

# Report for Congress

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## **First Responder Initiative: Policy Issues and Options**

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# First Responder Initiative: Policy Issues and Options

## Summary

In February 2002, the Bush Administration proposed a new block grant program called the “First Responder Initiative,” to help state and local first responders prepare for possible terrorist attacks. Under the Administration proposal, the Federal Emergency Management Agency (FEMA) would administer the program, which, if approved, would provide \$3.5 billion to states and localities. The Administration’s primary goal for the program is to improve the ability of first responders (police, firefighters, and emergency medical personnel) to respond to terrorist attacks involving weapons of mass destruction (WMD). The program would fund a broad range of activities in the areas of planning, training, exercises, and equipment.

The 107<sup>th</sup> Congress considered a number of bills similar to the Administration proposal. On October 1, 2002, the Senate Environment and Public Works Committee reported S. 2664, the First Responder Terrorism Preparedness Act of 2002. The bill contained several features proposed by the Administration, including a 25% matching requirement, a wide range of eligible activities, and a requirement that states distribute 75% of funds to sub-state regions. S. 2664 also contained some provisions not specified in the Administration proposal, such as establishing standards for training and equipment and prohibiting the use of funds for overtime expenses. Other proposals for preparedness block grants were introduced in the 107<sup>th</sup> Congress, including S. 2038/H.R. 4059.

While the need for federal assistance for first responders seems to be widely acknowledged, the proposals raise a number of issues, including the following:

- ! How will the implementation of the Department of Homeland Security affect the proposal?
- ! Should funds be distributed to states or localities?
- ! Should the use of funds be limited to standardized activities and equipment?
- ! Should infrastructure security and overtime costs be eligible activities?
- ! How will the funds be accounted for?
- ! Should the program maintain an all-hazards approach, or fund only terrorism preparedness activities?

This report will be updated as the 108<sup>th</sup> Congress takes action proposals to create or modify terrorism preparedness grant programs.

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# First Responder Initiative: Policy Issues and Options

## Introduction

Since the terrorist attacks of September 2001, Congress has given considerable attention to the role of first responders in the nation's homeland security efforts. First responders may be generally defined as local (and sometimes state) firefighters, emergency medical technicians, and law enforcement officers.<sup>1</sup> More than 20 bills were introduced in the 107<sup>th</sup> Congress proposing federal assistance to state and local first responders. Congress also authorized the creation of the Department of Homeland Security (P.L. 107-296), which will be responsible for assisting states and localities with their homeland security efforts.<sup>2</sup>

## Overview of the Administration Proposal

In its FY2003 budget, the Bush Administration proposed roughly \$38 billion for homeland security efforts. One component of the budget was a new grant program to support state and local first responders called the "First Responder Initiative." The Administration requested \$3.5 billion in funding for the program, which would be distributed by the Federal Emergency Management Agency (FEMA) to states and localities for emergency planning, equipment, training, and exercises. S. 2664, reported by the Senate Environment and Public Works Committee in October 2002, paralleled the Administration proposal in several aspects. While the program is specifically intended to help responders better prepare for terrorist attacks involving weapons of mass destruction (WMD), the Administration contends that the program will lead to overall system-wide improvements in emergency management.<sup>3</sup>

At present, state and local first responders can apply for several types of assistance, including grants for emergency planning, training, equipment, exercises, and technical assistance. Assistance is currently provided by the Federal Emergency

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<sup>1</sup> Although some analysts consider public health officials to be "first responders," this report will not address the public health sector. Proposals for the First Responder Initiative do not address public health preparedness, and there are separate funding mechanisms for public health preparedness in the Department of Health and Human Services.

<sup>2</sup> For more information on the Department of Homeland Security, see CRS Report RL31490, *Department of Homeland Security: State and Local Preparedness Issues*, by Ben Canada.

<sup>3</sup> White House Office of Homeland Security, press release, Jan. 24, 2002, available at the OHS web site, [<http://www.whitehouse.gov/homeland>], visited May 3, 2002.

Management Agency, the Department of Justice, and the Department of Health and Human Services.<sup>4</sup>

Nearly all preparedness grant programs will be transferred to the new Department of Homeland Security. The Homeland Security Act (P.L. 107-296), however, does not specifically address the First Responder Initiative, nor does it authorize any new funding for state and local preparedness. It does, however, direct the Office for Domestic Preparedness (in the Border and Transportation Security division) to direct and supervise terrorism preparedness grant programs.<sup>5</sup> (This issue is discussed below in greater detail.)

**Amount of Funding.** The Administration proposal for \$3.5 billion in funding for the First Responder Initiative would be a major increase in federal support of state and local terrorism preparedness. In FY2001, the federal government provided roughly \$370 million in assistance for these activities.<sup>6</sup> In FY2002, Congress appropriated roughly \$2.0 billion in assistance, most of which came in the emergency supplemental appropriations (P.L. 107-38, P.L. 107-117, and P.L. 107-206).<sup>7</sup>

S. 2664 would match the Administration proposal. The bill provides \$3.5 billion in funding, although a small portion of funds would go directly to FEMA's Urban Search and Rescue task forces.<sup>8</sup>

In their reported FY2003 appropriations bills, the House and Senate Appropriations Committees have taken different approaches to funding first responder programs. The Senate Appropriations Committee approved roughly \$3.785 billion for preparedness programs, more than the President requested for the First Responder Initiative. The Committee, however, would divide the funding between FEMA and the Office for Domestic Preparedness (ODP). It would appropriate \$1.747 billion to FEMA for the Assistance to Firefighters program,<sup>9</sup> interoperable communications equipment, and emergency planning, among other

<sup>4</sup> For descriptions of current preparedness programs, please see CRS Report RL31227, *Terrorism Preparedness: Catalog of Selected Federal Assistance Programs*, coordinated by Ben Canada.

<sup>5</sup> P.L. 107-296, sec. 430(d)(3).

<sup>6</sup> Figure based on CRS analysis of the U.S. Office of Management and Budget's *Annual Report to Congress on Combating Terrorism, 2001* (Washington: April 2001).

<sup>7</sup> Figure based on CRS analysis of the FY2002 enacted budget and emergency supplemental appropriations (P.L. 107-38, 107-117, and 107-206). For more information on preparedness grants in FY2002 supplemental appropriations, see "Selected Federal Funding for State and Local Terrorism Preparedness," congressional distribution memorandum, Nov. 26, 2002, by Ben Canada, available from the author.

<sup>8</sup> S.2664, sec. 626. For more information on Urban Search and Rescue task forces, see CRS Report RS21073, *Urban Search and Rescue Task Forces: Fact Sheet*, by Ben Canada.

<sup>9</sup> For more information on the Assistance to Firefighters program, see CRS Report RS21302, *Assistance to Firefighters Program*, by Len Kruger.

activities.<sup>10</sup> The Committee would also appropriate \$2.038 billion to ODP for planning, equipment, training, and exercises. In report language, the Committee indicated its continued support for ODP, stating that it believes the Office's law enforcement approach to providing assistance is more appropriate for terrorist attacks than FEMA's "all hazards" approach.<sup>11</sup> Specifically, the Committee said:

Responding to an act of terrorism is manifestly different than responding to natural disasters. Grouping terrorism preparedness and response, especially as it concerns weapons of mass destruction (WMD), under an emergency management "all hazards" approach puts our first responders, as well as the general public, at risk. Treating both types of catastrophe response in the same manner does not account for the fundamental differences between the national security/law enforcement response to terrorism and the emergency management response to terrorism.<sup>12</sup>

The House Appropriations Committee reported the appropriations bill covering FEMA, but not the bills covering DOJ and HHS. The Committee recommended \$450 million in funding for FEMA's Assistance to Firefighters program. At the time of this writing, it is uncertain whether the House will adopt the approach taken by the Senate and fund states and localities through existing programs, support the Administration's preference to create a First Responder Initiative, or choose an alternative approach.

**Eligible Activities.** The Administration proposal would allow recipients to use funds in four basic areas: emergency planning, equipment, training, and exercises. Although the proposed program would allow recipients discretion in their activities, the Administration believes roughly one-third of the funds would be used for interoperable communications infrastructure.<sup>13</sup>

S. 2664, as reported during the 107<sup>th</sup> Congress, listed a range of eligible activities and gave the FEMA Director discretion to approve related activities. The bill's listed activities included the following:

- ! purchase interoperable equipment;
- ! train first responders according to FEMA guidelines;

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<sup>10</sup> U.S. Congress, Senate Committee on Appropriations, *Departments of Veterans Affairs and House and Urban Development, and Independent Agencies Appropriations Bill, 2003*, report to accompany S. 2797, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 107-222 (Washington: GPO, 2002), pp. 103-105.

<sup>11</sup> Differences between Justice Department and FEMA approaches to providing assistance to first responders are further discussed in RL31490, *Department of Homeland Security: State and Local Preparedness Issues*, see section on "Focus of Training Programs."

<sup>12</sup> U.S. Congress, Senate Committee on Appropriations, *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill*, report to accompany S. 2778, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 107-218 (Washington: GPO, 2002), pp. 44-49.

<sup>13</sup> An interoperable communications system allows responders from multiple jurisdictions to communicate with one another. For more information, see CRS Report RL31375, *Meeting Public Safety Spectrum Needs*, by Linda K. Moore.

- ! upgrade training facilities;
- ! develop emergency operating centers;
- ! develop response plans;
- ! procure communications equipment; and,
- ! conduct exercises.<sup>14</sup>

**Method of Distribution.** As proposed by the Administration, FEMA would distribute funds to states using a population-based formula. The states would have discretion in using 25% of the funds, but would have to redistribute the remaining 75% to sub-state jurisdictions. States would, however, have flexibility to assist not only individual cities, towns, and counties, but also metropolitan areas and regional organizations.<sup>15</sup> The Administration has also proposed that recipients satisfy a matching requirement of 25%.<sup>16</sup>

S. 2664 took the same approach in requiring states to distribute at least 75% of funds to states. The bill, however, instructed FEMA to consider other factors, besides population, in distributing funds to states. S. 2664 established a base amount of \$15 million for each state, and distributed remaining funds to states using such factors as population and location of “vital infrastructure,” such as military installations, public buildings, nuclear power plants, chemical plants, national landmarks, and international borders.<sup>17</sup>

## Related Legislation

**S. 2664.** The structure of S. 2664, which the Senate Environment and Public Works Committee reported on Oct. 1, 2002, parallels that of the Administration proposal. Provisions found in both S. 2664 and the Administration proposal included the following:

- ! FEMA to administer the program;
- ! \$3.5 billion in funding, distributed on a formula basis;
- ! wide range of eligible activities;
- ! 25% matching requirement for recipients;
- ! states must distribute 75% of funds to sub-state regions.

S. 2664, however, contained some provisions that the Administration did not propose (or not explicitly address). For example, the bill gave the FEMA Director discretion to distribute funds using not only the variable of population, but also such variables as location of vital infrastructure and proximity to nuclear power plants, chemical stockpiles, and other potential terrorist targets. The Administration has made no similar proposal. Also, S. 2664 prohibited the use of funds for overtime

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<sup>14</sup> S. 2664, sec. 630(c).

<sup>15</sup> U.S. Federal Emergency Management Agency, Office of National Preparedness, “The First Responder Initiative,” press release, Feb. 2002.

<sup>16</sup> U.S. Federal Emergency Management Agency, *Justification of Estimates, Fiscal Year 2003* (Washington: Feb. 2002), p. EM-1.

<sup>17</sup> S. 2664, sec. 630(d).

expenses. The Administration has no clearly stated position on this issue, but Homeland Security Director Tom Ridge indicated that the Administration might consider allowing recipients to use a portion of grant funds for security activities and law enforcement overtime.<sup>18</sup>

S. 2664 specified reporting requirements that states must satisfy. Within three years after enactment, states would have to participate in a response exercise to “measure the progress of the State in enhancing the ability of State and local first responders to respond to incidents of terrorism, including incidents involving weapons of mass destruction.”<sup>19</sup> States also had to submit annual reports on the use of grant funds.

Furthermore, S. 2664 instructs the FEMA Director to coordinate the new block grant program with existing assistance programs that have related goals. The FEMA Director would coordinate activities with the U.S. Fire Administration, which administers the Assistance to Firefighters grant program, and the Department of Justice, which administers the Community Oriented Policing Services grant program.<sup>20</sup>

**S. 2038/H.R. 4059.** These bills proposed a Homeland Security Block Grant to be administered by FEMA. Like S. 2664, they proposed \$3.5 billion in funding, of which \$3 billion would be distributed to states and localities for homeland security improvements. Seventy percent of the \$3 billion would be distributed to cities and urban counties, and the remaining 30% would go to states for use in non-metropolitan areas. Eligible activities would include purchasing equipment, developing emergency response plans, improving infrastructure and transportation security, and covering overtime expenses of law enforcement and other first responder units. Under the bill, the remaining \$500 million would be distributed to states and regional organizations for emergency planning, developing training facilities, and improving interoperable communications systems. Recipients would have to provide a 10% match with non-federal funds.<sup>21</sup>

S. 2038/H.R. 4059 would require states and localities to submit a plan that would include homeland security objectives, short-term and long-term needs, and projected use of funds. Furthermore, grant recipients would be responsible for submitting annual performance reports.<sup>22</sup>

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<sup>18</sup> David S. Broder, “Mayors Seek Clear Security Plan,” *Washington Post*, June 18, 2002, p. A10. Also see U.S. Conference of Mayors, “Letter to Hon. Dennis Hastert and Richard Gephardt,” July 10, 2002.

<sup>19</sup> S. 2664, sec. 630(h).

<sup>20</sup> S. 2664, sec. 630(i).

<sup>21</sup> S. 2038, sections 6, 7(a)(2), 7(d)(1), 8, and 12.

<sup>22</sup> S. 2038, sec. 5. For more information on this bill, see “Additional Views of Senator Clinton,” in U.S. Congress, Senate Environment and Public Works Committee, *First Responder Terrorism Preparedness Act of 2002*, report to accompany S. 2664, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 107-295 (Washington: GPO, 2002), p. 13.



## Issues and Analysis

As the 108<sup>th</sup> Congress considers creating and modifying grant programs for first responders, it is likely to debate a number of issues. The following section describes issues that may arise specifically in the context of funding first responder improvements.<sup>23</sup>

**How Will Implementation of the DHS Affect the Proposal?**<sup>24</sup> One issue that arises is how the implementation of the Department of Homeland Security (DHS) will affect the proposed First Responder Initiative. The Bush Administration, in its initial DHS proposal, would have placed responsibility for all first responder assistance programs in the EPR division, which has FEMA as its cornerstone. The Homeland Security Act does not specifically address the proposal, or any other proposed assistance programs. It does, however, instruct the Office for Domestic Preparedness (in the Border and Transportation Security division) to direct and supervise terrorism preparedness grant programs.<sup>25</sup> The legislation also directs FEMA to transfer to the ODP all terrorism-related functions of its Office of National Preparedness.<sup>26</sup> Thus, if the First Responder Initiative is approved, ODP may be an appropriate office to administer the program.

There are arguments, however, for both FEMA and ODP administration of the program. Proponents of FEMA contend that: (1) the program is consistent with FEMA's current mission to help states and localities better prepare for *all* disasters; (2) FEMA has considerable experience in providing funding, training, and technical assistance to first responders; and (3) it would be consistent with the Administration's goal of creating a "one stop shop" for preparedness assistance.<sup>27</sup> On the other hand, some may argue that FEMA does not have sufficient experience working with law enforcement agencies and offering training in law enforcement

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<sup>23</sup> For a discussion of more general issues that may arise during the legislative design of a grant program, please see CRS Report RL30778, *Federal Grants to State and Local Governments: Concepts for Legislative Design and Oversight*, by Ben Canada.

<sup>24</sup> Potential impacts of the Department of Homeland Security on state and local preparedness are discussed in CRS Report RL31490, *Department of Homeland Security: State and Local Preparedness Issues*, by Ben Canada.

<sup>25</sup> P.L. 107-296, sec. 430(c)(3).

<sup>26</sup> P.L. 107-296, sec. 430(c)(8). Since May 2001, when President Bush proposed the ONP, the Administration has stated that the office would coordinate all federal programs addressing preparedness for attacks with weapons of mass destruction (WMD). The President's directive for the ONP was based on concerns about duplications, gaps, and inconsistencies in federal preparedness programs. In the FY2002 emergency supplemental appropriation, Congress provided FEMA \$15 million for establishment of the ONP. Congress also instructed FEMA to report on the status of the ONP by Feb. 15, 2002. See U.S. Federal Emergency Management Agency, *FEMA Report to Committee on Appropriations on the Structure of the Office of National Preparedness* (Washington: Feb. 15, 2002), pp. 2, 8.

<sup>27</sup> For more information on FEMA's authority and the Office of National Preparedness, see CRS Report RL31510, *Transfer of FEMA to the Department of Homeland Security*, by Keith Bea.

contexts. Proponents of the ODP counter that it has the necessary expertise to assist first responders in preparing for terrorist attacks, which may involve procedures not typically used in natural disasters, such as evidence recognition and crime scene preservation. Like FEMA, ODP also has experience providing funding, training, and other assistance to first responders.

**Should States or Localities Receive Funds?** Several organizations representing state and local governments and first responder groups have generally approved of the Administration's and Congress's proposals to increase funding to states and localities. Some organizations representing local governments, however, such as the U.S. Conference of Mayors (USCM) and the National Association of Counties, have expressed concern that the First Responder Initiative would give states substantial decision-making authority and offer local governments little discretion in the use of funds. A USCM survey, for example, showed that 87% of city mayors believed that the channeling of federal funds through states would ultimately "hamper" city preparedness efforts.<sup>28</sup>

Organizations representing states, however, contend that state coordination of federal assistance is crucial to improving preparedness. One state emergency manager, representing the National Emergency Management Association, testified that, "[a]ll efforts to increase emergency management capacity building must be coordinated through the states to ensure harmonization with the state emergency operations plan, ensure equitable distribution of resources, and to synthesize resources [for mutual aid agreements]...."<sup>29</sup>

The Senate Environment and Public Works Committee, in its report accompanying S. 2664, seemingly agreed with the state-level approach. The report stated:

There is a need to provide funds to both State and local first responders in a coordinated, strategic, and prompt manner. To ensure a coordinated effort at the State level, the Act designates that all funds will be awarded to the Governors of the States, who may retain up to 25 percent of the funds they receive for State-level first responder needs ... To ensure that the majority of these funds go to the local first responders as soon as possible, States must coordinate with local governments and local entities, and directly provide them with at least 75 percent of the funds received by the State within 45 days.<sup>30</sup>

Should Congress determine that greater local discretion over the use of funds is desirable, it might instruct the administering agency to distribute a portion of funds directly to localities, as was proposed in other bills introduced in the 107<sup>th</sup> Congress

<sup>28</sup> U.S. Conference of Mayors, "Homeland Security: Mayors on the Frontline," June 2000, available at: [[http://www.usmayors.org/70thAnnualMeeting/madison\\_061302.asp](http://www.usmayors.org/70thAnnualMeeting/madison_061302.asp)], visited June 19, 2002.

<sup>29</sup> Statement of Woodbury Fogg, on behalf of the National Emergency Management Association, U.S. Congress, Senate Committee on Public Works and Environment, *First Responder Initiative*, hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., Mar. 12, 2002.

<sup>30</sup> S.Rept. 107-295, p. 5.

(S. 2038/H.R. 4059).<sup>31</sup> On the other hand, Congress might find that states require discretion in the use of funds to effectively coordinate state-wide preparedness efforts. Thus, it could enact the Administration's proposal to distribute most or all funds through the states.

**Should the Use of Funds Be Limited to Standardized Activities and Equipment?** Congress sometimes requires grant recipients to satisfy specified conditions in order to receive federal funds.<sup>32</sup> Placing certain requirements on first responder grants could lead to state and local adoption of minimum standards for equipment, response plans, mutual aid agreements, training, and other elements of preparedness. Some analysts suggest that attaching requirements to preparedness grants may be necessary to ensure that all states and localities adhere to such standards, and thus achieve a minimum level of preparedness:

The intergovernmental system has long been built on a clear bargain: the federal government provides benefits (whether money or flexibility) in exchange for state and local governments' achievement of prescribed standards. In federal homeland security grants to state and local governments, therefore, the critical issue is not so much whether the federal government can—and should—define such standards. It is what those standards ought to be—and how much flexibility state and local governments ought to be allowed in meeting them.<sup>33</sup>

Some requirements, such as requiring states and localities to participate in mutual aid compacts, would arguably lead to more efficient use of emergency management resources. Mutual aid compacts can allow governmental units to pool resources and overcome legal and financial obstacles that might interfere with emergency responses across multi-jurisdictional boundaries. Other requirements, such as requiring recipients to purchase standardized types of interoperable communications equipment, for example, could enable states and localities to communicate with one another during emergencies.

While the Administration has yet to make specific recommendations, FEMA requested comments on a range of possible requirements, including:

- ! state participation in the Emergency Management Assistance Compact;<sup>34</sup>
- ! local government participation in a regional mutual aid compact;
- ! national standards for training, exercises, equipment, and interoperable communications infrastructure;

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<sup>31</sup> Also see “Additional Views of Senator Clinton,” in S.Rept. 107-295, p. 13.

<sup>32</sup> For more information on options for federal requirements, see CRS Report RL31266, *State and Local Preparedness for Terrorism: Policy Issues and Options*, by Ben Canada.

<sup>33</sup> Donald F. Kettl, “Promoting State and Local Government Performance for Homeland Security,” The Century Foundation Homeland Security Project (New York, June 2002), p. 10. Available at :[<http://www.homelandsec.org/WGfederal/index.htm>], visited Aug. 9, 2002.

<sup>34</sup> For more information on this interstate compact, please see CRS Report RS21227, *Emergency Management Assistance Compact (EMAC): An Overview*, by Ben Canada.

! creation of a Citizen Corps volunteer organization.<sup>35</sup>

S. 2664 would arguably have required recipients to satisfy a number of requirements. The bill allowed a wide range of eligible activities, but required recipients to purchase interoperable equipment, develop training programs consistent with FEMA standards, and develop response plans consistent with federal and state strategies.<sup>36</sup>

On the other hand, requirements could force states and localities to adopt policies that they believe do not enhance their preparedness. They could also limit the ability of recipients to adapt federal assistance to their unique needs. Stringent requirements might deter some states and localities from accepting federal assistance, since requirements could prove costly, even with additional federal resources. This consequence might be more likely in jurisdictions that perceive themselves at low risk of a terrorist attack. But, considering the nationwide salience of the issue of terrorism preparedness and the fact that many states are experiencing significant budget difficulties, states and localities may readily accept federal assistance and any accompanying conditions.

**Should Infrastructure Security and Overtime Expenses Be Eligible Activities?** Some state and local officials may wish to use first responder grants to help secure public infrastructure facilities, such as water treatment plants, electricity plants, and transportation hubs.<sup>37</sup> They may also wish to use the funds to compensate for overtime pay for public safety officers. The U.S. Conference of Mayors, for example, recommended that “at least a portion of the funding be authorized for overtime assistance under the first responders initiative so that our local police and fire personnel can be fully integrated into the national homeland defense effort.”<sup>38</sup>

The Administration proposal does not mention infrastructure security or overtime expenses as eligible activities. In a meeting with the U.S. Conference of Mayors, Homeland Security Director Tom Ridge indicated that the Administration may consider allowing recipients to use a portion of grant funds for security activities and law enforcement overtime.<sup>39</sup> S. 2664 did not list infrastructure security as an activity and explicitly prohibited using funds for overtime expenses.<sup>40</sup> Other bills introduced in the 107<sup>th</sup> Congress, however, such as S. 2038/H.R. 4059 and S. 2077,

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<sup>35</sup> U.S. Federal Emergency Management Agency, “First Responder Initiative Grant Process,” *Federal Register*, vol. 67, no. 73, April 9, 2002, p. 18621.

<sup>36</sup> S. 2664, sec. 630(c).

<sup>37</sup> Existing infrastructure security programs are described in CRS Report RL31465, *Protecting Critical Infrastructure from Terrorist Attack: A Catalog of Selected Federal Assistance Programs*, coordinated by John Moteff.

<sup>38</sup> U.S. Conference of Mayors, Letter to Hon. J. Dennis Hastert and Hon. Richard A. Gephardt, “First Responders Initiative and America’s Cities,” July 10, 2002.

<sup>39</sup> David S. Broder, “Mayors Seek Clear Security Plan,” *Washington Post*, June 18, 2002, p. A10. Also see U.S. Conference of Mayors, “Letter to Hon. Dennis Hastert and Hon. Richard Gephardt,” July 10, 2002.

<sup>40</sup> S. 2664, sec. 630(c)(2).

proposed a wider range of eligible activities than S. 2664, including security for water infrastructure, power plants, tunnels, bridges, pipelines, and salary over-time expenses.<sup>41</sup>

Authorizing infrastructure security and overtime as eligible activities could, arguably, change the focus of the grant program. Were states and localities to allocate funds to security and overtime, fewer funds would be available for enhancing the capabilities of first responders to respond to weapons of mass destruction (WMD) attacks, which is the Administration's stated goal for the program.<sup>42</sup> Were Congress to agree with the Administration's goal, it might prohibit the use of funds for infrastructure security and overtime, or limit the percentage of funds that can be used for that purpose, since those activities arguably do not enhance response capabilities. On the other hand, Congress might find that states and localities need assistance with security improvements and thus authorize funding for such activities.

**How Should the Funds Be Accounted For?** The Administration has emphasized in press releases and testimony that it hopes to minimize administrative requirements in the proposed program. For example, FEMA Director Joe Allbaugh testified that FEMA will "[e]stablish a consolidated, simple, and quick method for disbursing Federal assistance to States and localities."<sup>43</sup> The Administration, however, has not released specific details about the administrative and regulatory requirements that it would support for this program. State and local officials have emphasized that speedy distribution of funds should be a priority in all preparedness assistance programs.<sup>44</sup>

A balancing consideration is whether a speedy method of distribution with minimal administrative requirements would inhibit Congress's ability to oversee the program's efficiency and effectiveness. Were Congress to enact the program, it could require the administering agency to develop application and reporting requirements that would facilitate program evaluation. S. 2664 arguably included such provisions. The bill required states to report annually on the use of funds. Furthermore, it required each state to report to Congress within three years on the outcome of an exercise designed to evaluate the state's response to a weapons of mass destruction incident.<sup>45</sup> On the other hand, Congress might decide that urgent state and local needs outweigh the needs of oversight and could instruct the administering agency to distribute funds as expeditiously as possible.

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<sup>41</sup> For more examples, see (107<sup>th</sup> Congress) S. 2038, sec. 6 and S. 2077, sec. 4.

<sup>42</sup> U.S. Federal Emergency Management Agency, Office of National Preparedness, "The First Responder Initiative," press release, Feb. 2002.

<sup>43</sup> See Statement of Joe M. Allbaugh, Director, Federal Emergency Management Agency, U.S. Congress, Senate Committee on Environment and Public Works, *First Responder Initiative*, hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 12, 2002.

<sup>44</sup> U.S. Conference of Mayors, "One Year Later, Cities are Safer but Still Await Financial Assistance from Washington," press release, Sept. 9, 2002.

<sup>45</sup> S. 2664, sec. 630(h).

**Should the Program Maintain an All-Hazards Approach?**<sup>46</sup> Some are concerned that the President's First Responder Initiative, or a similar program, would transfer federal resources away from the traditional "all-hazards" approach to emergency management. FEMA states that one of its goals is to help state and local governments take a comprehensive, risk-based approach to emergency management, preparing for both natural and man-made disasters.<sup>47</sup> The Homeland Security Act transferred FEMA into the DHS, but instructed the agency to continue its traditional approach.<sup>48</sup> Some emergency managers have expressed concern that new federal policies may allocate disproportionate resources to terrorism preparedness, leaving states and localities less prepared for catastrophic natural disasters, such as floods and hurricanes.<sup>49</sup>

In its FY2003 budget proposal, the Administration proposed that funding from other programs, including FEMA's Assistance to Firefighters program, be merged into the new program.<sup>50</sup> At present, roughly 17 federal programs provide assistance specifically for terrorism preparedness, or that may be used for terrorism preparedness.<sup>51</sup> The Assistance to Firefighters program (FIRE grants) is intended to help fire and rescue departments with general improvements, not specifically with terrorism preparedness.<sup>52</sup> The International Association of Fire Chiefs, and other nongovernmental organizations, encouraged Congress and the Administration to enact the First Responder Initiative, but also to preserve the Assistance to Firefighters program as a separate grant program to help states and localities maintain an all-hazards approach to emergency management.<sup>53</sup> Since releasing its FY2003 budget, the Administration has not renewed its call to consolidate this program into the First Responder Initiative.

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<sup>46</sup> The "all-hazards" approach is further discussed in CRS Report RL31490, *Department of Homeland Security: State and Local Preparedness Issues*, by Ben Canada; and CRS Report RL31510, *Transfer of FEMA to the Department of Homeland Security*, by Keith Bea.

<sup>47</sup> U.S. Federal Emergency Management Agency, *Guide for All-Hazard Emergency Operations Planning* (Washington: Sept. 1996), Foreward.

<sup>48</sup> P.L. 107-296, sec. 507.

<sup>49</sup> Eric Tolbert, President, National Emergency Management Association (NEMA), Remarks before the Virginia Emergency Management Association, March 15, 2002.

<sup>50</sup> U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2003* (Washington: Feb. 2002), p. 317.

<sup>51</sup> For a catalog of existing preparedness programs, see CRS Report RL31227, *Terrorism Preparedness: Catalog of Selected Federal Assistance Programs*, coordinated by Ben Canada.

<sup>52</sup> For more information on the Assistance to Firefighters program, see CRS Report RS21302, *Assistance to Firefighters Program*, by Len Kruger.

<sup>53</sup> Statement of Chief Stephen D. Halford, Nashville, Tennessee, U.S. Congress, House Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management, and International Relations, *How Effectively are Federal, State and Local Governments Working Together to Prepare for a Biological, Chemical or Nuclear Attack?*, hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 1, 2002.

In S. 2664, the Assistance to Firefighters program was preserved as a distinct program from the First Responder Initiative. In its accompanying report, the Senate Environment and Public Works Committee emphasized that both programs, along with other assistance programs, "... are important components of a coordinated effort to provide supplemental assistance to States and local communities."<sup>54</sup> The Senate Appropriations Committee is also arguably taking such an approach by proposing increased funding in FY2003 for terrorism preparedness programs, but also significantly increasing funding to the Assistance to Firefighters program.<sup>55</sup>

Were Congress to determine that maintaining an all-hazards approach is a high priority, it could maintain funding to the Assistance to Firefighters program and other general assistance programs to help states and localities fund general preparedness improvements. Alternatively, Congress might be concerned about increased federal spending in the area of emergency management and modify programs and funding accordingly.

## Conclusion

Should Congress take further action on the President's proposed First Responder Initiative, or a similar proposal, it will address a number of attributes common to all grant programs, including range of eligible activities, matching requirements, and program accountability. Congress would also address issues specifically related to homeland security, such as determining which federal agency can best assist states and localities with preparedness efforts and determining if certain requirements would lead to preparedness improvements.

## Hearings in the 107<sup>th</sup> Congress

House Committee on Government Reform, Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations. *How Effectively Are Federal, State and Local Governments Working Together to Prepare for a Biological, Chemical or Nuclear Attack?* hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 1, 2002.

———. *The Silent War, Are Federal, State, and Local Governments Prepared for Biological and Chemical Attacks*, hearings, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., October 5, 2001.

Senate Committee on Appropriations. *Homeland Security*, hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 10, 2002.

Senate Committee on Environment and Public Works. *First Responder Initiative*, hearings, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 12, 2002.

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<sup>54</sup> S.Rept. 107-295, p. 6.

<sup>55</sup> Senate Committee on Appropriations, *VA-HUD Appropriations Bill, 2003*, S.Rept. 107-222, pp. 104.

Senate Committee on Governmental Affairs. *The Local Role in Homeland Security*, hearings, 107<sup>th</sup> Cong., 1<sup>st</sup> sess., Dec. 11, 2001.

## **Related CRS Products**

CRS Report RS21302, *Assistance to Firefighters Program*, by Len Kruger.

CRS Report RL31266, *State and Local Preparedness for Terrorism: Policy Issues and Options*, coordinated by Ben Canada.

CRS Report RL31227, *Terrorism Preparedness: Catalog of Selected Federal Assistance Programs*, coordinated by Ben Canada

CRS Report RL31510, *Transfer of FEMA to the Department of Homeland Security*, by Keith Bea.