

STRENGTHENING AND UPDATING RESOURCES AND
EQUIPMENT ACT

JULY 22, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3837]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 3837) to amend the Homeland Security Act of 2002 to provide for clarification on the use of funds relating to certain homeland security grants, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Purpose and Summary	3
Background and Need for Legislation	3
Hearings	4
Committee Consideration	4
Committee Votes	5
Committee Oversight Findings	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Congressional Budget Office Estimate	5
Statement of General Performance Goals and Objectives	6
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	6
Federal Mandates Statement	6
Advisory Committee Statement	7
Constitutional Authority Statement	7
Applicability to Legislative Branch	7

Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	9
Additional Views	12

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Strengthening and Updating Resources and Equipment Act” or the “SURE Act”.

SEC. 2. CLARIFICATION ON USE OF FUNDS RELATING TO CERTAIN HOMELAND SECURITY GRANTS.

(a) **EQUIPMENT MAINTENANCE.—**

(1) **AMENDMENTS.—**Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—

(A) in subsection (a)(4), by inserting before the semicolon at the end the following: “, and any related maintenance agreements, user fees, or sustainment costs”; and

(B) in subsection (b)(3), by adding at the end the following new subparagraph:

“(C) **EQUIPMENT MAINTENANCE.—**

“(i) **IN GENERAL.—**The Administrator may not impose any time limitation, including any fiscal year limitation, on the use for covered maintenance costs of amounts awarded as a grant under section 2003 or 2004, that is in addition to the limitations described in this subsection

“(ii) **COVERED MAINTENANCE COSTS DEFINED.—**In this subparagraph the term ‘covered maintenance costs’ means costs of maintenance and sustainment costs described in subsection (a)(4) associated with equipment purchased with grant funds provided under section 2003 or 2004 for a prior fiscal year.”.

(2) **APPLICATION.—**The amendments made by this subsection shall apply to grants made under section 2003 or 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 605) on or after October 1, 2008.

(b) **SPECIFICATION OF INTENDED USE IN GRANT APPLICATIONS.—**

(1) **URBAN AREA SECURITY INITIATIVE GRANTS.—**Section 2003(c)(2) of the Homeland Security Act of 2002 (6 U.S.C. 604(c)(2)) is amended by striking “and” after the semicolon at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “; and”, and by adding at the end the following new subparagraph:

“(D) specification of the amount of grant funds the high-risk urban area plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year funds awarded under this section or section 2004.”.

(2) **STATE HOMELAND SECURITY GRANTS.—**Section 2004(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 605(b)(2)) is amended by striking “and” after the semicolon at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “; and”, and by adding at the end the following new subparagraph:

“(D) specification of the amount of grant funds the State plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year funds awarded under this section or section 2003.”.

(c) **GRANT GUIDANCE.—**Section 2002 of the Homeland Security Act of 2002 (6 U.S.C. 603) is amended by adding at the end the following new subsection:

“(d) **GRANT GUIDANCE.—**

“(1) **IN GENERAL.—**The Administrator shall—

“(A) not later than three months after the date of enactment of the Strengthening and Updating Resources and Equipment Act of 2009, issue guidance defining costs eligible to be paid with grants under sections 2003 and 2004 for equipment maintenance agreements, user fees, sustainment costs, and any other equipment-related costs, as the Administrator determines is appropriate; and

“(B) review and update such guidance as necessary.

“(2) **CONGRESSIONAL BRIEFING.—**The Administrator shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not less than five days before issuing any guidance, or announcing the award of any grant, under section 2003 or 2004.”.

PURPOSE AND SUMMARY

The purpose of H.R. 3837 is to amend the Homeland Security Act of 2002 to provide for clarification on the use of funds relating to certain homeland security grants, and for other purposes.

H.R. 3837 would prohibit the Federal Emergency Management Agency (FEMA) from placing a time limitation on Homeland Security Grant Program (HSGP) funds being used to maintain equipment purchased with prior year HSGP awards.

BACKGROUND AND NEED FOR LEGISLATION

The Homeland Security Grant Program (HSGP), which includes the Urban Areas Security Initiative and the State Homeland Security Grant Program, is intended to strengthen preparedness and response throughout the Nation to the risks associated with potential terrorist attacks. In this way, HSGP assists State, local, and Tribal partners build and sustain the capabilities necessary to protect prevent, protect against, respond to, and recover from acts of terrorism.

Since 2002, State, local, and Tribal governments have utilized HSGP funds to purchase highly-technical equipment that is required to keep their communities safe. A significant amount of this equipment requires expensive annual maintenance and sustainment in order to remain operational. Grant recipients have always been allowed to allocate a share of their future preparedness grant awards to maintain equipment that was previously purchased with HSGP funds.

On September, 22, 2009, FEMA informed States about some changes in its policy regarding the use of HSGP funds to maintain homeland security equipment. FEMA announced that it would not allow grantees to use future year HSPG awards to maintain and sustain equipment outside of the performance period of the grant that was used to originally purchase the equipment.

The policy that FEMA declared in September represented a major departure from past guidance and was widely viewed as risking a weakening of critical homeland security capabilities across the Nation. Many grantees only purchased specific equipment after receiving assurances from FEMA that they could use future HSGP grants to keep the equipment maintained. Many State, local, and tribal governments communicated to FEMA that they are unable to suddenly assume the maintenance costs in their budgets will be forced to cancel homeland security initiatives that keep their communities more secure, as a result of this policy change. Capabilities at risk of being reduced or lost as a result of the implementation of the September policy include: interoperable emergency communications, hazardous materials response teams, intelligence and information sharing, radiological detection and interdiction, and weapons of mass destruction detection systems.

There is also concern that FEMA's September maintenance policy will encourage government waste as State, local, and tribal governments will be forced to purchase new equipment with HSGP awards rather than spending a smaller amount of their award to maintain the equipment that they already purchased with HSGP funds.

Accordingly, H.R. 3837 would overturn FEMA's new policy regarding maintenance costs and permit HSGP funds to be used to cover the maintenance and sustainment costs of equipment purchased in previous years.

The Committee is pleased to acknowledge that just three days after the Full Committee approved H.R. 3837, FEMA issued an Information Bulletin rescinding its September 22, 2009 maintenance policy. While the issuance of the Information Bulletin is a positive development and is responsive to H.R. 3837, it does not have the force of law and can be easily supplanted by this or future Administrations. Accordingly, local and state grant recipients remain supportive of ensuring that State, local, and tribal authorities are allowed to allocate a portion of future HSGP funds to the maintenance of this critical homeland security equipment in statute.

HEARINGS

No hearings were held on H.R. 3837, however on October 27, 2009, the Subcommittee on Emergency Communications, Preparedness, and Response held an oversight hearing entitled "Preparedness: What has \$29 billion in homeland security grants bought and how do we know?" The Subcommittee received testimony from Hon. Timothy Manning, Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security; Ms. Kathy Crandall, Director, Office of Homeland Security & Justice Programs, Franklin County, Ohio; and Mr. David Maxwell, Director, Arkansas Department of Emergency Management. In addition, statements from the National Emergency Management Association and the National Governors Association against FEMA's September 22, 2009 equipment maintenance policy were entered into the hearing record by unanimous consent.

COMMITTEE CONSIDERATION

The Subcommittee on Emergency Communications, Preparedness, and Response considered H.R. 3978 on November 3, 2009, and forwarded the measure to the Full Committee for consideration with a favorable recommendation, by voice vote.

The Committee met on November 17, 2009, to consider H.R. 3837, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote. The Committee took the following actions:

H.R. 3837 was adopted, as amended, by voice vote.

The following amendments were offered:

An Amendment in the Nature of a Substitute offered by Ms. KILROY (#1); was AGREED TO by voice vote.

An Amendment by MR. DENT to the Amendment in the Nature of a Substitute (#1a); Page 1, after line 10, insert the following new subparagraph (and redesignate the subsequent subparagraphs accordingly): (A) in subsection (a)(2), by inserting before the semicolon at the end the following: "; and the Administrator may not require that such training must be certified by the Administrator if such training is conducted by the Department of Justice"; was WITHDRAWN by unanimous consent.

A unanimous consent request by MR. DENT to withdraw his amendment, was not objected to.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 3837.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3837, the “Strengthening and Updating Resources and Equipment Act”, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

NOVEMBER 19, 2009.

Hon. BENNIE G. THOMPSON,
*Chairman, Committee on Homeland Security,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3837, the SURE Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3837—SURE Act

CBO estimates that implementing H.R. 3837 would have no significant cost over the next five years. Enacting this legislation would not affect direct spending or revenues.

The bill would allow state and local governments to use funds awarded during fiscal year 2009 and thereafter through the State Homeland Security Program (SHSP) and the Urban Areas Security Initiative (UASI) for the maintenance costs of equipment purchased under the program in previous years.

The SHSP provides grants to states to prepare for, protect against, and respond to acts of terrorism and other catastrophic events. The UASI provides grants to high-threat, high-density urban areas for similar purposes. Under current law, grant funds

may be used to pay for maintenance agreements, user fees, and other costs of equipment purchased under those programs. Following the performance period of the grant used to purchase equipment (three years), however, federal funds may no longer be used for maintenance. H.R. 3837 would provide that maintenance costs otherwise eligible for funding under the grant programs be included as an allowable expense regardless of when the equipment was purchased.

For 2010, the Congress has provided about \$1.8 billion for SHSP and UASI. Under current law, the Congress also has authorized appropriations totaling \$4.35 billion for both programs in fiscal years 2011 and 2012. CBO does not expect that the changes included in this legislation would significantly alter expenditures of the grant programs. We estimate that implementing H.R. 3837 would have no effect on the federal budget over the next five years.

H.R. 3837 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Daniel Hoople. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3837 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3837 contains the following general performance goals, and objectives, including outcome related goals and objectives authorized.

H.R. 3837 clarifies the definition of permissible uses for HSGP to allow recipients to use their awards to maintain and sustain equipment purchased with previous HSGP awards. This legislation will ensure that State, local, and tribal officials are able to build and sustain national preparedness capabilities, which are the primary objectives of HSGP. And, that this legislation also eliminates the use of fiscal time restraints for these funds.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 1, which grants Congress the power to provide for the common Defense of the United States.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section states that this act may be cited as the “Strengthening and Updating Resources and Equipment Act” or the “SURE Act”.

Section 2. Clarification on use of funds relating to certain homeland security grants

This section amends section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) to include the related maintenance agreements, user fees, and sustainment costs associated with purchasing, upgrading, storing, or maintaining equipment, as a permitted use of a grant awarded under section 2003 or section 2004 (6 U.S.C. 604 and 605), the Urban Area Security Initiative and the State Homeland Security Grant Program respectively. This section further amends section 2008 to prohibit the Federal Emergency Management Agency from imposing any time limitation, including fiscal year limitation, on a grant recipient using a grant awarded under Section 2003 or 2004 to maintain and sustain equipment that had been purchased with a prior fiscal year grant awarded under those two sections. Lastly, this section states that the amendments made to section 2008 shall apply to grants made under section 2003 or 2004 on or after October 1, 2008.

This section amends Section 2003 of the Homeland Security Act of 2002 to require that an urban area include in its application for the Urban Area Security Initiative the amount of the award it plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year grant funds awarded under Section 2003 or 2004.

This section amends Section 2004 of the Homeland Security Act of 2002 to require that the State include in its application for the State Homeland Security Grant Program the amount of the awards it plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year grant funds awarded under Section 2003 or 2004.

This section also amends Section 2002 of the Homeland Security Act of 2002 (6 U.S.C. 603) to require the Federal Emergency Management Agency to issue guidance within three months after enactment of the Act that defines costs eligible to be paid for with grants under sections 2003 and 2004 for maintenance agreements, user fees, and sustainment costs.

Finally, this section requires the Federal Emergency Management Agency to brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not less than five days before issuing any guidance or announcing any awards for grants under sections 2003 and 2004.

The Committee believes the Federal Emergency Management Agency's (FEMA) September 22, 2009 policy, which restricts the use future year preparedness grants to maintain homeland security equipment, violated Congressional intent. Section 2008(a)(4) of the Homeland Security Act of 2002 stipulates that the FEMA Administrator (Administrator) shall permit recipients to use grant funds for, "purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software." The Committee believes that this language clearly provides for a grant recipient to use funds, without fiscal year limitation, to maintain equipment so long as the Administrator determines that the activity the equipment supports is consistent with the purpose of the Homeland Security Grant Program (HSGP). H.R. 3837 further clarifies Congressional intent.

The Committee has learned that the Department of Homeland Security and FEMA have historically allowed grant recipients to allocate a share of their awards to maintain equipment. For example, the Chair of the Columbus, Ohio Urban Area Working Group testified before the Subcommittee on Emergency Communications, Preparedness, and Response that they had received approval from FEMA to use \$735,000 of their Fiscal Year 2009 award to maintain equipment they had previously purchased under the Urban Areas Security Initiative. Since the policy was announced in September, the Committee has been made aware of dozens of similar approved maintenance projects from multiple State and Urban Area grant recipients.

With the adoption of H.R. 3837, the Committee acknowledges the negative consequences that FEMA's September 2009 equipment maintenance policy will have on national capabilities, and the financial condition of State and local governments. The Committee intends through this legislation to require the Administrator to allow maintenance projects that FEMA had previously approved for Fiscal Year 2009 to be permitted to continue in future grant periods. The Committee is pleased that FEMA has recognized the oversight work of this Committee on this matter by appropriately repealing the September 2009 policy with the issuance of a new Information Bulletin on November 20, 2009. Notably, this new Information Bulletin was released just three days after the Committee approved H.R. 3837.

The Committee learned that FEMA's September 22, 2009 policy shift was initiated, at least in part, by a grantee asking FEMA for clarification on the costs eligible to be spent towards maintaining equipment. FEMA told the Committee that it has never defined the

eligible costs associated with equipment maintenance agreements, user fees, and sustainment costs in its annual HSGP guidance. In order to provide future clarity to grant applicants and recipients, H.R. 3837 directs FEMA to put forward guidance defining which eligible costs may be paid for with HSGP awards for purposes of satisfying the law, as provided in Public Law 110–53 and this Act, with respect to equipment maintenance and related costs. The Committee fully anticipates this guidance will be in accordance with the Office of Management and Budget Circular A–87, Cost Principles for State, Local, and Indian Tribal Governments. The Committee intends for FEMA to look to the OMB Circular and other existing sources to inform FEMA’s guidance development. The Committee does not intend FEMA to interpret this guidance in a way that will onerously restrict grantees from appropriately using HSGP funds to maintain vital homeland security equipment.

The Committee believes it is important that FEMA develop the capacity to monitor how much HSPG funding is being utilized to maintain and sustain homeland security equipment. To assist FEMA in building this capacity and increase the transparency of HSGP, the act requires State and Urban Areas to include in their HSGP applications the amount of funding they intend to allocate to maintain equipment previously purchased with HSGP funding.

The Committee makes a special note about the Act’s briefing requirements. The Committee is troubled that it was not briefed or otherwise notified by FEMA of their decision to change the permitted uses of HSGP for equipment maintenance prior to the change in policy in September 2009. In order to ensure the Committee is fully aware of FEMA’s management of HSGP, the Act requires FEMA to brief the Committee five days prior to any announcing any guidance and awards, including Information Bulletins, for HSGP. The Committee believes that providing such notification will allow the Committee and its Members to conduct proper ongoing oversight.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

Subtitle A—Grants to States and High-Risk Urban Areas

SEC. 2002. HOMELAND SECURITY GRANT PROGRAMS.

(a) * * *

* * * * *

(d) GRANT GUIDANCE.—

(1) IN GENERAL.—*The Administrator shall—*

(A) not later than three months after the date of enactment of the Strengthening and Updating Resources and Equipment Act of 2009, issue guidance defining costs eligible to be paid with grants under sections 2003 and 2004 for equipment maintenance agreements, user fees, sustainment costs, and any other equipment-related costs, as the Administrator determines is appropriate; and

(B) review and update such guidance as necessary.

(2) CONGRESSIONAL BRIEFING.—*The Administrator shall brief the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate not less than five days before issuing any guidance, or announcing the award of any grant, under section 2003 or 2004.*

SEC. 2003. URBAN AREA SECURITY INITIATIVE.

(a) * * *

* * * * *

(c) APPLICATION.—

(1) * * *

(2) MINIMUM CONTENTS OF APPLICATION.—*In an application for a grant under this section, a high-risk urban area shall submit—*

*(A) * * **

(B) the name of an individual to serve as a high-risk urban area liaison with the Department and among the various jurisdictions in the high-risk urban area; [and]

(C) such information in support of the application as the Administrator may reasonably require[.]; and

(D) specification of the amount of grant funds the high-risk urban area plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year funds awarded under this section or section 2004.

* * * * *

SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.

(a) * * *

(b) APPLICATION.—

(1) * * *

(2) MINIMUM CONTENTS OF APPLICATION.—*The Administrator shall require that each State include in its application, at a minimum—*

*(A) * * **

(B) a description of how the State plans to allocate the grant funds to local governments and Indian tribes; [and]

(C) a budget showing how the State intends to expend the grant funds[.]; and

(D) specification of the amount of grant funds the State plans to allocate to maintain and sustain target capabilities, including equipment, that have been supported with prior fiscal year funds awarded under this section or section 2003.

* * * * *

SEC. 2008. USE OF FUNDS.

(a) PERMITTED USES.—The Administrator shall permit the recipient of a grant under section 2003 or 2004 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, through—

(1) * * *

* * * * *

(4) purchasing, upgrading, storing, or maintaining equipment, including computer hardware and software, and any related maintenance agreements, user fees, or sustainment costs;

* * * * *

(b) LIMITATIONS ON USE OF FUNDS.—

(1) * * *

* * * * *

(3) LIMITATIONS ON DISCRETION.—

(A) * * *

* * * * *

(C) EQUIPMENT MAINTENANCE.—

(i) IN GENERAL.—The Administrator may not impose any time limitation, including any fiscal year limitation, on the use for covered maintenance costs of amounts awarded as a grant under section 2003 or 2004, that is in addition to the limitations described in this subsection

(ii) COVERED MAINTENANCE COSTS DEFINED.—In this subparagraph the term “covered maintenance costs” means costs of maintenance and sustainment costs described in subsection (a)(4) associated with equipment purchased with grant funds provided under section 2003 or 2004 for a prior fiscal year.

* * * * *

ADDITIONAL VIEWS

I continue to support the underlying legislation, H.R. 3837, but provide these additional views to provide additional background information and articulate my understanding of an agreement between Chairman Thompson and myself reached during consideration of H.R. 3837. As a result of this agreement, I withdrew my amendment, which would have prohibited the Federal Emergency Management Agency (FEMA) from requiring the Department of Justice to submit its course curriculums to FEMA for certification prior to grant awardees being authorized to attend such courses.

In exchange for my withdrawing my amendment, the Chairman and his staff agreed to find appropriate legislative text that would allow grantees to attend the bomb technician course at the Federal Bureau of Investigation's Hazardous Devices School, and insert such text in H.R. 3837 through an amendment before moving the legislation to the floor, presumably under the "Suspension of the Rules" process.

By way of background, in July of this year I was contacted by the Northeast Pennsylvania Regional Counterterrorism Task Force and informed that FEMA was preventing two Pennsylvania police departments from sending their employees to the FBI's Hazardous Device School to become bomb technicians. The reason—FEMA hadn't certified the FBI's bomb technician course.

According to a letter from FEMA Administrator Fugate entered into the record, "internal restrictions and broader concerns" prevented the FBI from sharing the details of its bomb technician course material with FEMA. As a result, FEMA refused to certify the FBI's training as sufficient and State and locals could not use grant funding to attend. It should be noted that FEMA Administrator Fugate promptly provided these two police departments exceptions to attend the course. Though I have not seen it in writing, I have been told that FEMA would now grant similar waivers if so requested.

The bureaucracy of this process remains troubling. The current process requires a FEMA employee to *certify* that the FBI's bomb technician course material is sufficient. The Hazardous Devices School is a joint effort between the FBI and the U.S. Army, and it is the government's *only* civilian bomb school. It has trained nearly 20,000 bomb technicians since its inception and provides training to the Nation's over 450 bomb squads. In 2004, the FBI invested another \$25 million to make further upgrades to this state-of-the-art facility.

One could understand FBI's hesitation to share the intricacies of making and diffusing bombs outside of close law enforcement communities, and if FBI employees conduct this training, it makes little sense for FEMA to insist on reviewing the FBI's course material. While I understand and support FEMA's ability to have a sig-

nificant voice on what training grant funding pays for, my amendment balanced these two concerns.

My amendment would have required that grant funding used to conduct training related to preventing, preparing for, protecting against, and responding to acts of terrorism, that are consistent with State homeland security plans and are conducted by the Department of Justice, would not have to be certified by FEMA. However, the language would still have given FEMA the final say if the training provided no counterterrorism nexus or was inconsistent with the State's homeland security plan.

The amendment would have only impacted those courses FEMA determined instructed attendees on how to prevent, prepare for, protection against, and respond to acts of terror, that FEMA determined was consistent with a State homeland security plan and relevant local, tribal, and regional plans, and that are conducted by the Department of Justice.

Some would argue this amendment was too broad. I would argue it was probably not broad enough. It would only have applied to the Department of Justice's counterterrorism-related courses. There are other courses offered by other Departments and agencies that are probably just as worthy. However, the FBI and the Department of Justice clearly have extensive counterterrorism expertise and I would not want them to be second-guessed by FEMA personnel.

Others would argue this amendment was unnecessary, and that FBI and DHS should just "work it out," and that what is needed is a little "interagency coordination." I agree. However, when interagency cooperation fails, the legislative process is the only way we can mandate that they "work it out."

I am grateful that Chairman Thompson recognized the logic of my arguments and agreed to work with me to remedy the current situation before moving H.R. 3837 to the floor through the suspension process.

CHARLES W. DENT.

