Homeland Security Advisory Council
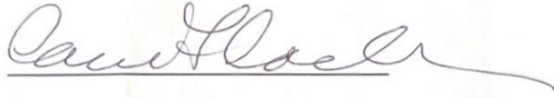
Homeland Security Grant Program Review Subcommittee

Homeland Security Advisory Council
September 14th, 2023

Homeland Security

This publication is presented on behalf of the Homeland Security Advisory Council (HSAC) Homeland Security Grant Program Review Subcommittee Chaired by Carrie Cordero for the Secretary of the Department of Homeland Security, Alejandro N. Mayorkas.

Carrie Cordero, Chair

Senior Fellow and General Counsel

Center for a New American Security

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EXECUTIVE SUMMARY

On March 27th, 2023, Secretary Mayorkas tasked the HSAC with forming a subcommittee to review funding distribution and allocation for the Homeland Security Grant Program (HSGP). FEMA administers 16 competitive and non-competitive preparedness grants totaling almost $2 billion dollars per fiscal year (FY).[1] The subcommittee reviewed one set of these grants, the HSGP. The program is divided into three subcomponents: the State Homeland Security Program (SHSP), the Urban Area Security Initiative (UASI), and Operation Stonegarden (OPSG). The HSGP was established by Congress in 2003 with the intention of fortifying the United States' capabilities to both prevent terrorist attacks and respond appropriately to occasions when they occur. To achieve this, the HSGP allocates funding to state, local, tribal, and territorial (SLTT) governments to support these safety and violence prevention goals. Altogether, in FY23, the HSGP was authorized to distribute $1.12 billion annually. As homeland security threats have evolved over the last 20 years, the HSGP has experienced little evaluation or assessment as to ensure administrative congruence with the current threat environment.

In recognition of these impediments, the Secretary tasked this Subcommittee with reviewing the program and stakeholder feedback, and providing recommendations with insight into:

- How the Department should assess and rank terrorism risk at the national, state, and local levels.
- Whether current congressional direction that Metropolitan Statistical Areas (MSAs) that comprise 85% of the national risk threshold eligible to receive UASI funding reflects the current threat environment.
- How the Department should provide funding to states and MSAs.
    - Whether funding should be distributed to recipients through State Administrative Agencies (SAAs) or directly.
    - How SAAs can reduce the administrative burdens of the application process within their states.
    - The appropriate state and local allocations, including allowable administration percentages.
- Whether funding should be annual or multi-year awards, and what the respective performance periods should be.
- Whether grant programs should be bifurcated or new grant programs should be created to account for:
    - large, heavily funded and smaller, seldom funded jurisdictions;
    - sustainment of existing capabilities and capacity building; and
    - funding distributed among emergency management, law enforcement, and fire fighters.
- Qualified uses of grant funding, including percentages of Law Enforcement Terrorism Prevention Activities (LETPA).

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[1] See Appendix 3.

In preparation for this report, the Subcommittee was briefed by stakeholders, subject matter experts, and leaders from the Department of Homeland Security (DHS) Office of Intelligence & Analysis (I&A), Federal Emergency Management Agency (FEMA), fire management organizations, law enforcement agencies' officials, and state administrative agencies (SAAs). Members heard consistent themes, matching the concerns outlined at the outset of the review process, including a lack of transparency on the program's risk methodology and limited collaboration between state and local jurisdictions, as well as between emergency management services and law enforcement.

The Subcommittee makes the following primary findings:

1. The risk methodology that is used to determine which localities receive SHSP and UASI funds is confusing and lacks transparency;
2. The original statutory framework that designated the FEMA Administrator as the mandated DHS grant program manager limits the Secretary's ability to effectively manage the Department over time;
3. The Threat Hazard Identification Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) strategy, which is administered by FEMA, poses one of the biggest obstacles and challenges in grant funding allocation;
4. Underlying tensions between states and MSAs exist due to funding distribution methods;
5. Direction as to whether funding should go towards sustainment or capability building is unclear; and
6. Minimum spend requirements for funding and their qualified uses do not properly capture the current complex and diverse threats facing states and urban areas.

To address these findings, we make the following policy and legislative recommendations to DHS:

(1) Policy Recommendations

1. Eliminate, or at least significantly modify and streamline, the DHS threat risk methodology to better quantify and inform grant funding allocation (responsive to Findings 1 and 3, in particular);
2. Create an interagency task force comprised of DHS, DOJ, and IC representatives to more effectively coordinate the development of a comprehensive threat index (responsive to Finding 1, in particular); and
3. Appoint a senior official in the secretary's office to oversee grant funding allocation and implementation (responsive to Findings 1 and 2, in particular).

(2) Legislative Recommendation

4. Propose amendments that provide the Secretary with more flexibility in the HSGP grant allocation process (responsive to Finding 2, in particular);

5. Propose amendments that permit multi-year funding awards of grants while accounting for what is achievable in the budget cycle and the current threats being targeted (responsive to Findings 3, 5 and 6, in particular); and
6. Propose amendments that allow DHS to directly award certain UASI grants to MSAs, bypassing SAAs in select circumstances to ensure as much funding as is available goes towards direct threat priorities of the urban areas (responsive to Findings 4 and 6, in particular).

The findings and recommendations are done with the recognition that these grant programs have become, over time, both entrenched from the post 9/11 era while also needed by communities around the country as a source of critical funds. As a result, the findings and recommendations are intended to: (i) modernize the threat analysis that drives the disbursement of funds; (ii) improve the process for administering the grants while avoiding unnecessary bureaucratic reshuffling; and (iii) provide the Secretary of Homeland Security (both current and future) with greater flexibility to manage the Department's administration of these grant programs in line with national priorities, effective stewardship of taxpayer dollars, and strengthening partnerships across the homeland security enterprise.

METHODOLOGY

In carrying out the Secretary's tasking, the Subcommittee met with subject matter experts at the federal, state, and local levels. The Subcommittee held a series of roundtable discussions with various state and local stakeholder groups including law enforcement officers, firefighters, and emergency managers to obtain insights and observations on their experience with HSGP. The Subcommittee also met with subject matter experts from FEMA's Grant Programs Directorate (GPD) who provided insight on current program operations, the risk methodology applied to homeland security grants, and challenges faced by the Department. To acquire an in-depth understanding of how the Department assesses and ranks terrorism risk, the Subcommittee heard directly from leaders in the DHS I&A and FEMA, as those two components work collaboratively to produce the formula assessing threats, risks, and vulnerabilities of eligible grant recipients. The Subcommittee sought to clarify the program's risk methodology, identify areas that lack transparency and communication between grantors and grantees, and define state and local administrative roles in the grant process.

Furthermore, the Subcommittee reviewed relevant legislation, the 2016 HSAC Grant Review Task Force Report, the 2023 U.S. Government Accountability Office Countering Violent Extremism Report, in addition to various supplementary DHS memoranda and briefing documents and slides on the status of HSGP's implementation and effects. Based on expert and stakeholder input, supplemental research, and the experiential insight of its members, the Subcommittee worked to identify substantive and meaningful recommendations to improve the Department's grant programs and offer meaningful solutions to expand its transparency and efficacy in allocating funding.

The Subcommittee reviewed three grant programs.[2] Each state has a State Administrative Agency (SAA). All three grant programs require that applicants within the state route their applications through their respective SAA. SAAs are required to pass-through at least 80% of SHSP and UASI funding to local or tribal units of government and entitled to retain up to 20% for state administrative functions. The pass-through requirement does not apply for OPSG. Also, the pass-through requirement does not apply to SHSP awards made to the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(1) State Homeland Security Program (SHSP)

The SHSP is intended to assist efforts to build, sustain and deliver the capabilities necessary to prevent, prepare for, protect against, and respond to acts of terrorism. The SHSP allocates funding to states based on a risk formula and requires states to pass funding to local jurisdictions. All 56 states and territories are eligible to apply for SHSP funds. In FY23, $415 million was awarded across all states and territories under the SHSP.

(2) Urban Areas Security Initiative (UASI)

The UASI is intended to provide financial assistance to address the planning, organization, equipment, training, and exercise needs of designated urban areas, and to assist them in building and sustaining capabilities to prevent, protect against, mitigate, respond to, and recover from threats or acts of terrorism using the whole community approach. UASI funds are block grants to designated urban areas based on a formula to measure man-made threats. Eligible high-risk urban areas for the FY 2023 UASI program are determined through an analysis of relative risk of terrorism faced by the 100 most populous metropolitan statistical areas (MSA) in the United States. In FY23, $615 million was awarded across all eligible urban areas.

Allocation Requirements for both SHSP and UASI

Each SHSP and UASI applicant must allocate a required minimum spend amount to five of the six defined National Priority Areas (NPAs). Fifteen (15) percent is mandated in minimum spending across five of the six NPAs, but there is flexibility on the remaining 15% required to meet the overall 30% minimum spend requirement. In FY23, SHSP and UASIs were required to spend at least 3% on the following five of the six NPAs:

- *Enhancing the protection of soft targets/crowded places*
- *Enhancing information and intelligence sharing and analysis*
- *Combating domestic violent extremism*
- *Enhancing community preparedness and resilience*
- *Enhancing election security[3]*

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[2] See Appendix 4 for historic funding breakdown by fiscal year from 2019-2023.
[3] Election security, as a designated critical infrastructure sector and national priority, was included under these terrorism-related grants.

In FY23, SAAs are required to allocate at least 35% of their SHSP and UASI awards to Law Enforcement Terrorism Prevention Activities (LETPAs).

(3) Operation Stonegarden Grant Program (OPSG)

OPSG is a grant for border communities' adjacent areas primarily to address border security. Funds are to be used for additional law enforcement personnel, overtime pay, general purpose equipment, and travel and lodging for the deployment of state and local personnel. In FY23, OPSG eligible subrecipients are local units of government at the county level or equivalent level of government and federally recognized tribal governments in states bordering Canada or Mexico and states and territories with international water borders. All applicants must have active ongoing U.S. Border Patrol operations coordinated through a Customs and Border Protection sector office to be eligible for OPSG funding. In FY23, $90 million was awarded under OPSG.

KEY FINDINGS

Finding #1: The risk methodology that is used to determine which localities receive SHSP and UASI funds is confusing and lacks transparency.

Beginning in FY23, DHS/FEMA began using a new mathematical calculation methodology called the Baseline variables, updated to reflect the current threat environment.[4] Using Baseline variables instead of constraints creates, according to DHS, a simpler and more transparent calculation. The threat component is ranked and assessed through DHS I&A and measured by three key factors: counterterrorism weighed at 80%, transnational organized crime (TOC) weighed at 10%, and cybersecurity weighed at 10%.

Despite the recent change, the risk methodology still presents as overly complex. One key concern among stakeholders is that the perspective and insights of SLTT entities are not adequately factored into the risk methodology. Another key concern among stakeholders is that there is a need for better information sharing between DHS, FBI, and the intelligence community (IC) to effectively inform the methodology. Sharing of threat information is vital to ensure accurate rankings.

For the UASI, I&A uses an analytic model to assign MSAs into one of four numerical levels. From highest to lowest, the terrorism threat levels are Level 1, Level 2, Level 3, and Level 4. Similarly, I&A assigns the various states and territories into one of three numerical levels in support of the SHSP. From highest to lowest, the terrorism threat levels are Level 1, Level 2, and Level 3.[5] Inclusion in each threat level is determined by and commensurate with the assessment of express and implied terrorism threat, conducted in accordance with I&A's terrorism threat methodology.

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[4] https://www.fema.gov/sites/default/files/documents/fema_gpd-shsp-fy-23-risk-methodology-updates.pdf
[5] I&A advises that it uses four levels for UASI because it includes 100 jurisdictions versus 56 in SHSP and they want to be able to differentiate threat more granularly among the higher quantity of jurisdictions.

The terrorism threat assessments are relative, meaning they represent a ratio of terrorism threat relative to the highest threat jurisdiction. Based on consultations with stakeholders, the Subcommittee was left with the impression that the implementation of the HSGP may be narrowly interpreting terrorism in allocating grant funds and determining the threat risk probability. The statutory basis for the grant programs is not so limited. In the current threat environment, which also includes activities variously categorized and defined as domestic terrorism, domestic violent extremism (DVE) and/or racially and ethnically motivated violent extremism (REMVE), policy guidance should be clarified to reflect the full scope of terrorism related activities covered by these grants.

Finding #2: The original statutory framework that designates the FEMA Administrator as the mandated DHS grant program manager limits the Secretary's ability to effectively manage the Department over time.

A fundamental challenge considered by the Subcommittee was that due to the original statutory framework establishing the grant programs, FEMA is required by law to serve as administrator of the grants. The scope of activities covered by the grants, however, is out of sync with FEMA's own substantive and critical responsibilities. FEMA does, however, have experience and expertise in administering grants. The Subcommittee considered whether grant distribution from the federal level to the state and local levels should be redesigned. The Subcommittee further considered whether the activities performed by FEMA in this capacity should be shifted elsewhere in the Department, including consideration of whether a new office should be created legislatively.

The Subcommittee found that there would be obvious downsides in recommending that the responsibilities be definitively moved out of FEMA at present. Importantly, FEMA has substantial experience and expertise in administering grants. As a matter of law, shifting responsibility and administration of certain grants from FEMA to an existing or newly created office within DHS Headquarters would require legislative change. As a matter of practice, doing so could potentially introduce bureaucratic duplication of capacity and expertise, thus introducing inefficiencies.

At the same time, the status quo leaves a lot to be desired. The Subcommittee was advised that a reason the program was initially designed to combine law enforcement, fire, and emergency management was to encourage collaboration and communication among stakeholders during crisis. Given the Department's maturity, however, it is no longer apparent why this initial justification demands that FEMA administer these terrorism focused grants. FEMA may not be the best agency to administer grants, from a substantive perspective. Communication and engagement with state and local agencies are inconsistent throughout the country. Layered bureaucracy in DHS causes SLTT agencies to receive delayed funding and poses a barrier to obtaining answers to questions on funding administration and usage.

Based on its limited review, however, and mindful of the challenges posed by obtaining new legislation and the disruption that could be caused by moving grant administration out of FEMA, the Subcommittee has stopped short in its recommendations of calling for an entirely

new office to administer the grants. Instead, the subcommittee recommends, below, that the Department and DHS pursue a legislative change that would provide the Secretary (current or future) with greater flexibility in the future to move the administration of the grant program, improve the risk methodology, and bolster headquarters oversight of the grant program. In short, the Subcommittee recognizes that, at present, it might cause more harm than good to mandate that HSGP administration be ripped out of FEMA and placed somewhere else. But, we think it should be the Secretary's call. At present, the legislation, and its interpretation, prevents the Secretary from being able to effectively manage the Department. Accordingly, that's the change we recommend, below.

Finding #3: The Threat Hazard Identification Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) strategy, which is administered by FEMA, poses one of the biggest obstacles and challenges in grant funding allocation.

Completed every three years by SHSP and UASI recipients, THIRA assesses 32 Core Capabilities, with funding allocated solely towards projects in those jurisdictions. The purpose of THIRA is to guide funding choices and projects receiving money through the grant program, but it is apparently not factored into the risk methodology score that determines the hierarchy of funding levels. As a result, the utility of the THIRA process is unclear.

Finding #4: Underlying tensions between states and MSAs exist due to funding distribution methods.

Consultations with HSGP stakeholders surfaced underlying tensions between stakeholder groups that contribute to frustrations with the grant programs. There is the tension between states and localities, and a tension between emergency management and law enforcement. Driving these tensions are the financial limits of the grant program itself, a lack of clear spending guidance, state/local funding allocation decisions, and shifting national priorities. SAAs manage funds allocated to the state, allowing them to pass up to 80% to local and tribal jurisdictions and reserving 20% for the state. While the risk methodology is important in helping allocate funding, future engagement must also confront some of these concerns so that DHS can make risk and policy-based decisions that best serve all stakeholders.

Through its review, the Subcommittee found that the administration of the grants varies widely among states. In major cities such as New York, Chicago, Los Angeles, and Miami, as examples, going through state capitals to distribute grant funds is likely unnecessary and overly bureaucratic. The value added by the SAAs in some circumstances is challenging to identify. SAAs prioritize grant distribution based on the needs across the state, which can be in tension with the needs of major cities. In addition, for some of the most sophisticated of urban areas, oftentimes their grant administration capabilities and resources far exceed the administrative resources and capabilities of the SAA. Yet, currently, UASI grant

administration does not recognize the obvious disparities that exist amongst major cities and urban areas.[6]

Finding #5: Direction as to whether funding should go towards sustainment or capability building is unclear.

The Subcommittee engaged with stakeholders to better understand whether grant programs should continue to be managed in a way that sustains current levels of grantmaking, or, whether greater attention should be paid to developing capabilities for the future in certain states and localities. One challenge faced by the Department and stakeholders is prioritization of preparedness activities. It is hard to measure preparedness. In addition, statutorily required assessments require extensive staff time and resources, more accurate benchmarks, and further alignment of capabilities to meet national priority areas.

The Subcommittee also considered whether grantmaking should be made through annual or multi-year awards, and what the respective performance periods should be. The Subcommittee assesses that greater attention and effort be placed on building in measures of how the grants are administered and effective over time, versus short-term, annual demonstration of ongoing need. In general, the Subcommittee observed that multi-year funding would likely allow for greater attention toward planning, implementation, and evaluation. The benefits of greater attention and effort placed on front-end planning and back-end assessment and evaluation would be realized through efficiencies saved by eliminating the annual re-application process.

Finding #6: Minimum spend requirements for funding and their qualified uses do not properly capture the current complex and diverse threats facing states and urban areas.

As indicated in the *Fiscal Year 2023 SHSP/UASI Risk Methodology Updates*, the threat risk methodology has been updated to better align to current complex and diverse threats. Across stakeholder groups, many are frustrated by the competing limitations placed on allocated funds. The HSGP requires 30% of the total SHSP and UASI allocation to be dedicated to the six National Priority Areas (NPA): enhancing protection of soft targets and crowded places; enhancing intelligence and information sharing; combatting domestic violent extremism (DVE); enhancing cybersecurity; enhancing community preparedness and resilience; and enhancing election security.[7] Additionally, the LETPA requirement adds another component. Differing definitions of terrorism reportedly create confusion on allowable spending on training and equipment, creating challenges for sustainment versus capacity building. There is tension between priorities at the state and local level and departmental/national priorities which drive risk assessment.

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[6] In-depth analysis of tribal capabilities to manage grants was beyond the scope of our limited review; however, the Subcommittee observes that further analysis would be useful to ensure that tribal capabilities and equities are appropriately factored into grant administration.

[7] FY 2023 Homeland Security Grant Program Key Changes, FEMA, February 27, 2023. Available at https://www.fema.gov/grants/preparedness/homeland-security/fy-23-key-changes, as of September 8, 2023.

RECOMMENDATIONS

(1) Proposed Policy Changes

Recommendation #1: Eliminate, or at least significantly modify and streamline, the DHS threat risk methodology to better quantify and inform grant funding allocation.

The Subcommittee recommends that the risk methodology be completely redesigned and substantially streamlined. Instead of past practice, DHS should develop a risk methodology that is meaningful, consistent, and coordinated across national and homeland security agencies and departments in the executive branch. SLLT input should be designed into the risk methodology process. Further, the Secretary should clarify in policy guidance that terrorism covered by these grant programs includes covers international and domestic terrorism. The policy guidance should clearly identify definitions that are being applied.

In addition, it is critical that the new risk methodology developed by DHS be articulated transparently, particularly as it relates to how geographical areas are assessed in terms of terrorism risk. The authorizing statutes for the UASI program note that MSAs comprising 85% of national risk are eligible for funding. While the Subcommittee did not come to a specific recommendation on this, it is clear that there are risks nationwide and that they could be better captured with a new methodology.

Lastly, DHS should also ensure an ongoing line of communication with grant applicants and recipients. It is important for the Department to understand the impacts of changes to the methodology on building capabilities, sustainment, and other larger reforms that may be needed.

Recommendation #2: Create an interagency task force comprised of DHS, DOJ, and IC representatives to more effectively coordinate the development of a comprehensive threat index.

The Subcommittee recommends that an interagency task force be created which will be best positioned to coordinate identification of the evolving terrorism threat picture that should be applied to the grant programs. By more effectively coordinating with the intelligence community to identify the full terrorism threat landscape, DHS can move away from formulas with varied weights, while still adhering to the statutory requirements to consider threat, consequence, and vulnerability. The federal interagency task force should ensure that state and local expertise is factored into the threat analysis.

Recommendation #3: Appoint a senior official in the Secretary's office to oversee grant funding allocation and implementation.

A key leadership priority should be ensuring that grants are allocated in line with the current and evolving threat environment. Establishing a senior official in the Secretary's office will provide direction of the task force identified in recommendation #2 and provide greater oversight over FEMA's grant administration, while not, at present, duplicating the functions that FEMA is performing. This senior official would help to ensure that the key major threats

across the country are aligned with funding allocation specific to those threats. This can help shift away from what has become tantamount to "entitlement funding" for some jurisdictions. This can also ensure clear direction on eligible spending for state recipients and local subrecipients, helping eliminate confusing and differing standards that are often encountered. Further, this individual can help ensure on-going communication with grant recipients (Recommendation #1) and subrecipients around process burdens.

(2) Proposed Legislative Changes

DHS and the administration should work with the congressional oversight committees to develop statutory reforms that allow the grant programs to adapt to the evolving threat environment while also providing the Secretary with greater flexibility to administer the grant programs effectively in the future.

Recommendation #4: Propose amendments that provide the Secretary with more flexibility to effectively manage the HSGP grant allocation process.

Amend the statutory authorization for the grant programs to permit the Secretary to effectively manage, move the administration of, or revise the programs, as needed. The legislative text governing these grant programs should be amended to enable the Secretary to designate a DHS component to perform a service of common concern for administering the grants. It may be that at any particular time, a DHS Secretary will determine that FEMA is, in fact, best positioned to perform this service on behalf of DHS. But legislative flexibility would also permit a Secretary to move the administration of the grants, if appropriate. DHS secretaries – present and future – should not be statutorily required to have any particular component, in this case FEMA, administer these grants.[8] This legislative recommendation, if implemented, would more effectively reflect the maturation of the Department since its creation twenty years ago, and provide future Secretaries of Homeland Security appropriate flexibility to manage these substantial grant programs.

Recommendation #5: Propose amendments that permit multi-year funding awards of grants while accounting for what is achievable in the budget cycle and the current threats being targeted.

Amend the statutory framework to permit multi-year funding. Multi-year funding should be a larger appropriation that allows grants to last for at least three years. Multi-year grants would enable greater stability for grantees and help them plan over a longer time horizon. This would support the goals of building capabilities and evaluating investments. Additionally, there are potential efficiencies found in grants application processes and

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[8] Arguably, this authority was contemplated by the Congress when it passed Section 872 of the Homeland Security Act, however, that authority has been limited by Congress in the intervening years, limiting the Secretary's capacity to re-organize the department, as a practical matter.

administration, for both states and localities, in eliminating the need for annual re-application.

Relatedly, strengthening the THIRA/SPR strategy to reflect the current threats communities face more accurately, including eliminating the THIRA, could support multiyear awards.

Recommendation #6: Propose amendments that allow DHS to directly award certain UASI grants to MSAs, bypassing SAAs in select circumstances to ensure as much funding as is available goes towards direct threat priorities of the urban areas.

The Subcommittee recommends that DHS launch a pilot program to allow selected UASI recipients to bypass the SAA and receive the complete amount of funding available. While information received by the Subcommittee during its review indicated that the most likely candidates for direct funding would be major urban areas that have established resources and capabilities to administer the grants effectively, DHS, under the leadership of the senior official proposed above in Recommendation #2, should develop criteria for determining which urban areas are best suited to receive direct funding. The Subcommittee recommends that this direct funding model take place under the construct of a pilot program, so that its effectiveness can be measured after a reasonable period of time. The pilot can be then evaluated for whether it is effective, and whether it can be expanded to all designated UASIs. For those urban areas that continue to receive funding via the SAAs, additional transparency is required to demonstrate that funding withheld by SAAs are directly tied to UASI support.

CONCLUSION

The HSGP was established twenty years ago with a specific, needed purpose: to assist communities to prevent, mitigate and recover from terrorist attack. Since then, the set of grants conducted under this program have continued to provide needed funds that communities have come to rely upon but require significant restructuring and modernization. The HSGP should be redesigned to better reflect the existing threat environment improve its transparency for determining grant eligibility. In order to accomplish these goals, the Secretary needs greater flexibility to effectively manage the Department, and these grant programs. This flexibility appears to require legislative amendments. Accordingly, the Subcommittee's findings and recommendations are intended to: provide guidance that prompts the modernization of the threat analysis that drives the disbursement of funds and provide the Secretary of Homeland Security (both current and future) with greater flexibility to manage the Department's administration of these grant programs.

APPENDIX 1: TASKING LETTER

Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

March 27, 2023

MEMORANDUM FOR: William J. Bratton and Jamie Gorelick
                                   Co-Chairs, Homeland Security Advisory Council

CC: Karen Tandy
                                   Vice Chair, Homeland Security Advisory Council

FROM: Alejandro N. Mayorkas
                                   Secretary

SUBJECT: New Homeland Security Advisory Council Subcommittees

I greatly appreciate the recently submitted HSAC reports on Intelligence and Information Sharing, Technology and Innovation Network, Supply Chain Security, and Openness and Transparency. The reports present thoughtful recommendations that we are looking forward to implementing with deliberate speed.

As signaled in our March 16, 2023 meeting, I respectfully request that the HSAC form new subcommittees to study and provide recommendations in four critical areas for our Department:

1. Development of the Department's Artificial Intelligence (AI) Strategy. This effort will be divided into two subcommittees. One will be focused on how the Department can best use AI to advance critical missions, and the other will be focused on how the Department should be building defenses to the nefarious use of AI in the control of an adversary.

2. Potential revisions to the homeland security grant programs, including the risk methodology that is applied, to ensure the Department is operating the programs optimally in light of the changed threat landscape over the past 20 years.

3. A wholesale review of the immigration Alternatives to Detention (ATD) programs, and

recommendations to modernize programs and make them more effective.

4. Potential revisions to the DHS workplace and workforce skill set. This effort will be divided into two subcommittees. One will review the Department's current diverse work environments from - secure spaces and ports of entry to remote offices - and make recommendations for the workplace of the future. The second subcommittee will assess the alignment of workforce skills with work responsibilities in discrete, critical mission areas.

These subjects are described in more detail below. I will follow up with you shortly regarding formation of the subcommittees.

I request that the HSAC submit its findings and key recommendations to me no later than 120 days from the date of this memorandum, consistent with applicable rules and regulations.

Thank you for your work on these important matters, your service on the HSAC, and your dedication to securing our homeland.

Artificial Intelligence (AI) Strategy

In November 2019, the HSAC issued a report titled *Emerging Technologies Final Report on AI and ML*, which outlined threats to the homeland from artificial intelligence and machine learning and provided recommendations to the Department. In December 2020, DHS issued the *DHS Artificial Intelligence Strategy*, which outlined the potential impacts of AI and addressed investments in AI capabilities, the mitigation of AI risks, its implications for workforce development, and how to improve public trust and engagement. The complex threat environment continues to evolve, as reflected in the rapid advances in AI over just the past few years. The Department must be equipped to leverage and address the advances with the nimbleness that the pace of advance requires.

DHS intends to ethically and responsibly leverage the potential of AI to transform its operations, and also recognizes that AI technology presents new risks and threats. AI technology can be used in innumerable ways, such as to identify and target inbound cargo that may present a potential risk to the U.S., and to create bots that increase employee efficiency. As the Department moves forward, AI must be embraced as a force multiplier and task facilitator; AI offers rich opportunities to improve the ways in which we accomplish our mission across DHS agencies and offices. The Department is currently working on congressionally mandated policy guidance, to be issued later this year, for our use of AI.

In light of the 2020 AI Strategy, the robust work underway to develop guidance, and the increased use of AI by adversaries who wish to cause harm, the HSAC will form two subcommittees. One will examine the use of AI to advance DHS's missions, and the other will examine threats AI poses to the security of our homeland and develop corresponding defense strategies.

The first subcommittee's review should include, but need not be limited to, the following:

1. An assessment of current and emerging AI uses in private sector enterprises and other government agencies.

2. An assessment of which DHS missions and operations could be most positively impacted by leveraging AI.

3. Recommendations on how DHS can ensure robust governance and oversight of AI use to prevent disparate impacts and algorithmic bias, and how DHS can most effectively communicate with the public, oversight entities, and other stakeholders to clearly explain its use of AI and build trust in it.

The second subcommittee's review should include, but need not be limited to, the following:

1. An assessment of ways in which our adversaries are already leveraging and could leverage AI in the future.

2. Recommendations on how DHS can best develop, including by investing in research and development, a forward-looking defensive strategy against adversarial AI.

Homeland Security Grant Program Review

In 2003, Congress established the Homeland Security Grant Program (HSGP), which includes three individual grant programs – the State Homeland Security Program (SHSP), the Urban Area Security Initiative (UASI), and Operation Stonegarden – to help bolster the nation's capabilities to prevent terrorist attacks. In the decades since, the grant programs have undergone only slight legislative revision despite the dramatically changed and evolving threat landscape. The Department has made modest changes to the risk methodology and the number of jurisdictions awarded UASI grants has fluctuated, but otherwise the HSGP has remained fairly static. Now, at the 20th Anniversary of the HSGP, a thorough review is warranted.

The Department has increasingly received feedback from stakeholders that the programs have become less transparent and collaborative. This feedback also surfaced underlying tensions between stakeholder groups, which contribute to frustrations with the grant programs. There is the tension between states and localities, and a tension between emergency management and law enforcement. Driving these tensions are scarce dollars, state and local funding allocation decisions, and shifting national priorities.

The HSAC will form a subcommittee to engage with subject matter experts and provide recommendations for the reform of the HSGP, with consideration of stakeholder feedback and inclusive of potential legislative reforms. Specifically, the review and recommendations should include, but need not be limited to, the following:

1. How the Department should assess and rank terrorism risk at the national, state, and local levels.

2. Whether current congressional direction that Metropolitan Statistical Areas (MSAs) that comprise 85% of the national risk threshold eligible to receive UASI funding reflects the current threat environment.

3. How the Department should provide funding to States and MSAs.

   a. Whether funding should be distributed to recipients through State Administrative Agencies (SAAs) or directly.
   b. How SAAs can reduce the administrative burdens of the application process within their states.
   c. The appropriate State and local allocations, including allowable administration percentages.

4. Whether funding should be annual or multi-year awards, and what the respective performance periods should be.

5. Whether grant programs should be bifurcated or new grant programs should be created to account for:

   a. large, heavily-funded and smaller, seldom-funded jurisdictions;
   b. sustainment of existing capabilities and capacity building; and
   c. funding distributed among emergency management, law enforcement, and fire fighters.

6. Qualified uses of grant funding, including percentages of Law Enforcement Terrorism Prevention Activities (LETPA).

Immigration Alternatives to Detention (ATD)

Individuals arriving at the border who are placed in removal proceedings should have their cases decided in an orderly, efficient, and fair manner. Certain individuals at the border can be detained while they are in removal proceedings. DHS's Alternatives to Detention (ATD) programs provide oversight of certain individuals who are released from DHS custody during the pendency of their removal proceedings. The ATD programs were developed to ensure compliance with release conditions, provide important case management services for non-detained noncitizens, and alleviate stress on detention facilities. ATD consists of multiple distinct subprograms, such as the Intensive Supervision Appearance Program (ISAP), Young Adult Case Management Program (YACMP), and the Case Management Pilot Program (CMPP). Each ATD program utilizes certain tools, such as technology and case management, to support noncitizens' compliance with release conditions while on ICE's non-detained docket and to increase court appearance rates. ATD has become an important tool to ensure non-detained individuals understand and comply with their obligations while they are in removal proceedings.

The HSAC will form a subcommittee to conduct a wholesale review of the ATD programs. The review should include, but need not be limited to, the development of recommendations on the following:

1. How the Department can more effectively ensure that individuals in removal proceedings remain in contact with ICE and accessible as required.

2. The identification of new ATD programs and areas of improvement for existing ATD programs.

3. Steps the Department should take to broaden ATD, improve the reach of ATD programs, and ensure that processes are in place to monitor the effectiveness of the ATD programs.

DHS Workforce and Development

Since the creation of DHS 20 years ago, the Department has confronted challenges of unprecedented breadth, ranging from global terrorism, ransomware, a rise in targeted violence, emergent humanitarian crises abroad, natural disasters, and much more. The Department has responded to the dynamic landscape with leadership, skilled personnel, cross-component collaboration, and new programs. The workplace model has also changed in dramatic ways, from allowing for more flexible work schedules to enabling remote work, including, for example, remote interviews of individuals seeking benefits that DHS administers. The Department looks to improve the current work environment and ensure it is adaptable and ready to meet future challenges. This aligns with the DHS 2023 priority to transform the Department's infrastructure to ensure it is a more productive and flexible workplace responsive to the needs of the workforce and the public.

The HSAC will form two subcommittees:

1. The first subcommittee will review the Department's current diverse work environments, from secure spaces and ports of entry to remote offices. The subcommittee is to provide recommendations on, among other things:

   a. Models for the next generation work environment that may be employed in different mission areas, to enable the DHS workforce to be prepared for a wide range of changes ahead.

   b. How DHS can leverage existing and emerging technology to enable mobile learning, cross-training, and services to develop a well-informed, skilled, and agile workforce that effectively meets evolving stakeholder needs.

2. The second subcommittee will assess the alignment of workforce skills with work responsibilities. The subcommittee is to provide recommendations on, among other things:

a. How the Department can effectively upskill and reskill certain elements of its workforce to expand their capabilities and enable them to more ably fulfill their evolving job responsibilities.

b. How the Department can, where necessary, effect workforce composition changes to ensure the alignment of skills with new or evolving work responsibilities.

APPENDIX 2: SUBJECT MATTER EXPERTS AND OTHER WITNESSES

Name	Title	Organization
Margaret Bartholomew	Cyber Intelligence Analyst	DHS Office of Intelligence and Analysis (I&A)
Chris Blanco	Chief Financial Officer	New York City Emergency Management
Lynn Budd	NEMA Secretary and Director	Wyoming Emergency Management
Lorraine Carli	Vice President of Outreach and Advocacy	National Fire Protection Association (NFPA)
Jermain Cherry	Chief of Police	NC A&T State University Police Department
Dean Chester	Acting Director	Transborder Security, DHS I&A
Dwayne Crawford	Executive Director	National Organization of Black Law Enforcement Executives (NOBLE)
Irma Diggs	Senior Executive and Director	Federal Advocacy, National League of Cities (NLC)
Stephanie Dobitsch	Deputy Under Secretary	DHS I&A
Laurie Doran	Director	New Jersey Office of Homeland Security and Preparedness
Susan Dzbanko	Interim Director	Arizona Department of Homeland Security
Brenda Goss Andrews	National President	NOBLE
Sam Grief	Deputy City Manager (Former Fire Chief)	Plano Texas Emergency Management
Karen Huey	Assistant Director of the Vice Chair of the GHSAC	Ohio Department of Public Safety
Joycelyn Johnson	Chief of Police	HBCU-LEEA
Aaron Kustermann	Chief Intelligence Officer	Illinois State Police
Ken LaSala	Director of Government Relations & Policy	International Association of Fire Chiefs (IAFC)
Charles Madden		
Brett Mattson	Legislative Director	Justice & Public Safety, NACo
Jonathan Mautner	Intelligence Analyst	DHS I&A
Jason Olin	Director of Government Affairs	Major Cities Chiefs Association
Yucel Ors	Legislative Director of Public Safety and Crime Prevention	NLC

Tom Osborne	Homeland Security (HLS) Deputy Director	California Governor's Office of Emergency Services (Cal OES)
Frank Pace	Administrator	Hawai'i Office of Homeland Security
Lori Anne Parker	Branch Chief	DHS I&A
Ron Prater	Executive Director	Big City Emergency Managers
Kevin Quinn	First Vice Chairman	National Volunteer Fire Council (NVFC)
Patrick Sheehan	NEMA President and Director	of Tennessee Emergency Management
Joshua Smith	Assistant to the General President	International Association of Fire Fighters (IAFF)
Chris Stallings		
Kim Stewart	Sheriff	Dona Ana County Sheriff's Office & Small and Rural Law Enforcement Executives Association (SRLEEA)
Shawn Talmedge	Vice Chair	NEMA HLS Committee and Director of the Virginia Emergency Management
Alicia Tate-Nadeau	Director	Illinois Emergency Management Agency, Chair of the Governors Homeland Security Advisors Council (GHSAC)
Cary Underwood	Director	Southern Nevada Counter Terrorism Center
Gene Voegtlin	Director	The International Association of Chiefs of Police
Laura Waxman	Director of Public Safety	The U.S. Conference of Mayors (USCM)
Pamela Williams	Assistant Administrator	FEMA Grant Programs Directorate (GPD)
Maggie Wilson	Supervisory Program Analyst	FEMA

APPENDIX 3: FEMA PREPAREDNESS GRANTS FOR FISCAL YEAR 2023

1. **Assistance to Firefighters Grants Program (AFGP)** – The AFGP funds critically needed resources to equip and train emergency personnel, enhance efficiencies and support community resilience. This program is comprised of the Assistance to Firefighters Grants (AFG), Fire Prevention & Safety (FP&S) grants and the Staffing for Adequate Fire and Emergency Response (SAFER) grants.
2. **Emergency Management Baseline Assessment Grant Program (EMBAG)** – The EMBAG program provides non-disaster funding to support developing, maintaining, and revising voluntary national-level standards and peer-review assessment processes for emergency management and using these standards and processes to assess state, local, tribal, and territorial emergency management programs and professionals.
3. **Emergency Management Performance Grant (EMPG)** – The EMPG provides state, local, tribal and territorial emergency management agencies with the resources required for implementation of the National Preparedness System and works toward the National Preparedness Goal of a secure and resilient nation.
4. **Emergency Operations Center Grant Program (EOC)** – The EOC Grant Program is intended to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure, strategically located, and fully interoperable EOCs with a focus on addressing identified deficiencies and needs.
5. **Homeland Security Grant Program (HSGP)** – The HSGP includes a suite of risk-based grants to assist state, local, tribal and territorial efforts in preventing, protecting against, mitigating, responding to and recovering from acts of terrorism and other threats. This program is comprised of the State Homeland Security Program (SHSP), Urban Area Security Initiative (UASI) and Operation Stonegarden (OPSG).
6. **Intercity Bus Security Grant Program (IBSG)** – The IBSG helps protect surface transportation infrastructure and the traveling public from acts of terrorism and increase the resilience of transit infrastructure.
7. **Intercity Passenger Rail (IPR) – Amtrak Program** – This provides funds to protect critical surface transportation infrastructure and the traveling public from acts of terrorism and increase the resilience of the Amtrak rail system.
8. **National Earthquake Hazards Reduction Program's State Assistance Program** – The National Earthquake Hazards Reduction Program provides funding to support the establishment of earthquake hazards reduction programming and implementation of earthquake safety, mitigation and resilience activities at the local level.
9. **Nonprofit Security Grant Program (NSGP)** – The NSGP provides funding support for target hardening and other physical security enhancements and activities to nonprofit organizations that are at high risk of terrorist attack.
10. **Port Security Grant Program (PSGP)** – The PSGP provides funding to state, local and private-sector partners to help protect critical port infrastructure from terrorism, enhance maritime domain awareness, improve port-wide maritime security risk management, and maintain or reestablish maritime security mitigation protocols that support port recovery and resiliency capabilities.

11. **Presidential Residence Protection Assistance (PRPA)** – The PRPA provides funding to reimburse state and local law enforcement agencies for operational overtime costs incurred while protecting any non-governmental residence of the President of the United States as designated or identified to be secured by the United States Secret Service.
12. **Regional Catastrophic Preparedness Grant Program (RCPGP)** – The RCPGP supports the building of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation by providing resources to close known capability gaps in Housing and Logistics and Supply Chain Management, encouraging innovative regional solutions to issues related to catastrophic incidents, and building on existing regional efforts.
13. **Shelter and Services Program** – The Shelter and Services Program provides funds to non-federal entities that provide sheltering and other eligible services to noncitizen migrants who have been encountered by the Department of Homeland Security and released from custody while awaiting the outcome of their immigration proceedings.
14. **State and Local Cybersecurity Grant Program** – This program provides funding to eligible entities to address cybersecurity risks and cybersecurity threats to information systems owned or operated by, or on behalf of, state, local, or tribal governments.
15. **Transit Security Grant Program (TSGP)** – the TSGP provides funding to eligible public transportation systems (which include intra-city bus, ferries, and all forms of passenger rail) to protect critical transportation infrastructure and the travelling public from terrorism, and to increase transportation infrastructure resilience.
16. **Tribal Homeland Security Grant Program (THSGP)** – The THSGP plays an important role in the implementation of the National Preparedness System by supporting the building, sustaining and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient nation.

APPENDIX 4: HISTORICAL BREAKDOWN OF HSGP FROM FISCAL YEAR 2019 TO FISCAL YEAR 2023

Program Name	FY23	FY22	FY21	FY20	FY19
State Homeland Security Program (SHSP)	$415 million	$415 million	$415 million	$415 million	$415 million
Urban Area Security Initiative (UASI)	$615 million	$615 million	$615 million	$615 million	$615 million
Operation Stonegarden (OPSG)	$90 million	$90 million	$90 million	$90 million	$90 million
Total	$1.2 billion	$1.2 billion	$1.2 billion	$1.2 billion	$1.2 billion

APPENDIX 5: UASI BREAKDOWN FOR FISCAL YEAR 2023

FY 2023 UASI ALLOCATIONS

State/Territory	Urban Area	FY 2023 UASI Allocation
Arizona	Phoenix Area	$5,250,000
	Anaheim/Santa Ana Area	$5,250,000
	Bay Area	$36,493,265
California	Los Angeles/Long Beach Area	$66,174,270
	Riverside Area	$3,900,000
	Sacramento Area	$3,800,000
	San Diego Area	$16,445,560
Colorado	Denver Area	$3,900,000
District of Columbia	National Capital Region	$50,360,095
	Jacksonville Area	$1,500,000
Florida	Miami/Fort Lauderdale Area	$14,528,750
	Orlando Area	$3,800,000
	Tampa Area	$3,800,000
Georgia	Atlanta Area	$7,700,000
Hawaii	Honolulu Area	$1,500,000
Illinois	Chicago Area	$66,174,270
Indiana	Indianapolis Area	$1,645,333
Louisiana	New Orleans Area	$1,645,333
Maryland	Baltimore Area	$3,800,000
Massachusetts	Boston Area	$16,646,500
Michigan	Detroit Area	$5,250,000
Minnesota	Twin Cities Area	$5,250,000
Missouri	Kansas City Area	$1,645,333
	St. Louis Area	$3,800,000
Nevada	Las Vegas Area	$5,250,000
New Jersey	Jersey City/Newark Area	$18,631,275
New York	New York City Area	$173,950,017
North Carolina	Charlotte Area	$3,800,000
Ohio	Cincinnati Area	$1,645,333
	Cleveland Area	$1,645,333
Oregon	Portland Area	$3,800,000
Pennsylvania	Philadelphia Area	$16,646,500
	Pittsburgh Area	$1,645,333
Tennessee	Nashville Area	$1,500,000
Texas	Austin Area	$1,500,000
	Dallas/Fort Worth/Arlington Area	$16,646,500
	Houston Area	$24,231,000

	San Antonio Area	$3,800,000
Virginia	Hampton Roads Area	$3,800,000
Washington	Seattle Area	$6,250,000