) with re-*
17 *spect to the grant, that the State has made available*
18 *for expenditure by local governments, first responders,*
19 *and other local groups the required amount of grant*
20 *funds pursuant to paragraph (1).*

21 “(4) *QUARTERLY REPORT ON HOMELAND SECUR-*
22 *ITY SPENDING.*—*The Federal share described in*
23 *paragraph (2)(A) may be increased by up to 2 per-*
24 *cent for any State, region, or directly eligible tribe*
25 *that, not later than 30 days after the end of each fis-*

1 *cal quarter, submits to the Secretary a report on that*
2 *fiscal quarter. Each such report must include, for*
3 *each recipient of a covered grant or a pass-through*
4 *under paragraph (1)—*

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

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

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

11 *“(5) ANNUAL REPORT ON HOMELAND SECURITY*
12 *SPENDING.—Each recipient of a covered grant shall*
13 *submit an annual report to the Secretary not later*
14 *than 60 days after the end of each Federal fiscal year.*
15 *Each recipient of a covered grant that is a region*
16 *must simultaneously submit its report to each State*
17 *of which any part is included in the region. Each re-*
18 *ipient of a covered grant that is a directly eligible*
19 *tribe must simultaneously submit its report to each*
20 *State within the boundaries of which any part of such*
21 *tribe is located. Each report must include the fol-*
22 *lowing:*

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

1 “(B) *The amount and the dates of disburse-*
2 *ments of all such funds expended in compliance*
3 *with paragraph (1) or pursuant to mutual aid*
4 *agreements or other sharing arrangements that*
5 *apply within the State, region, or directly eligi-*
6 *ble tribe, as applicable, during the previous fiscal*
7 *year.*

8 “(C) *How the funds were utilized by each*
9 *ultimate recipient or beneficiary during the pre-*
10 *ceding fiscal year.*

11 “(D) *The extent to which essential capabili-*
12 *ties identified in the applicable State homeland*
13 *security plan or plans were achieved, main-*
14 *tained, or enhanced as the result of the expendi-*
15 *ture of grant funds during the preceding fiscal*
16 *year.*

17 “(E) *The extent to which essential capabili-*
18 *ties identified in the applicable State homeland*
19 *security plan or plans remain unmet.*

20 “(6) *INCLUSION OF RESTRICTED ANNEXES.—A*
21 *recipient of a covered grant may submit to the Sec-*
22 *retary an annex to the annual report under para-*
23 *graph (5) that is subject to appropriate handling re-*
24 *strictions, if the recipient believes that discussion in*

1 *the report of unmet needs would reveal sensitive but*
2 *unclassified information.*

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

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

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

17 “(A) *reduce grant payments to the grant re-*
18 *ipient from the portion of grant funds that is*
19 *not required to be passed through under sub-*
20 *section (g)(1);*

21 “(B) *terminate payment of funds under the*
22 *grant to the recipient, and transfer the appro-*
23 *priate portion of those funds directly to local*
24 *first responders that were intended to receive*
25 *funding under that grant; or*

1 “(C) impose additional restrictions or bur-
2 dens on the recipient’s use of funds under the
3 grant, which may include—

4 “(i) prohibiting use of such funds to
5 pay the grant recipient’s grant-related over-
6 time or other expenses;

7 “(ii) requiring the grant recipient to
8 distribute to local government beneficiaries
9 all or a portion of grant funds that are not
10 required to be passed through under sub-
11 section (g)(1); or

12 “(iii) for each day that the grant re-
13 cipient fails to pass through funds or re-
14 sources in accordance with subsection
15 (g)(1), reducing grant payments to the
16 grant recipient from the portion of grant
17 funds that is not required to be passed
18 through under subsection (g)(1), except that
19 the total amount of such reduction may not
20 exceed 20 percent of the total amount of the
21 grant.

22 “(2) *EXTENSION OF PERIOD.*—The Governor of a
23 State may request in writing that the Secretary ex-
24 tend the 45-day period under section 1803(e)(5)(E) or
25 paragraph (1) for an additional 15-day period. The

1 *Secretary may approve such a request, and may ex-*
2 *tend such period for additional 15-day periods, if the*
3 *Secretary determines that the resulting delay in pro-*
4 *viding grant funding to the local government entities*
5 *that will receive funding under the grant will not*
6 *have a significant detrimental impact on such enti-*
7 *ties' terrorism preparedness efforts.*

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

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

15 “(i) *the local government will use the*
16 *amount paid to expedite planned enhance-*
17 *ments to its terrorism preparedness as de-*
18 *scribed in any applicable State homeland*
19 *security plan or plans;*

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

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

1 “(B) *SHOWING REQUIRED.*—*To receive a*
2 *payment under this paragraph, a local govern-*
3 *ment must demonstrate that—*

4 “(i) *it is identified explicitly as an ul-*
5 *timate recipient or intended beneficiary in*
6 *the approved grant application;*

7 “(ii) *it was intended by the grantee to*
8 *receive a severable portion of the overall*
9 *grant for a specific purpose that is identi-*
10 *fied in the grant application;*

11 “(iii) *it petitioned the grantee for the*
12 *funds or resources after expiration of the pe-*
13 *riod within which the funds or resources*
14 *were required to be passed through under*
15 *subsection (g)(1); and*

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

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

22 “(i) *shall not affect any payment to*
23 *another local government under this para-*
24 *graph; and*

1 “(ii) shall not prejudice consideration
2 of a request for payment under this para-
3 graph that is submitted by another local
4 government.

5 “(D) DEADLINE FOR ACTION BY SEC-
6 RETARY.—The Secretary shall approve or dis-
7 approve each request for payment under this
8 paragraph by not later than 15 days after the
9 date the request is received by the Department.

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

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

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

19 “(3) describing—

20 “(A) the Nation’s progress in achieving,
21 maintaining, and enhancing the essential capa-
22 bilities established by the Secretary as a result of
23 the expenditure of covered grant funds during the
24 preceding fiscal year; and

1 “(B) an estimate of the amount of expendi-
2 tures required to attain across the United States
3 the essential capabilities established by the Sec-
4 retary.

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

7 “(a) *EQUIPMENT STANDARDS.*—

8 “(1) *IN GENERAL.*—The Secretary, in consulta-
9 tion with the Under Secretaries for Emergency Pre-
10 paredness and Response and Science and Technology
11 and the Director of the Office for Domestic Prepared-
12 ness, shall, not later than 6 months after the date of
13 enactment of this section, support the development of,
14 promulgate, and update as necessary national vol-
15 untary consensus standards for the performance, use,
16 and validation of first responder equipment for pur-
17 poses of section 1805(e)(7). Such standards—

18 “(A) shall be, to the maximum extent prac-
19 ticable, consistent with any existing voluntary
20 consensus standards;

21 “(B) shall take into account, as appro-
22 priate, new types of terrorism threats that may
23 not have been contemplated when such existing
24 standards were developed;

1 “(C) shall be focused on maximizing inter-
2 operability, interchangeability, durability, flexi-
3 bility, efficiency, efficacy, portability, sustain-
4 ability, and safety; and

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

7 “(2) *REQUIRED CATEGORIES.*—In carrying out
8 paragraph (1), the Secretary shall specifically con-
9 sider the following categories of first responder equip-
10 ment:

11 “(A) *Thermal imaging equipment.*

12 “(B) *Radiation detection and analysis*
13 *equipment.*

14 “(C) *Biological detection and analysis*
15 *equipment.*

16 “(D) *Chemical detection and analysis*
17 *equipment.*

18 “(E) *Decontamination and sterilization*
19 *equipment.*

20 “(F) *Personal protective equipment, includ-*
21 *ing garments, boots, gloves, and hoods and other*
22 *protective clothing.*

23 “(G) *Respiratory protection equipment.*

1 “(H) *Interoperable communications, includ-*
2 *ing wireless and wireline voice, video, and data*
3 *networks.*

4 “(I) *Explosive mitigation devices and explo-*
5 *sive detection and analysis equipment.*

6 “(J) *Containment vessels.*

7 “(K) *Contaminant-resistant vehicles.*

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

11 “(b) *TRAINING STANDARDS.—*

12 “(1) *IN GENERAL.—The Secretary, in consulta-*
13 *tion with the Under Secretaries for Emergency Pre-*
14 *paredness and Response and Science and Technology*
15 *and the Director of the Office for Domestic Prepared-*
16 *ness, shall support the development of, promulgate,*
17 *and regularly update as necessary national voluntary*
18 *consensus standards for first responder training car-*
19 *ried out with amounts provided under covered grant*
20 *programs, that will enable State and local govern-*
21 *ment first responders to achieve optimal levels of ter-*
22 *rorism preparedness as quickly as practicable. Such*
23 *standards shall give priority to providing training*
24 *to—*

1 “(A) enable first responders to prevent, pre-
2 pare for, respond to, mitigate against, and re-
3 cover from terrorist threats, including threats
4 from chemical, biological, nuclear, and radio-
5 logical weapons and explosive devices capable of
6 inflicting significant human casualties; and

7 “(B) familiarize first responders with the
8 proper use of equipment, including software, de-
9 veloped pursuant to the standards established
10 under subsection (a).

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

14 “(A) Regional planning.

15 “(B) Joint exercises.

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

18 “(D) Emergency notification of affected
19 populations.

20 “(E) Detection of biological, nuclear, radio-
21 logical, and chemical weapons of mass destruc-
22 tion.

23 “(F) Such other activities for which the Sec-
24 retary determines that national voluntary con-
25 sensus training standards would be appropriate.

1 “(3) *CONSISTENCY.*—*In carrying out this sub-*
2 *section, the Secretary shall ensure that such training*
3 *standards are consistent with the principles of emer-*
4 *gency preparedness for all hazards.*

5 “(c) *CONSULTATION WITH STANDARDS ORGANIZA-*
6 *TIONS.*—*In establishing national voluntary consensus*
7 *standards for first responder equipment and training under*
8 *this section, the Secretary shall consult with relevant public*
9 *and private sector groups, including—*

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

12 “(2) *the National Fire Protection Association;*

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

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

17 “(5) *the American National Standards Institute;*

18 “(6) *the National Institute of Justice;*

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

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

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

25 “(10) *ASTM International;*

1 “(11) *the International Safety Equipment Asso-*
2 *ciation;*

3 “(12) *the Emergency Management Accreditation*
4 *Program; and*

5 “(13) *to the extent the Secretary considers ap-*
6 *propriate, other national voluntary consensus stand-*
7 *ards development organizations, other interested Fed-*
8 *eral, State, and local agencies, and other interested*
9 *persons.*

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

17 “(b) *DEFINITION OF EMERGENCY RESPONSE PRO-*
18 *VIDERS.—Paragraph (6) of section 2 of the Homeland Secu-*
19 *rity Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6))*
20 *is amended by striking “includes” and all that follows and*
21 *inserting “includes Federal, State, and local governmental*
22 *and nongovernmental emergency public safety, law enforce-*
23 *ment, fire, emergency response, emergency medical (includ-*
24 *ing hospital emergency facilities), and related personnel, or-*
25 *ganizations, agencies, and authorities.”.*

1 **SEC. 4. SUPERSEDED PROVISION.**

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

4 **SEC. 5. OVERSIGHT.**

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

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

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

16 *(1) on the overall inventory and status of first*
17 *responder training programs of the Department of*
18 *Homeland Security and other departments and agen-*
19 *cies of the Federal Government; and*

20 *(2) the extent to which such programs are coordi-*
21 *nated.*

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

24 *(1) an assessment of the effectiveness of the struc-*
25 *ture and organization of such training programs;*

26 *(2) recommendations to—*

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

3 (B) increase the availability of training to
4 first responders who are not able to attend cen-
5 tralized training programs;

6 (3) the structure and organizational effectiveness
7 of such programs for first responders in rural commu-
8 nities;

9 (4) identification of any duplication or redun-
10 dancy among such programs;

11 (5) a description of the use of State and local
12 training institutions, universities, centers, and the
13 National Domestic Preparedness Consortium in de-
14 signing and providing training;

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

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

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

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

5 (10) *the role of each first responder training in-*
6 *stitution within the Department of Homeland Secu-*
7 *rity in the design and implementation of terrorism*
8 *preparedness and related training courses for first re-*
9 *sponders.*

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

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

14 (2) *submit a report on the remainder of the top-*
15 *ics required by this section by not later than 120 days*
16 *after the date of the enactment of this Act.*

Union Calendar No. 32

109TH CONGRESS
1ST Session

H. R. 1544

[Report No. 109-65]

A BILL

To provide faster and smarter funding for first responders, and for other purposes.

APRIL 28, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed