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COMBATING TERRORISM

Enhancing Partnerships Through a National Preparedness Strategy

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Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here in Los Angeles to discuss issues critical to successful federal leadership of, assistance to, and partnerships with state and local governments in the area of preparedness for terrorist events. As you know, Mr. Chairman, federal, state, and local governments have a shared responsibility in preparing for catastrophic terrorist attacks. But the initial responsibility falls upon local governments and their organizations—such as police, fire departments, emergency medical personnel, and public health agencies—which will almost invariably be the first responders to such an occurrence. For its part, the federal government historically has principally provided leadership, training, and funding assistance. In the aftermath of the September 11th attacks, for instance, about one-quarter of the $40 billion Emergency Response Fund was dedicated to homeland security, including funds to enhance state and local government preparedness.

Because the national security threat is diffuse and the challenge is highly intergovernmental, national policymakers must formulate strategies with a firm understanding of the interests, capacity, and challenges facing those governments in addressing these issues. My comments today are based on a body of GAO's work on terrorism and emergency preparedness and policy options for the design of federal assistance,[1] as well as on our review of many other studies.[2] In addition, we draw on ongoing work for this subcommittee; pursuant to your request we have begun a review to examine the preparedness issues confronting state and local governments in a series of case studies. We will examine the state and local perspective on these issues and thereby help the Congress and the executive branch to better design and target programs and strategies.

In my testimony, I reiterate GAO's call, expressed in numerous reports and testimonies over the past years, for development of a national strategy that will improve national preparedness and enhance partnerships between federal, state, and local governments to guard against terrorist attacks. The creation of the Office of Homeland Security under the leadership of

[1] See attached listing of related GAO products.

[2] These studies include the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, *Third Annual Report (*Arlington, VA: RAND, Dec. 15, 2001) and the United States Commission on National Security/21st Century, *Road Map for Security: Imperative for Change*, February 15, 2001.

Tom Ridge is an important and potentially significant first step. We recognize that the President, in his proposed 2003 budget, has announced that the Office of Homeland Security will propose such a plan later this year. As it comes together, we believe that key aspects of this strategy should include:

- A definition and clarification of the appropriate roles and responsibilities of federal, state, and local entities. Our previous work has found fragmentation and overlap among federal assistance programs. Over 40 federal entities have roles in combating terrorism, and past federal efforts have resulted in a lack of accountability, a lack of a cohesive effort, and duplication of programs. As state and local officials have noted, this situation has led to confusion, making it difficult to identify available federal preparedness resources and effectively partner with the federal government.
- The establishment of goals and performance measures to guide the nation's preparedness efforts. The Congress has long recognized the need to objectively assess the results of federal programs. For the nation's preparedness programs, however, outcomes of where the nation should be in terms of domestic preparedness have yet to be defined. Given the recent and proposed increases in preparedness funding as well as the need for real and meaningful improvements in preparedness, establishing clear goals and performance measures is critical to ensuring both a successful and a fiscally responsible effort.
- A careful choice of the most appropriate tools of government to best implement the national strategy and achieve national goals. The choice and design of policy tools, such as grants, regulations, and partnerships, can enhance the government's capacity to (1) target areas of highest risk to better ensure that scarce federal resources address the most pressing needs, (2) promote shared responsibilities by all parties, and (3) track and assess progress toward achieving national goals.

Since the attacks of September 11th, we have seen the nation unite and better coordinate preparedness efforts among federal, state, and local agencies, as well as among private businesses, community groups, and individual citizens. Our challenge now is to build upon this initial response to further improve our preparedness in a sustainable way that creates both short- and long-term benefits. We applaud the subcommittee's interest in addressing this issue now and urge that it continue its efforts to oversee the efficiency and effectiveness of these key intergovernmental relationships to define and best achieve the necessary level of national preparedness.

Background

Because of such emergencies as natural disasters, hazardous material spills, and riots, all levels of government have had some experience in preparing for different types of disasters and emergencies. Preparing for all potential hazards is commonly referred to as the "all-hazards" approach. While terrorism is a component within an all-hazards approach, terrorist attacks potentially impose a new level of fiscal, economic, and social dislocation within this nation's boundaries. Given the specialized resources that are necessary to address a chemical or biological attack, the range of governmental services that could be affected, and the vital role played by private entities in preparing for and mitigating risks, state and local resources alone will likely be insufficient to meet the terrorist threat.

Some of these specific challenges can be seen in the area of bioterrorism. For example, a biological agent released covertly might not be recognized for a week or more because symptoms may only appear several days after the initial exposure and may be misdiagnosed at first. In addition, some biological agents, such as smallpox, are communicable and can spread to others who were not initially exposed. These characteristics require responses that are unique to bioterrorism, including health surveillance, epidemiologic investigation, laboratory identification of biological agents, and distribution of antibiotics or vaccines to large segments of the population to prevent the spread of an infectious disease. The resources necessary to undertake these responses are generally beyond state and local capabilities and would require assistance from and close coordination with the federal government.

National preparedness is a complex mission that involves a broad range of functions performed throughout government, including national defense, law enforcement, transportation, food safety and public health, information technology, and emergency management, to mention only a few. While only the federal government is empowered to wage war and regulate interstate commerce, state and local governments have historically assumed primary responsibility for managing emergencies through police, firefighters, and emergency medical personnel.

The federal government's role in responding to major disasters is generally defined in the Stafford Act,[3] which requires a finding that the disaster is so

[3] *The Robert T. Stafford Disaster Relief and Emergency Assistance Act*, (P.L. 93-288) as amended establishes the process for states to request a presidential disaster declaration.

severe as to be beyond the capacity of state and local governments to respond effectively before major disaster or emergency assistance from the federal government is warranted. Once a disaster is declared, the federal government—through the Federal Emergency Management Agency (FEMA)—may reimburse state and local governments for between 75 and 100 percent of eligible costs, including response and recovery activities.

There has been an increasing emphasis over the past decade on preparedness for terrorist events. After the nerve gas attack in the Tokyo subway system on March 20, 1995, and the Oklahoma City bombing on April 19, 1995, the United States initiated a new effort to combat terrorism. In June 1995, Presidential Decision Directive 39 was issued, enumerating responsibilities for federal agencies in combating terrorism, including domestic terrorism. Recognizing the vulnerability of the United States to various forms of terrorism, the Congress passed the Defense Against Weapons of Mass Destruction Act of 1996 (also known as the Nunn-Lugar-Domenici program) to train and equip state and local emergency services personnel who would likely be the first responders to a domestic terrorist event. Other federal agencies, including those in the Department of Justice, Department of Energy, FEMA, and Environmental Protection Agency, have also developed programs to assist state and local governments in preparing for terrorist events.

The attacks of September 11, 2001, as well as the subsequent attempts to contaminate Americans with anthrax, dramatically exposed the nation's vulnerabilities to domestic terrorism and prompted numerous legislative proposals to further strengthen our preparedness and response. During the first session of the 107th Congress, several bills were introduced with provisions relating to state and local preparedness. For instance, the Preparedness Against Domestic Terrorism Act of 2001, which you cosponsored, Mr. Chairman, proposes the establishment of a Council on Domestic Preparedness to enhance the capabilities of state and local emergency preparedness and response.

The funding for homeland security increased substantially after the attacks. According to documents supporting the president's fiscal year 2003 budget request, about $19.5 billion in federal funding for homeland security was enacted in fiscal year 2002.[4] The Congress added to this

[4] "*Securing the Homeland, Strengthening the Nation.*" For the complete document, see the Web site: http://www.whitehouse.gov/homeland/homeland_security_book.html.

amount by passing an emergency supplemental appropriation of $40 billion dollars.[5] According to the budget request documents, about one-quarter of that amount, nearly $9.8 billion, was dedicated to strengthening our defenses at home, resulting in an increase in total federal funding on homeland security of about 50 percent, to $29.3 billion. Table 1 compares fiscal year 2002 funding for homeland security by major categories with the president's proposal for fiscal year 2003.

Table 1: Homeland Security by Major Funding Categories for Fiscal Year 2002 and Proposed for Fiscal Year 2003

Dollars in millions

Major funding category	FY2002 enacted	Emergency supplemental	FY2002 total	The president's FY2003 budget request
Supporting first responders	$291	$651	$942	$3,500
Defending against biological terrorism	1,408	3,730	5,138	5,898
Securing America's borders	8,752	1,194	9,946	10,615
Using 21st century technology for homeland security	155	75	230	722
Aviation security	1,543	1,035	2,578	4,800
DOD homeland security	4,201	689	4,890	6,815
Other non-DOD homeland security	3,186	2,384	5,570	5,352
Total	**$19,536**	**$9,758**	**$29,294**	**$37,702**

Source: FY 2003 president's budget document, "Securing the Homeland, Strengthening the Nation."

A National Strategy Is Needed to Guide Our Preparedness Efforts

We have tracked and analyzed federal programs to combat terrorism for many years and have repeatedly called for the development of a national strategy for preparedness. We have not been alone in this message; for instance, national commissions, such as the Gilmore Commission, and other national associations, such as the National Emergency Management Association and the National Governors Association, have advocated the establishment of a national preparedness strategy. The attorney general's Five-Year Interagency Counterterrorism Crime and Technology Plan, issued in December 1998, represents one attempt to develop a national strategy on combating terrorism. This plan entailed a substantial interagency effort and could potentially serve as a basis for a national preparedness strategy. However, we found it lacking in two critical elements necessary for an effective strategy: (1) measurable outcomes and

[5]2001 *Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States*, (P.L. 107-38).

(2) identification of state and local government roles in responding to a terrorist attack.[6]

In October 2001, the president established the Office of Homeland Security as a focal point with a mission to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. While this action represents a potentially significant step, the role and effectiveness of the Office of Homeland Security in setting priorities, interacting with agencies on program development and implementation, and developing and enforcing overall federal policy in terrorism-related activities is in the formative stages of being fully established.

The emphasis needs to be on a national rather than a purely federal strategy. We have long advocated the involvement of state, local, and private-sector stakeholders in a collaborative effort to arrive at national goals. The success of a national preparedness strategy relies on the ability of all levels of government and the private sector to communicate and cooperate effectively with one another. To develop this essential national strategy, the federal role needs to be considered in relation to other levels of government, the goals and objectives for preparedness, and the most appropriate tools to assist and enable other levels of government and the private sector to achieve these goals.[7]

Roles and Missions of Federal, State, and Local Entities Need to Be Clarified

Although the federal government appears monolithic to many, in the area of terrorism prevention and response, it has been anything but. More than 40 federal entities have a role in combating and responding to terrorism, and more than 20 federal entities in bioterrorism alone. One of the areas that the Office of Homeland Security will be reviewing is the coordination among federal agencies and programs.

Concerns about coordination and fragmentation in federal preparedness efforts are well founded. Our past work, conducted prior to the creation of

[6] See U.S. General Accounting Office, *Combating Terrorism: Linking Threats to Strategies and Resources*, GAO/T-NSIAD-00-218 (Washington, D.C.: July 26, 2000).

[7] Another important aspect of enhancing state and local preparedness is risk management. Risk management is an important tool for prioritizing limited resources in the face of uncertain threats. For more information on risk management, see U.S. General Accounting Office, *Homeland Security: Risk Management Can Help Us Defend Against Terrorism*, GAO-02-208T (Washington, D.C.: October 31, 2001).

the Office of Homeland Security, has shown coordination and fragmentation problems stemming largely from a lack of accountability within the federal government for terrorism-related programs and activities. There had been no single leader in charge of the many terrorism-related functions conducted by different federal departments and agencies. In fact, several agencies had been assigned leadership and coordination functions, including the Department of Justice, the Federal Bureau of Investigation, FEMA, and the Office of Management and Budget. We previously reported that officials from a number of agencies that combat terrorism believe that the coordination roles of these various agencies are not always clear. The recent Gilmore Commission report expressed similar concerns, concluding that the current coordination structure does not provide the discipline necessary among the federal agencies involved.

In the past, the absence of a central focal point resulted in two major problems. The first of these is a lack of a cohesive effort from within the federal government. For example, the Department of Agriculture, the Food and Drug Administration, and the Department of Transportation have been overlooked in bioterrorism-related policy and planning, even though these organizations would play key roles in response to terrorist acts. In this regard, the Department of Agriculture has been given key responsibilities to carry out in the event that terrorists were to target the nation's food supply, but the agency was not consulted in the development of the federal policy assigning it that role. Similarly, the Food and Drug Administration was involved with issues associated with the National Pharmaceutical Stockpile, but it was not involved in the selection of all items procured for the stockpile. Further, the Department of Transportation has responsibility for delivering supplies under the Federal Response Plan, but it was not brought into the planning process and consequently did not learn the extent of its responsibilities until its involvement in subsequent exercises.

Second, the lack of leadership has resulted in the federal government's development of programs to assist state and local governments that were similar and potentially duplicative. After the terrorist attack on the federal building in Oklahoma City, the federal government created additional programs that were not well coordinated. For example, FEMA, the Department of Justice, the Centers for Disease Control and Prevention, and the Department of Health and Human Services all offer separate assistance to state and local governments in planning for emergencies. Additionally, a number of these agencies also condition receipt of funds on completion of distinct but overlapping plans. Although the many federal assistance programs vary somewhat in their target audiences, the potential

redundancy of these federal efforts warrants scrutiny. In this regard, we recommended in September 2001 that the president work with the Congress to consolidate some of the activities of the Department of Justice's Office for State and Local Domestic Preparedness Support under FEMA.[8]

State and local response organizations believe that federal programs designed to improve preparedness are not well synchronized or organized. They have repeatedly asked for a one-stop "clearinghouse" for federal assistance. As state and local officials have noted, the multiplicity of programs can lead to confusion at the state and local levels and can expend precious federal resources unnecessarily or make it difficult for them to identify available federal preparedness resources. As the Gilmore Commission report notes, state and local officials have voiced frustration about their attempts to obtain federal funds and have argued that the application process is burdensome and inconsistent among federal agencies.

Although the federal government can assign roles to federal agencies under a national preparedness strategy, it will also need to reach consensus with other levels of government and with the private sector about their respective roles. Clearly defining the appropriate roles of government may be difficult because, depending upon the type of incident and the phase of a given event, the specific roles of local, state, and federal governments and of the private sector may not be separate and distinct.

A new warning system, the Homeland Security Advisory System, is intended to tailor notification of the appropriate level of vigilance, preparedness, and readiness in a series of graduated threat conditions. The Office of Homeland Security announced the new warning system on March 12, 2002. The new warning system includes five levels of alert for assessing the threat of possible terrorist attacks: low, guarded, elevated, high, and severe. These levels are also represented by five corresponding colors: green, blue, yellow, orange, and red. When the announcement was made, the nation stood in the yellow condition, in elevated risk. The warning can be upgraded for the entire country or for specific regions and economic sectors, such as the nuclear industry.

[8] U.S. General Accounting Office, *Combating Terrorism: Selected Challenges and Related Recommendations*, GAO-01-822 (Washington, D.C.: September 20, 2001).

The system is intended to address a problem with the previous blanket warning system that was used. After September 11th, the federal government issued four general warnings about possible terrorist attacks, directing federal and local law enforcement agencies to place themselves on the "highest alert." However, government and law enforcement officials, particularly at the state and local levels, complained that general warnings were too vague and a drain on resources. To obtain views on the new warning system from all levels of government, law enforcement, and the public, the United States Attorney General, who will be responsible for the system, provided a 45-day comment period from the announcement of the new system on March 12th. This provides an opportunity for state and local governments as well as the private sector to comment on the usefulness of the new warning system, and the appropriateness of the five threat conditions with associated suggested protective measures.

Performance and Accountability Measures Need to Be Included in National Strategy

Numerous discussions have been held about the need to enhance the nation's preparedness, but national preparedness goals and measurable performance indicators have not yet been developed. These are critical components for assessing program results. In addition, the capability of state and local governments to respond to catastrophic terrorist attacks is uncertain.

At the federal level, measuring results for federal programs has been a longstanding objective of the Congress. The Congress enacted the Government Performance and Results Act of 1993 (commonly referred to as the Results Act). The legislation was designed to have agencies focus on the performance and results of their programs rather than on program resources and activities, as they had done in the past. Thus, the Results Act became the primary legislative framework through which agencies are required to set strategic and annual goals, measure performance, and report on the degree to which goals are met. The outcome-oriented principles of the Results Act include (1) establishing general goals and quantifiable, measurable, outcome-oriented performance goals and related measures, (2) developing strategies for achieving the goals, including strategies for overcoming or mitigating major impediments, (3) ensuring that goals at lower organizational levels align with and support general goals, and (4) identifying the resources that will be required to achieve the goals.

A former assistant professor of public policy at the Kennedy School of Government, now the senior director for policy and plans with the Office

of Homeland Security, noted in a December 2000 paper that a preparedness program lacking broad but measurable objectives is unsustainable.[9] This is because it deprives policymakers of the information they need to make rational resource allocations, and program managers are prevented from measuring progress. He recommended that the government develop a new statistical index of preparedness,[10] incorporating a range of different variables, such as quantitative measures for special equipment, training programs, and medicines, as well as professional subjective assessments of the quality of local response capabilities, infrastructure, plans, readiness, and performance in exercises. Therefore, he advocated that the index should go well beyond the current rudimentary milestones of program implementation, such as the amount of training and equipment provided to individual cities. The index should strive to capture indicators of how well a particular city or region could actually respond to a serious terrorist event. This type of index, according to this expert, would then allow the government to measure the preparedness of different parts of the country in a consistent and comparable way, providing a reasonable baseline against which to measure progress.

In October 2001, FEMA's director recognized that assessments of state and local capabilities have to be viewed in terms of the level of preparedness being sought and what measurement should be used for preparedness. The director noted that the federal government should not provide funding without assessing what the funds will accomplish. Moreover, the president's fiscal year 2003 budget request for $3.5 billion through FEMA for first responders—local police, firefighters, and emergency medical professionals—provides that these funds be accompanied by a process for evaluating the effort to build response capabilities, in order to validate that effort and direct future resources.

FEMA has developed an assessment tool that could be used in developing performance and accountability measures for a national strategy. To

[9] Richard A. Falkenrath, *The Problems of Preparedness: Challenges Facing the U. S. Domestic Preparedness* Program (Cambridge, Mass: John F. Kennedy School of Government, Harvard University, December 2000).

[10] It was recommended that this index be classified so as to avoid calling attention to the country's most vulnerable areas.

ensure that states are adequately prepared for a terrorist attack, FEMA was directed by the Senate Committee on Appropriations to assess states' response capabilities. In response, FEMA developed a self-assessment tool—the Capability Assessment for Readiness (CAR)—that focuses on 13 key emergency management functions, including hazard identification and risk assessment, hazard mitigation, and resource management. However, these key emergency management functions do not specifically address public health issues. In its fiscal year 2001 CAR report, FEMA concluded that states were only marginally capable of responding to a terrorist event involving a weapon of mass destruction. Moreover, the president's fiscal year 2003 budget proposal acknowledges that our capabilities for responding to a terrorist attack vary widely across the country. Many areas have little or no capability to respond to a terrorist attack that uses weapons of mass destruction. The budget proposal further adds that even the best prepared states and localities do not possess adequate resources to respond to the full range of terrorist threats we face.

Proposed standards have been developed for state and local emergency management programs by a consortium of emergency managers from all levels of government and are currently being pilot tested through the Emergency Management Accreditation Program at the state and local levels. Its purpose is to establish minimum acceptable performance criteria by which emergency managers can assess and enhance current programs to mitigate, prepare for, respond to, and recover from disasters and emergencies. For example, one such standard is the requirement that (1) the program must develop the capability to direct, control, and coordinate response and recovery operations, (2) that an incident management system must be utilized, and (3) that organizational roles and responsibilities shall be identified in the emergency operational plans.

Although FEMA has experience in working with others in the development of assessment tools, it has had difficulty in measuring program performance. As the president's fiscal year 2003 budget request acknowledges, FEMA generally performs well in delivering resources to stricken communities and disaster victims quickly. The agency performs less well in its oversight role of ensuring the effective use of such assistance. Further, the agency has not been effective in linking resources to performance information. FEMA's Office of Inspector General has found that FEMA did not have an ability to measure state disaster risks and performance capability, and it concluded that the agency needed to determine how to measure state and local preparedness programs.

Appropriate Tools Need to Be Selected for Designing Assistance

Since September 11th, many state and local governments have faced declining revenues and increased security costs. A survey of about 400 cities conducted by the National League of Cities reported that since September 11th, one in three American cities saw their local economies, municipal revenues, and public confidence decline while public-safety spending is up. Further, the National Governors Association estimates fiscal year 2002 state budget shortfalls of between $40 billion and $50 billion, making it increasingly difficult for the states to take on expensive, new homeland security initiatives without federal assistance. State and local revenue shortfalls coupled with increasing demands on resources make it more critical that federal programs be designed carefully to match the priorities and needs of all partners—federal, state, local, and private.

Our previous work on federal programs suggests that the choice and design of policy tools have important consequences for performance and accountability. Governments have at their disposal a variety of policy instruments, such as grants, regulations, tax incentives, and regional coordination and partnerships, that they can use to motivate or mandate other levels of government and private-sector entities to take actions to address security concerns.

The design of federal policy will play a vital role in determining success and ensuring that scarce federal dollars are used to achieve critical national goals. Key to the national effort will be determining the appropriate level of funding so that policies and tools can be designed and targeted to elicit a prompt, adequate, and sustainable response while also protecting against federal funds being used to substitute for spending that would have occurred anyway.

Grants

The federal government often uses grants to state and local governments as a means of delivering federal programs. Categorical grants typically permit funds to be used only for specific, narrowly defined purposes. Block grants typically can be used by state and local governments to support a range of activities aimed at achieving a broad national purpose and to provide a great deal of discretion to state and local officials. Either type of grant can be designed to (1) target the funds to states and localities with the greatest need, (2) discourage the replacement of state and local funds with federal funds, commonly referred to as “supplantation,” with a maintenance-of-effort requirement that recipients maintain their level of previous funding, and (3) strike a balance between accountability and flexibility. More specifically:

- Targeting: The formula for the distribution of any new grant could be based on several considerations, including the state or local government's capacity to respond to a disaster. This capacity depends on several factors, the most important of which perhaps is the underlying strength of the state's tax base and whether that base is expanding or is in decline. In an August 2001 report on disaster assistance, we recommended that the director of FEMA consider replacing the per-capita measure of state capability with a more sensitive measure, such as the amount of a state's total taxable resources, to assess the capabilities of state and local governments to respond to a disaster.[11] Other key considerations include the level of need and the costs of preparedness.
- Maintenance-of-effort: In our earlier work, we found that substitution is to be expected in any grant and, on average, every additional federal grant dollar results in about 60 cents of supplantion.[12] We found that supplantation is particularly likely for block grants supporting areas with prior state and local involvement. Our recent work on the Temporary Assistance to Needy Families block grant found that a strong maintenance-of-effort provision limits states' ability to supplant.[13] Recipients can be penalized for not meeting a maintenance-of-effort requirement.
- Balance accountability and flexibility: Experience with block grants shows that such programs are sustainable if they are accompanied by sufficient information and accountability for national outcomes to enable them to compete for funding in the congressional appropriations process. Accountability can be established for measured results and outcomes that permit greater flexibility in how funds are used while at the same time ensuring some national oversight.

Grants previously have been used for enhancing preparedness and recent proposals direct new funding to local governments. In recent discussions, local officials expressed their view that federal grants would be more effective if local officials were allowed more flexibility in the use of funds. They have suggested that some funding should be allocated directly to local governments. They have expressed a preference for block grants,

[11] U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, GAO-01-837 (Washington, D.C.: August 31, 2001).

[12] U.S. General Accounting Office, *Federal Grants: Design Improvements Could Help Federal Resources Go Further*, GAO-AIMD-97-7 (Washington, D.C.: December 18, 1996).

[13] U.S. General Accounting Office, *Welfare Reform: Challenges in Maintaining a Federal-State Fiscal Partnership*, GAO-01-828 (Washington, D.C.: August 10, 2001).

which would distribute funds directly to local governments for a variety of security-related expenses.

Recent funding proposals, such as the $3.5 billion block grant for first responders contained in the president's fiscal year 2003 budget, have included some of these provisions. This matching grant would be administered by FEMA, with 25 percent being distributed to the states based on population. The remainder would go to states for pass-through to local jurisdictions, also on a population basis, but states would be given the discretion to determine the boundaries of substate areas for such a pass-through—that is, a state could pass through the funds to a metropolitan area or to individual local governments within such an area. Although the state and local jurisdictions would have discretion to tailor the assistance to meet local needs, it is anticipated that more than one-third of the funds would be used to improve communications; an additional one-third would be used to equip state and local first responders, and the remainder would be used for training, planning, technical assistance, and administration.

Regulations

Federal, state, and local governments share authority for setting standards through regulations in several areas, including infrastructure and programs vital to preparedness (for example, transportation systems, water systems, public health). In designing regulations, key considerations include how to provide federal protections, guarantees, or benefits while preserving an appropriate balance between federal and state and local authorities and between the public and private sectors (for example, for chemical and nuclear facilities). In designing a regulatory approach, the challenges include determining who will set the standards and who will implement or enforce them. Five models of shared regulatory authority are:

- fixed federal standards that preempt all state regulatory action in the subject area covered;
- federal minimum standards that preempt less stringent state laws but permit states to establish standards that are more stringent than the federal;
- inclusion of federal regulatory provisions not established through preemption in grants or other forms of assistance that states may choose to accept;
- cooperative programs in which voluntary national standards are formulated by federal and state officials working together; and

- widespread state adoption of voluntary standards formulated by quasi-official entities.

Any one of these shared regulatory approaches could be used in designing standards for preparedness. The first two of these mechanisms involve federal preemption. The other three represent alternatives to preemption. Each mechanism offers different advantages and limitations that reflect some of the key considerations in the federal-state balance.

Tax Incentives

To the extent that private entities will be called upon to improve security over dangerous materials or to protect vital assets, the federal government can use tax incentives to encourage and enforce their activities. Tax incentives are the result of special exclusions, exemptions, deductions, credits, deferrals, or tax rates in the federal tax laws. Unlike grants, tax incentives do not generally permit the same degree of federal oversight and targeting, and they are generally available by formula to all potential beneficiaries who satisfy congressionally established criteria.

Intergovernmental Partnerships and Regional Coordination

National preparedness is a complex mission that requires unusual interagency, interjurisdictional, and interorganizational cooperation. The responsibilities and resources for preparedness reside with different levels of government—federal, state, county, and local—as well as with various public, private, and non-governmental entities. An illustration of this complexity can be seen with ports. As a former Commissioner on the Interagency Commission on Crime and Security in U.S. Seaports recently noted, there is no central authority, as at least 15 federal agencies have jurisdiction at seaports— the primary ones are the Coast Guard, the Customs Service, and the Immigration and Naturalization Service. In addition, state and local law enforcement agencies and the private sector have responsibilities for port security. The security of ports is particularly relevant in this area given that the ports of Long Beach and Los Angeles together represent the third busiest container handler in the world after Hong Kong and Singapore.

Promoting partnerships between critical actors (including different levels of government and the private sector) facilitates the maximizing of resources and also supports coordination on a regional level. Partnerships could encompass federal, state, and local governments working together to share information, develop communications technology, and provide mutual aid. The federal government may be able to offer state and local governments assistance in certain areas, such as risk management and intelligence sharing. In turn, state and local governments have much to offer in terms of knowledge of local vulnerabilities and resources, such as

local law enforcement personnel, available to respond to threats and emergencies in their communities.

Since the events of September 11th, a task force of mayors and police chiefs has called for a new protocol governing how local law enforcement agencies can assist federal agencies, particularly the FBI, given the information needed to do so. As the United States Conference of Mayors noted, a close working partnership of local and federal law enforcement agencies, which includes the sharing of intelligence, will expand and strengthen the nation's overall ability to prevent and respond to domestic terrorism. The USA Patriot Act provides for greater sharing of intelligence among federal agencies. An expansion of this act has been proposed (S.1615, H.R. 3285) that would provide for information sharing among federal, state, and local law enforcement agencies. In addition, the Intergovernmental Law Enforcement Information Sharing Act of 2001 (H.R. 3483), which you sponsored Mr. Chairman, addresses a number of information-sharing needs. For instance, this proposed legislation provides that the United States Attorney General expeditiously grant security clearances to governors who apply for them, and state and local officials who participate in federal counterterrorism working groups or regional terrorism task forces.

Local officials have emphasized the importance of regional coordination. Regional resources, such as equipment and expertise, are essential because of proximity, which allows for quick deployment, and experience in working within the region. Large-scale or labor-intensive incidents quickly deplete a given locality's supply of trained responders. Some cities have spread training and equipment to neighboring municipal areas so that their mutual aid partners can help. These partnerships afford economies of scale across a region. In events that require a quick response, such as a chemical attack, regional agreements take on greater importance because many local officials do not think that federal and state resources can arrive in sufficient time to help.

Mutual aid agreements provide a structure for assistance and for sharing resources among jurisdictions in response to an emergency. Because individual jurisdictions may not have all the resources they need to respond to all types of emergencies, these agreements allow for resources to be deployed quickly within a region. The terms of mutual aid agreements vary for different services and different localities. These agreements may provide for the state to share services, personnel, supplies, and equipment with counties, towns, and municipalities within the state, with neighboring states, or, in the case of states bordering

Canada, with jurisdictions in another country. Some of the agreements also provide for cooperative planning, training, and exercises in preparation for emergencies. Some of these agreements involve private companies and local military bases, as well as local government entities. Such agreements were in place for the three sites that were involved on September 11th— New York City, the Pentagon, and a rural area of Pennsylvania—and provide examples of some of the benefits of mutual aid agreements and of coordination within a region.

With regard to regional planning and coordination, there may be federal programs that could provide models for funding proposals. In the 1962 Federal-Aid Highway Act, the federal government established a comprehensive cooperative process for transportation planning. This model of regional planning continues today under the Transportation Equity Act for the 21st century (TEA-21, originally ISTEA) program. This model emphasizes the role of state and local officials in developing a plan to meet regional transportation needs. Metropolitan Planning Organizations (MPOs) coordinate the regional planning process and adopt a plan, which is then approved by the state.

Mr. Chairman, in conclusion, as increasing demands are placed on budgets at all levels of government, it will be necessary to make sound choices to maintain fiscal stability. All levels of government and the private sector will have to communicate and cooperate effectively with each other across a broad range of issues to develop a national strategy to better target available resources to address the urgent national preparedness needs. Involving all levels of government and the private sector in developing key aspects of a national strategy that I have discussed today—a definition and clarification of the appropriate roles and responsibilities, an establishment of goals and performance measures, and a selection of appropriate tools—is essential to the successful formulation of the national preparedness strategy and ultimately to preparing and defending our nation from terrorist attacks.

This completes my prepared statement. I would be pleased to respond to any questions you or other members of the subcommittee may have.

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