

Congress of the United States
Washington, DC 20515

April 11, 2008

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

Dear Secretary Chertoff:

We write to express our strong concern with provisions in the Fiscal Year (FY) 2008 Homeland Security Grant Program Guidance that restrict the use of grant funds for certain operational activities. These restrictions are inconsistent with provisions of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), which the President signed into law on August 3, 2007 (P.L. 110-53). We ask that the FY 2008 Homeland Security Grant Program Guidance be changed to reflect Congressional intent.

As the lead negotiators of the 9/11 Act, we arrived at a bipartisan agreement on provisions to formally authorize and alter the State Homeland Security Grant Program (SHSGP) and Urban Area Security Initiative (UASI). The 9/11 Act and the accompanying joint explanatory statement clearly indicate Congressional intent with respect to permitted uses of funds under both SHSGP and UASI. Members of Congress understand that terrorism prevention activities are personnel intensive. As a result, the 9/11 Act permits grant recipients to use up to 50% of the funding they receive for personnel expenditures, including paying the salaries of current, and hiring additional, intelligence analysts, and for paying the salaries of individuals engaged in counterterrorism activities permitted under the FY 2007 counterterrorism staffing pilot. In addition, the 9/11 Act sought to provide greater flexibility to grant recipients by permitting funds under SHSGP to be used for activities that were traditionally only allowed under UASI, and vice versa.

Unfortunately, the FY 2008 Homeland Security Grant Program Guidance places limits on the uses of grant funds for these activities in direct contravention of the statute. For instance, Section 2008(a)(12) of the Homeland Security Act, as amended by the 9/11 Act, specifically permits SHSGP and UASI funds to be used for activities permitted under the FY 2007 counterterrorism staffing pilot, yet the Guidance purports to prohibit the use of funds for these very activities. Similarly, although the 9/11 Act permits grant recipients to use up to 50% of their grant funds for any combination of personnel activities (including overtime and backfill costs), the Guidance attempts to impose far lower caps on personnel spending. For example, the Guidance permits the use of only 15% of SHSGP funds to pay for intelligence analysts at the State's primary fusion centers, and restricts the use of funds only to new positions. UASI funds may be used for intelligence analysts as well, but spending for this purpose is restricted to only 25% of funds. The Guidance would also limit spending on personnel for planning, training, exercise, and equipment activities to 15% of grant funds.

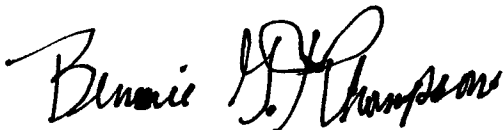
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Furthermore, while Information Bulletin (IB) #281, which was released on March 5, 2008, was a positive step in correcting flaws in the original grant guidance, it still does not bring the Guidance into alignment with statutory requirements. The bulletin still requires a certification that any intelligence analyst position funded with 2008 SHSGP funds is a new position above current capability. This guidance change does not allow funding to support any *existing* analyst position. Over the last several years, many States have established fusion centers. While they may not require assistance to further expand these centers, they require assistance to sustain their current capabilities. As you know, the National Strategy for Information Sharing discusses the need for Federal sustainment funding for fusion centers. It was Congress' intent to allow States the ability to use SHSGP and UASI funds for sustainment purposes.

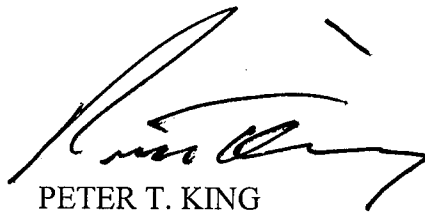
The provisions noted above will have an adverse impact on many grant recipients and may even have the effect of forcing some fusion centers to restrict or cease operations. The Federal government must continue to support State and local counterterrorism and intelligence activities. Therefore, we urge you to change the grant guidance to bring it into compliance with the 9/11 Act to ensure our State and local partners receive the kind of financial assistance they need.

Thank you for your time and attention to this important matter.

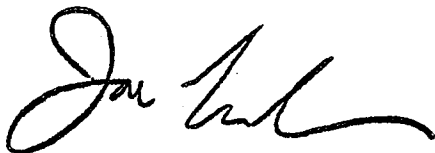
Sincerely,



BENNIE G. THOMPSON
Chairman
House Committee on Homeland Security



PETER T. KING
Ranking Member
House Committee on Homeland Security



JOSEPH I. LIEBERMAN
Chairman
Senate Committee on Homeland Security
and Governmental Affairs



SUSAN M. COLLINS
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs