



Homeland Security

July 11, 2006

Steve McCraw
Director, Texas Office of Homeland Security
Post Office Box 12428
Austin, Texas 78711-2428

Dear Mr. McCraw:

Thank you for dated June 9, 2006 letter regarding the Fiscal Year (FY) 2006 Homeland Security Grant Program (HSGP). The process of allocating grant funding is challenging and subject to many potential criticisms from numerous perspectives and interests. Nevertheless, the Department of Homeland Security (Department) is committed to continuing its work with Congress to improve the process. In particular, you expressed concern over the funding levels of the Urban Areas Security Initiative (UASI) for the states of California, New Mexico, Arizona and Texas.

Please be assured that careful consideration is being given to your correspondence. We are looking into this matter and expect to provide you with a response within ten days.

If we may be of further assistance, please call Christina Bell at (202) 282-9642.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred L. Schwien".

Fred L. Schwien
Executive Secretary

Cc: Mr. Matthew Bettenhausen
Mr. Timothy Manning
Mr. Frank Navarrete

(b) (6)

<CTR>

From: (b) (6)
Sent: Monday, September 25, 2006 6:33 PM
To: (b) (6)
Subject: Steve McCraw E-Mail

Follow Up Flag: Follow up
Flag Status: Completed

(b)(6)

Below is the e-mail sent by A/S Henke to Steve McCraw.

Thanks.

(b) (6)

-----Original Message-----
From: Henke, Tracy A [mailto:(b) (6)]
Sent: Monday, September 25, 2006 5:41 PM
To: (b) (6) <CTR>
Subject: FW: DHS final decision

This is the McCraw email.

-----Original Message-----
From: Henke, Tracy A
Sent: Friday, September 22, 2006 6:30 PM
To: Steve McCraw; Henke, Tracy A
Cc: (b)(6)
Foresman, George; Lunner, Chet; (b) (6)
(b) (6)
Subject: RE: DHS final decision

Steve:

Unfortunately I am not aware of the specific communication that occurred yesterday that resulted in your email below. However, let me state unequivocally that G&T /DHS hopes to continue to partner with Texas to further our shared mission of preparing and protecting the nation.

As you are aware there were two issues that we have been working to address, and if not address in the manner specifically requested by the State of Texas, then provide options/opportunities to move forward in a beneficial manner. The first issue surrounds the use of the Texas Council of Governments (COG)--a regional structure employed by your office for assistance in homeland security issues.

In no way has G&T impacted your ability to use the COGs to "help identify local and regional programs and projects that support the State Homeland Security Strategic Plan and the National Strategy for Homeland Security" or "specific homeland security emphasis items identified each year by the Office of the Governor" (from September 11, 2006 email from Jack Colley) or the many other ways that the COGs are used. In addition, we have stressed that you can use the COGs to assist in obtaining the necessary agreements between the State and the local cities, counties, and eligible regional entities. The regional progress that the State of Texas has made is in no way jeopardized.

The only issue related to the COGs is whether or not the COGs can actually make the final decisions and execute financial agreements on behalf of the local governments. According to Jack Colley's email of September 11, 2006, the SAA "issues formal the sub-recipient awards to the sub-grantees, including cities, counties, and regional entities." In addition, the email continues to say "state law requires that the governing boards of local governments formally approve acceptance of many types of grants."

As has been communicated, an obligation occurs when the subgrant recipient is given an

assurance of the amount of funding they will receive. While the COG is notified of the initial regional distribution of FY06 HSGP, and the approval of homeland security grants typically requires regional consensus, the SAA alone makes the final determination and issues the formal sub-recipient awards to the sub-grantees. It is these formal sub-recipient awards that meet the definition of an obligation.

Please also note that G&T is in no way disputing that Texas has identified the importance of implementing the TDEX and Livescan as statewide initiatives. However, based on the response we received on September 11, 2006, it appears that Texas will not meet the 80/20 pass through that is statutorily required. This is not a requirement that we can waive. As stated above, the COGs can assist the State in obtaining the necessary agreements between the State and the locals demonstrating that the locals have agreed to allow the State to expend funding on their behalf. In addition, and as you are aware, the State can condition grants to the sub-recipients. For instance, you can condition a grant stating that the entity must execute a specific activity in support of this Statewide initiative and here is a vehicle in which you can accomplish the requirement.

Again, G&T stands ready to assist and looks forward to a positive working relationship with the State of Texas. The Preparedness Officer will contact you early next week and provide any additional information on the options that have been provided to assist you and the State in accomplishing your objectives.

Tracy

-----Original Message-----

From: Steve McCraw [mailto:(b)(6)]
Sent: Thursday, September 21, 2006 8:08 PM
To: Henke, Tracy A
Cc: (b)(6)
Foresman, George; Lunner, Chet
Subject: DHS final decision

Tracy, Your decision to gut our regional program and the manner in which you did so was pure Washington D C. Your actions reflect poorly on the Department, the Administration and more importantly comprise both public safety and homeland security in Texas. I tend to be an optimist and up until today I thought you would recognize the benefits of a regional approach and the importance of achieving key prevention capabilities. Our local elected officials working together in our COG regions have achieved much and served as a regional model for the nation. I have no doubt that you could have done the right thing but chose not to find a way to do it. I was also hopeful you could fix ODP/Grants and Training and unfortunately that was not the case. I know you are very busy but call me if you would like to discuss this further. We will find a way to overcome these impediments. My cell number is (b)(6) if you have some time to discuss.

Sent from my BlackBerry Wireless Handheld

June 9, 2006

The Honorable Michael Chertoff
Secretary, Department of Homeland Security
U. S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

We, the homeland security directors for the four southwestern border states, respectfully request a detailed briefing by the U.S. Department of Homeland Security (DHS) on the process by which the Department's FFY2006 funding allocation decisions were made for the State Homeland Security and Urban Area Security Initiative grant programs. We also renew our request for a full briefing on the specific data used in the determination of the UASI list, announced in January 2006.

As you know, there has been a great deal of concern about the process by which DHS made these decisions. We share this concern. We understand that DHS attempted to use a new risk-based allocation matrix this year, and we are very well acquainted with the information published by DHS on the process.

While we agree that risk is an important factor in preparedness, a number of important risk factors do not seem to have been taken into account in the evaluation process. Or, if they were, these factors, including the southern border, the presence of ports, and federally-controlled national security facilities in major population centers, were not weighted sufficiently in relation to their risk level. Furthermore, based on our experience with some of the data provided by DHS to us on assets and threats in our states, we have concerns about the veracity and specificity of the data used by DHS in this process.

Regarding the UASI list, previous requests by us and by our colleagues across the country for details on how the list was determined, were ignored or rebuffed.

Our four states represent all extremes of threat and vulnerability of the United States. As state homeland security advisors we have a responsibility to our Governors and the 70 million citizens of our states to provide an effective and efficient homeland security program, and require all available threat and vulnerability information on our states to do so.

Honorable Michael Chertoff

June 9, 2006

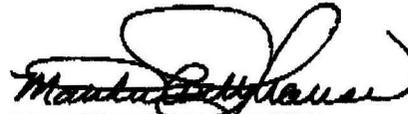
Page Two

The Department of Homeland Security was created to coordinate and share information to help prevent and respond to terrorist attacks and natural disasters. We simply ask that the Department share what is obviously critical information vital with the States. We look forward to your response and request your cooperation.

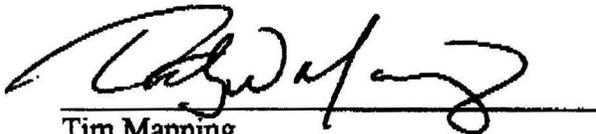
Sincerely,



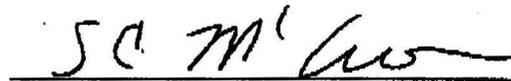
Frank F. Navarrete
Director, Arizona Homeland Security



Matthew R. Bettenhausen
Director, California Homeland Security



Tim Manning
Director, New Mexico Homeland Security



Steve McCraw
Director, Texas Homeland Security

cc: Undersecretary George Foresman
Assistant Secretary Tracy Henke

**OFFICE OF THE GOVERNOR**

September 5, 2006

RICK PERRY
GOVERNOR

Mr. George Foresman
Under Secretary for Preparedness
U.S. Department of Homeland Security
Washington, DC 20528-3050

Dear Mr. Foresman:

The purpose of this letter is to request the Department of Homeland Security (DHS) reverse the recent decision by the Office of Grants & Training (OGT) that nullifies the regional approach Texas has been using since Fiscal Year 2002 to allocate and distribute Homeland Security Grant funds.

Homeland security threats and hazards do not respect jurisdictional boundaries; therefore, Texas has embraced a regional approach for homeland security planning using the State's 24 Councils of Government (COGs) and Regional Planning Commissions (RPCs), collectively referred to as COGs in this letter, to ensure planning and execution is carried out on a regional basis with local officials working closely together across all jurisdictions and disciplines. This approach has a number of advantages, to include the development of regional catastrophic plans, regional and statewide radio interoperability plans, regional response teams, and other vital capabilities. It also minimizes the unnecessary purchase of equipment and capabilities that already exist in neighboring jurisdictions and it is consistent with DHS's National Priority to strengthen regionally based preparedness by focusing finite resources on expanded collaboration.

OGT has advised that obligating homeland security grant funds to the COGs does not meet the definition for obligation to a local unit of government, citing the *Texas Local Government Code* noting that membership in COGs is voluntary and they do not have the authority to act on behalf of the locals. The point missed by OGT legal analysis is that in Texas COG's are political subdivisions of the state established to promote regional planning; they manage a host of federal and state grant programs in specific regions of the State. At least two-thirds of the members of a governing board of each COG must be elected officials of participating counties or municipalities. In 2002 Governor Perry designated the COGs as the mechanism to distribute Homeland Security Grant funds because of their legal status, their demonstrated ability to plan and execute grant programs on a regional basis, and the oversight that is provided by city and county elected officials which compose their governing boards. Section 421.072 of the *Texas Government Code* provides that the Office of the Governor shall "allocate available federal and state grants and other funding related to homeland security to state and local agencies that perform homeland security activities." If a local jurisdiction in Texas proposes local or regional initiatives to be funded by Homeland Security grants, that proposal will be reviewed by and must be approved by the COG's Homeland Security Advisory Committee and Executive Board. Similarly, if jurisdictions want to participate in the Urban Area Security Initiatives (UASI) program, they must do so through the UASI Working Group.

Mr. George Foresman
September 5, 2006
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Since 2002, Texas has planned and evaluated local and regional projects, and allocated funding for all of these projects on a regional basis through the COGs. Suddenly, we are told we can no longer practice this very effective regional approach. *In Texas, the COGs work effectively in fielding local and regional homeland security programs.*

OGT's ruling appears inconsistent with the **FY 2006 Homeland Security Grant Program-Guidance and Application Kit (December 2, 2005)** and is quite puzzling in light of the stated **National Preparedness Goal and National Priorities**. **"Expanded Regional Collaboration"** (see page 4) highlights the need for multi-jurisdictional approaches to building capabilities in all four mission areas and "establishes as a priority the embracing of regional approaches to building, sustaining, and sharing capabilities...."

In a footnote on page 54 of the Guidance document, the term "local unit of government" is clearly defined as "any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, **regional planning commission, council of government**, Indian tribe with jurisdiction over Indian country, authorized Tribal organization, Alaska Native Village, independent authority, special district, or other political subdivision of any State." We simply do not understand the legal basis for OGT's objection to the way Texas has operated its grant program since 2002.

I would also request that you reverse the OGT's policy decision that will undermine our efforts to achieve vital capabilities for every jurisdiction in the state at a significant cost savings. This year, Governor Perry prioritized the statewide implementation of TDEx and Live Scan to address critical information gaps. Both of these programs directly benefit every city and county in the State of Texas. They will also benefit every federal law enforcement agency in the state.

In Texas there are over 2,100 local, state and federal law enforcement agencies consisting of over 70,000 law enforcement personnel. Many of these law enforcement agencies have multiple stove piped legacy data bases. Thus, an officer or analyst has no way of quickly locating all of the data needed unless they contacted every agency and then every agency queried every relevant data base within that agency. This impedes investigations and intelligence activities.

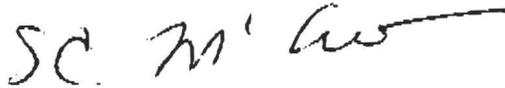
The only way to address these vulnerabilities is from the top down at the state level. There are 254 counties in Texas with more than 1,600 cities, 24 regional governments and three tribes, each with their own view as to how best to address information sharing gaps. All jurisdictions in Texas must have access to these proven capabilities and all jurisdictions directly benefit from all agencies having these capabilities. If even one jurisdiction refuses to participate all suffer.

OGT has advised that for the state to use the local portion of the state Homeland Security grant funds to provide local jurisdictions these capabilities, we must first get a Memorandum of Understanding (MOU) from each jurisdiction which would require more than 1,400 separate MOUs. If you reverse the decision on the COGs then we would need 24 instead of 1,400, which is vastly more reasonable but still bureaucratic. Lastly, pursuing the implementation of TDEx and Livescan as statewide initiatives to benefit local governments will result in more than \$6 million in cost savings over individual purchases of these systems by our cities and counties.

Mr. George Foresman
September 5, 2006
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I much appreciate your taking the time to review these decisions and this information is helpful. Thank you for reviewing the OGT's policy decisions and I look forward to your decision. As you know, we are passionate about getting these capabilities quickly in place to better protect Texas and the rest of the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "SC. M' Craw", with a long horizontal flourish extending to the right.

Steve McCraw
Homeland Security Director



Homeland Security

Mr. Steve McCraw
Director, Texas Office of Homeland Security
Post Office Box 12428
Austin, Texas 78711-2428

Dear Mr. McCraw:

Thank you for the letter signed by you and your fellow State Homeland Security Advisors, Mr. Matthew Bettenhausen of California, Mr. Frank Navarrete of Arizona, and Mr. Tim Manning of New Mexico. In your letter dated June 9, 2006, you expressed concerns regarding the Fiscal Year (FY) 2006 Homeland Security Grant Program (HSGP). The process of allocating grant funding continues to evolve and we want to ensure the maximum effectiveness of these assistance programs. Consequently, the Department of Homeland Security (Department) is committed to continuing its work with Congress and our State and local partners to improve the process.

The overall mission of the HSGP is to work towards greater preparedness for the Nation's homeland security. The program is designed to align available resources with national priorities and the National Preparedness Goal. Its primary goal is to enhance the capabilities of State and local governments to prevent, protect, respond to, and recover from a disaster or emergency. As a result, we worked closely with these government authorities to provide guidance about the program and communicate the process and standards/criteria used in making such allocation determinations.

Therefore, the objectives of the FY 2006 HSGP allocation process were to: (a) distribute homeland security funds based upon the best information and intelligence available; (b) encourage States and cities to build sustainable capabilities to prevent, respond to, and recover from catastrophic events; and (c) target resources to the Nation's greatest risks.

In your letter, you expressed concern over the FY 2006 HSGP funding levels for the States of Texas, California, Arizona, and New Mexico.

At the outset, it is important to note that since the inception of the Urban Areas Security Initiative (UASI) in FY 2003, the Department has provided more than \$168 million in UASI grant funding to the State of Texas's urban areas. This amounts to approximately 6 percent of total UASI funding.

As you are aware, the funds appropriated to the overall HSGP were significantly less in FY 2006. In fact, there was \$600 million less for the overall HSGP and about \$125 million less for the specific UASI program. This meant the amount available for allocation among each State, territory and urban area was reduced. Despite these reductions, the Department has provided more than \$802 million in grant funding to the State of Texas since FY 2002.

Through the grant allocation process, the Department made every effort to ensure that the allocation determinations were driven by measurable facts and impartial risk-based analyses. We sought the highest level of integrity and transparency in the grant process, so that all requesters and stakeholders knew the standards for evaluation beforehand, to support development of their investment justifications. These steps were designed to ensure both strengthened national homeland security along with fiscal responsibility.

Of the \$1.7 billion allotted to the HSGP programs, approximately \$1.3 billion was allocated based upon two primary factors: risk and effectiveness. The remaining \$400 million were pre-determined base allocations mandated by Congressional direction.

Risk was the primary factor accounting for nearly 70 percent of the funding allocations. In past years, the risk element was largely determined by both population size and density. Over time, we have been able to utilize more sophisticated techniques to analyze risk consistent with the evolution of national homeland security efforts. In FY 2006, the risk factor was comprised of three primary components: Threat, Vulnerability, and Consequence. The Threat component represents an adversary's intent to attack a specific target and its potential capability to execute the attack; the Vulnerability component embodies the susceptibility to an adversary's attack and the likelihood that it will achieve an impact; and the Consequence component measures the possible impact from such an attack. Further, we analyzed the risk factors both on the basis of the specific characteristics of risk to a particular asset, as well as risk inherent to a geographical area.

Based upon these various factors and considerations, we collected and compiled literally millions of data points and billions of calculations derived from various sources within the law enforcement, first-responder, private-sector, and intelligence communities. As a result of all of this information and the resulting calculations, each jurisdiction was assigned a risk factor based upon the best information available and in accordance with Congressional guidance. We will, of course, continue to work to enhance the data used in the risk analysis process.

The second factor, effectiveness, evaluates the use of the grant funds consistent with Congressional intent. Our responsibility is to ensure that the limited funds were allocated in the most effective way possible. It is important to keep in mind that HSGP funding is considered an investment based upon an effort to manage risk throughout the Nation. Funding resources target solutions which will produce tangible results, raise the overall baseline for national preparedness, and achieve the best return on the Nation's investment of limited resources.

In order to meet this objective, we asked that applicants address effectiveness concerns in their submissions, essentially making a "business case" for grant funding. This business case, or investment justification, allowed us to provide a measure of how urban areas and States were tying funding to address pre-identified needs and comply with program requirements.

A panel of experts helped evaluate proposals from requestors. This Peer Review process established objectivity and consistency, and ensured its integrity and credibility. The panel of approximately 100 reviewers represented nearly every geographic corner of the country, including 48 States and territories, 38 urban areas, and 11 reviewers from various Federal agencies. In addition, the reviewers represented a wide range of expertise from law enforcement personnel, firefighters, first-responders, emergency managers, and State Homeland Security

Advisors: seasoned professionals from programmatic, policy, and operational disciplines. These Peer Reviewers are experts in the field, since they experience the State and local homeland security mission on the ground every single day.

The Department provided the Peer Reviewers with the same guidance and standards previously provided to the requesting stakeholders prior to their submissions. The Peer Reviewers then assessed the various proposals and assigned a numerical value for each submission. After receiving these ratings, the Department ran statistical analyses to determine if there were any signs of bias from the Peer Reviewers or the process itself. Indeed, the results yielded a normal distribution indicating no signs of bias. Indeed, in the survey of Peer Reviewers, nearly 83 percent felt that the process produced objective, consistent, and reliable results.

A combination of the risk analyses and the effectiveness ratings from the Peer Reviewers were assessed, in order to achieve a final determination on grant funding allocations. Based upon this analytical tool, we were able to assess the risks that each jurisdiction faced in conjunction with the best use of available resources in a fair and objective manner and allocate grant funding accordingly.

In an effort to provide you more detail on the process surrounding the FY 2006 HSGP allocations within the State of Texas, I have enclosed several fact sheets on risk, effectiveness, allocation methodology, and program overview. I have also included several "For Official Use Only" discussions of the analysis of the State, including the 3 Urban Areas in Texas. This detailed analysis clearly shows that factors such as proximity to international borders and the presence of some of the Nation's most critical ports were considered as part of the Department's risk analysis.

I hope that the information provided in this letter, as well as the enclosed materials are useful. In addition, representatives from the Department's Preparedness Directorate will be contacting your office shortly to schedule a meeting in order to discuss in more detail your questions and concerns.

We hope that this explanation has been helpful in understanding our comprehensive and thorough process in determining the grant funding allocations. We look forward to continuing our shared commitment to safeguard America's homeland.

Sincerely,



George W. Foresman
Under Secretary

Enclosures (8)

FY 2006 HSGP Overview
Risk Analysis Fact Sheet
Effectiveness Analysis Fact Sheet
Allocation Methodology Fact Sheet
FY 2006 HSGP Award for the State of Texas

FY 2006 UASI Award for the Dallas/Fort Worth/Arlington
FY 2006 UASI Award for the Houston
FY 2006 UASI Award for the San Antonio