

HOMELAND SECURITY GRANT MANAGEMENT
 IMPROVEMENT ACT

NOVEMBER 30, 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

[To accompany H.R. 5562]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5562) to amend the Homeland Security Act of 2002 to prohibit requiring the use of a specified percentage of a grant under the Urban Area Security Initiative and State Homeland Security Grant Program for specific purposes, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 5562 is to amend the Homeland Security Act of 2002 to prohibit requiring the use of a specified percentage of a grant under the Urban Area Security Initiative and State Homeland Security Grant Program for specific purposes, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Homeland Security Grant Program (HSGP) is a primary funding mechanism for building and sustaining National preparedness capabilities through supporting State and local government efforts to address the risks of terrorism. The HSGP is comprised of five interconnected grant programs: State Homeland Security Program (SHSP), Urban Areas Security Initiative (UASI), Operation Stonegarden (OPSG), Metropolitan Medical Response System (MMRS), and Citizen Corps Program (CCP). Together, these grants fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration.

Section 2008 of the Homeland Security Act of 2002 [6 U.S.C. 609] describes the purpose of the Homeland Security Grant Program (HSGP) as “achieving 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.” The Federal Emergency Management Agency (FEMA) requires that each State—as well as each urban area receiving Urban Areas Security Initiative homeland security funding—develop a homeland security strategy that identifies the target capabilities they want to build and sustain using HSGP funding.

In the past, FEMA has required State and local jurisdictions to use a percentage of their HSGP award for a specific capability even if the grant recipients have not identified it as a target capability that they need to build with Federal funding. For example, in 2008, FEMA required all HSGP grant recipients to spend 25 percent of their awards on improvised explosive device (IED) prevention and protection activities irrespective of whether a State or urban area was facing an IED threat or had previously spent other funds on such capabilities. The Committee believes that State and local governments, with guidance from Federal authorities, are in the best position to understand which homeland security target capabilities need additional resources. Seeking to prevent the imposition of blanket mandates, Representative Laura Richardson (D-CA), the Chairwoman of the Subcommittee on Emergency Communications, Preparedness, and Response, introduced H.R. 5562 to prohibit FEMA from requiring HSGP grant recipients to spend a specific percentage of their awards on non-statutory set-asides. Statutory directives, such as the 25 percent for the Law Enforcement Terrorism Prevention Program required under Section 2006 of the Homeland Security Act of 2002 (6 U.S.C. 607), are unaffected.

Another aspect of the HSGP program that may need reform relates to management and administration of these grant funds on the State and local level. Specifically, prior to 2007, FEMA permitted States and local governments to retain up to 5 percent of

their grant award to manage and administer (M&A) the program. Eligible M&A expenses include managing the entire 3 year life-cycle of the grant from procurement to close-out, financial and programmatic monitoring, technical assistance to subgrantees, and completing FEMA data-calls and requirements. Pursuant to the Implementing Recommendations of the 9/11 Commission Act of 2007, the cap on eligible M&A expenses was lowered to not more than 3 percent of the award (Section 2008(a)(1)/6 U.S.C. 609(a)(11)).

In recent years, grantees have indicated that as a result of the change in the cap for M&A expense they do not have the resources to properly manage and administer HSGP. The National Governors Association, in testimony submitted at the Subcommittee on Emergency Communications, Preparedness, and Response hearing on October 27, 2009, stated that:

“The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) limited M&A to only three percent of the grant award, which has put a strain on the ability of states to fulfill their management and oversight responsibilities and meet the increasing reporting requirements of the grant programs. The often short deadlines associated with the grant programs further exacerbate the challenges facing State Administrative Agencies and highlight the need for additional resources. Given the increased emphasis on accountability and to ensure the effective use of grant funding, allowing five cents of every dollar to support the planning, management and oversight of the funds is a wise investment.”

Further, in FEMA’s January 2009 report, “Analysis of State and Local Officials’ Views on Federal Preparedness Requirements,” State and local grant recipients suggested the M&A cap should be raised to 10 percent, the same level that exists in many Federal criminal justice grants to localities.

To ascertain whether the M&A cap warrants adjustment, H.R. 5562 directs FEMA, in consultation with the National Advisory Council, to evaluate whether State and local governments have the resources necessary to optimally manage their HSGP awards. Specifically, the bill would require FEMA to evaluate the historical trends in M&A expenditures and determine whether the percentage authorized under the Implementing Recommendations of the 9/11 Commission Act is adequate to ensure proper oversight, management, and administration of grant awards.

Over the years, State and local governments have repeatedly expressed concern about the way that FEMA issues guidance for the program. According to FEMA’s 2009 “Analysis of State and Local Officials Views on Federal Preparedness Requirements,” a majority of State and local governments expressed concern with the HSGP grant guidance and application process, including:

- The grant guidance is not as simple and understandable as it should be to effectively support State efforts to enhance levels of capability;
- The high volume of year-to-year changes in the grant guidance limits a State’s ability to “conduct effective, goal-oriented, multi-year planning;” and

- FEMA regularly issues the grant guidance late or over the holidays, making it harder for State and local governments to submit quality applications within the required timeframe.

To streamline the guidance and application procedures for HSGP, H.R. 5562 requires FEMA, in consultation with the Department of Homeland Security's Chief Financial Officer, to evaluate the feasibility of issuing multi-year program guidance for HSGP.

Multi-year guidance could help State and local governments—who are the front-line of keeping our communities secure—establish better long-range homeland security planning and ensure that HSGP funding supports only the most effective projects.

HEARINGS

No legislative hearings were held on H.R. 5562.

However, on October 27, 2009, the Subcommittee on Emergency Communications, Preparedness, and Response held a hearing entitled, "Preparedness: What Has \$29 Billion in Homeland Security Grants Bought and How Do We Know?" The Subcommittee received testimony on H.R. 3837 and FEMA's new equipment maintenance policy for the Homeland Security Grant Program from Hon. Timothy Manning, Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security; Ms. Kathy Crandall, Director of Homeland Security and 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 were entered into the record. The National Governors Association statement emphasized the need for FEMA to provide States with greater flexibility to target federal homeland security grants to their most pressing needs, and encouraged Congress to provide grantees with additional funding for grant management and administrative purposes.

Further, on June 29, 2010, the Subcommittee on Emergency Communities, Preparedness, and Response held a hearing entitled, "The Future of FEMA's Grant Programs Directorate." The subcommittee received testimony from Hon. Elizabeth Harman, Assistant Administration for Grant Programs Directorate, Federal Emergency Management Agency, U.S. Department of Homeland Security; Ms. Anne Richards, Assistant Inspector General for Audits, Office of the Inspector General, U.S. Department of Homeland Security; Chief Alan Patalano, Fire Chief, City of Long Beach, California; and Ms. MaryAnn Tierney, Managing Deputy Director, Office of Emergency Management, City of Philadelphia, Pennsylvania. Chief Patalano and Ms. Tierney reiterated the need for Congress and FEMA to reevaluate the 3 percent statutory limit on management and administrative activities for the Homeland Security Grant Program. Ms. Richards, testifying on the results of an Inspector General Audit, "Efficacy of DHS Grant Programs," suggested that FEMA could take steps to streamline grant guidance.

COMMITTEE CONSIDERATION

The Committee met on June 23, 2010, to consider H.R. 5562, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

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 votes were requested during consideration of H.R. 5562.

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. 5562, the Homeland Security Grant Management Improvement 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.

JULY 1, 2010.

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. 5562, the Homeland Security Grant Management Improvement 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. 5562—Homeland Security Grant Management Improvement Act

H.R. 5562 would prohibit the Federal Emergency Management Agency (FEMA) from requiring that a specific proportion of grant funds from the State Homeland Security Program (SHSP) and Urban Area Security Initiative (UASI) be spent on any particular authorized activity. The legislation also would require FEMA to conduct two studies related to the SHSP and UASI. CBO estimates that implementing H.R. 5562 would have no significant cost. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

H.R. 5562 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 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. H.R. 5562 would prohibit FEMA from requiring that state and local governments use a percentage of SHSP and UASI grant funds on a particular authorized activity, unless otherwise directed by law. The legislation would not affect the authority of FEMA to restrict funding for grant administration. CBO estimates that implementing this provision would not significantly alter the expenditures of the grant programs.

H.R. 5562 also would require FEMA to examine the use of SHSP and UASI funds for administrative expenses and the feasibility of issuing multiyear program guidance for each program. The agency would report to the Congress on its findings within 180 days of enactment. CBO estimates that undertaking those studies would have an insignificant cost in 2011. Such spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Daniel Hoople. The estimate was approved by Peter H. Fontaine, 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.

H.R. 5562 amends the Homeland Security Act of 2002 in order to improve the Federal Emergency Management Agency and State and local governments' management of the Homeland Security Grant Program.

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 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 au-

thority 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

The short title of this bill is the “Homeland Security Grant Management Improvement Act.”

Section 2. Prohibition on requiring use of grants under Urban Area Security Initiative and State Homeland Security Grant Program for Specific Purposes

This section would prohibit the Administrator of the Federal Emergency Management Agency (FEMA) from requiring recipients of Homeland Security Grant Program awards—authorized under Sections 2003 and 2004 of the Homeland Security Act of 2002 (6 U.S.C. 604 and 6 U.S.C. 605 respectively)—to spend a specific percentage of their award on non-statutory set-asides.

Section 3. Study of percentage of grant funds authorized for administration expenses

This section would require the FEMA Administrator, in consultation with the National Advisory Council, to (1) study the historic management and administration expenditures of Homeland Security Grant Program recipients; and (2) evaluate and determine whether the current cap on Management and Administration (M&A) expenses is adequate to ensure proper oversight, management, and administration of the grant awards. The FEMA Administrator is required to submit the evaluation to Congress not later than 180 days after enactment of the Act to inform legislative adjustments to ensure proper oversight, management, and administration of grant awards.

Section 4. Study of feasibility of multi-year grant program guidance

This section requires the FEMA Administrator, in consultation with the National Advisory Council and the Department of Homeland Security’s Chief Financial Officer, to evaluate the feasibility of issuing multi-year program guidance for the Homeland Security Grant Program and to report back to Congress on the findings of the feasibility study not later than 180 days after enactment of the Act.

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 (new matter is printed in italic

and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

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TITLE XX—HOMELAND SECURITY GRANTS

* * * * *

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

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SEC. 2008. USE OF FUNDS.

(a) * * *

(b) LIMITATIONS ON USE OF FUNDS.—

(1) * * *

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(3) LIMITATIONS ON DISCRETION.—

(A) * * *

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(C) PROHIBITION ON REQUIRING USE OF GRANTS FOR SPECIFIC PURPOSES.—Unless required by statute, the Administrator may not require the recipient of a grant under section 2003 or 2004 to use a specific percentage of the amount of the grant for any one of the permitted uses described in paragraphs (1) through (10) or (12) through (13) of section 2008(a).

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