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EMERGENCY PREPAREDNESS

Federal Funds for First Responders

Statement of William O. Jenkins, Jr., Director
Homeland Security and Justice Issues

May 13, 2004

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Federal Funds for First Responders

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Highlights

Highlights of GAO-04-788T, a report to Subcommittee on Economic Development, Public Buildings, and Emergency Management, House Committee on Transportation and Infrastructure

Why GAO Did This Study

The terrorist attacks of September 11, 2001, highlighted the critical role first responders play at the state and local level when a disaster or emergency strikes. In fiscal years 2002 and 2003, Congress appropriated approximately $13.9 billion for domestic preparedness. A large portion of these funds were for the nation's first responders to enhance their ability to address future emergencies, including potential terrorist attacks. These funds are primarily to assist with planning, equipment purchases, training and exercises, and administrative costs. They are available to first responders mainly through the State Homeland Security Grant Programs and Urban Area Security Initiative grants. Both programs are administered through the Department of Homeland Security's Office for Domestic Preparedness.

In this testimony, GAO addressed the need to balance expeditious distribution of first responder funds to states and localities with accountability for effective use of those funds and summarized major findings related to funding distribution delays and delays involving funds received by local governments, as presented in reports issued by the Department of Homeland Security Office of Inspector General and the House Select Committee on Homeland Security. The testimony incorporated supporting evidence on first-responder funding issues based on ongoing GAO work in selected states.

www.gao.gov/cgi-bin/getrpt?GAO-04-788T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Wiiliam O. Jenkins, Jr. at (202) 512-8777 or jenkinswo@gao.gov.

What GAO Found

The reports of the Department of Homeland Security Office of Inspector General (OIG) and the House Select Committee on Homeland Security examined the distribution of funds to states and localities. Both reports found that although there have been delays in getting federal first-responder funds to local governments and first-responder agencies, the grant management requirements, procedures, and processes of the Office for Domestic Preparedness (ODP) were not the principal cause. According to the OIG's report, in fiscal years 2002 and 2003, ODP reduced the time required to provide on-line grant application guidance to states, process grant applications, and make grant awards. For example, for fiscal year 2002 grants, it took 292 days, on average, from the time the grant legislation was enacted to the awarding of grants to states. For fiscal year 2003 grants, the total cycle was reduced to 77 days, on average.

According to the reports, most states met deadlines for subgranting first-responder funds to local jurisdictions. The fiscal year 2003 State Homeland Security Grant Programs and Urban Area Security Initiative required states to transfer 80 percent of first-responder grant funds to local jurisdictions within 45 days of the funds being awarded by ODP. Most states met that deadline by counting funds as transferred when states agreed to allocate a specific amount of the grant to a local jurisdiction, the OIG's report found. The House Select Committee staff concurred. And in the three states GAO examined, states certified they had allocated funds to local jurisdictions within the 45-day period.

Delays in allocating grant funds to first responder agencies are frequently due to local legal and procedural requirements, the OIG's report found. State and local governments sometimes delayed delivery of fiscal year 2002 grant funds, for example, because governing and political bodies within the states and local jurisdictions had to approve and accept the grant funds. GAO's work indicated a similar finding. In one state GAO reviewed, roughly four months elapsed from the date the city was notified that grant funds were available to the date when the city council voted to accept the funds.

Both reports GAO reviewed found that state and local procurement processes have, in some cases, been affected by delays resulting from specific procurement requirements. While some states purchase first-responder equipment centrally for all jurisdictions, in some instances, those purchases are made locally and procurement may be delayed by competitive bidding rules, among other things.

It is important to note that those who manage homeland security grants to states and local governments must balance two sometimes competing goals: (1) getting funds to states and localities expeditiously and (2) assuring that there is appropriate planning and accountability for the effective use of the funds.

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss federal funding for first responders. The events of September 11, 2001, spotlighted the critical role that the nation's first responders play in responding to and mitigating the effects of a terrorist attack. In fiscal years 2002 and 2003, Congress appropriated nearly $13.9 billion for domestic preparedness programs. The largest sources of federal funds for first responders were the State Homeland Security Grant Programs (in fiscal year 2002 called the State Domestic Preparedness Program), distributed to states[1] using a formula that provides each state a base amount plus additional funds based on population, and the Urban Area Security Initiative Grants, distributed to selected urban areas based on such factors as population density, critical infrastructure, and potential threats. These monies were generally available for planning, equipment, exercises, training, and administrative costs.

My statement provides:

- A brief discussion of some basic issues associated with using first responder funds effectively.
- The major findings reported recently by the Department of Homeland Security (DHS) Office of Inspector General[2] (OIG) and the House Select Committee on Homeland Security[3] (House Select Committee) on the reasons for delays in distributing first responder funds to local governments and delays in using those funds once received.
- Some examples from our work in three states that support the findings in these two reports. Our work to date has provided no information that would contradict the major findings of these two reports.

Scope and Methodology

GAO is currently conducting several reviews related to first responder grants. One of these reviews, to be published within the next few weeks, addresses issues of coordinated planning and the use of federal grant

[1]Funds are also distributed to the District of Columbia, Puerto Rico, and the four territories.

[2]Department of Homeland Security: Office of Inspector General, *An Audit of Distributing and Spending "First Responder" Grant Funds*, OIG-04-15 (Washington, D.C.: Mar. 2004).

[3]House Select Committee On Homeland Security, *An Analysis of First Responder Grant Funding*, (Washington, D.C.: April 2004).

funds for first responders in the National Capitol Region, which encompasses the District of Columbia and 11 surrounding jurisdictions. Another effort is focused on intergovernmental efforts to manage fiscal year 2002 and 2003 grants administered by the Office for Domestic Preparedness (ODP) within the Department of Homeland Security (DHS).

Because much of our work in this area is ongoing and our findings remain preliminary, my testimony today will focus principally on the major findings of the reports on preparedness funding issued by the DHS OIG and the House Select Committee, supplemented by some examples from our work in four selected locations in three states. Our analysis focused on three ODP grant programs: the State Domestic Preparedness Grant Program of fiscal year 2002, with $315,440,000 in appropriations, and the fiscal year 2003 State Homeland Security Grant Programs, Parts I and II, with appropriations of $566,295,000 and $1,500,000,000, respectively. The purpose of this work was to document the flow of selected fiscal year 2002 and 2003 grant monies from ODP to local governments and the time required to complete each step in the process. In doing this work, we met with state and local officials in each state and obtained and reviewed federal, state, and local documentation. We did this work between December 2003 and February 2004 in accordance with generally accepted government auditing standards.

Background

In recent months, the Conference of Mayors, members of Congress, and others have expressed understandable concerns about delays in the process by which congressional appropriations for first responders reach the local fire fighter, police officer, or other first responder. The reports by DHS OIG and the House Select Committee examined the distribution of homeland security grant funding to states and local governments to understand what obstacles—if any—prevent the expeditious flow of grant funding from the federal government to state and local governments.

In March 2003, ODP was moved from the Department of Justice to the DHS. In fiscal years 2002 and 2003, ODP managed about $3.5 billion under 16 separate grant programs. Generally, states and local grant recipients could use these funds for some combination of training, new equipment, exercise planning and execution, general planning efforts, and administration. The largest of these grants were the State Homeland Security Grant Programs and the Urban Area Security Initiative grants. In both grant programs, states may retain 20 percent of total state grant funding but must distribute the remaining 80 percent to local governments within the state.

Issues Associated With Using First Responder Funds Effectively

Before discussing some of the issues that have been raised about the distribution of federal grant funds to first responders, I would like briefly to discuss some basic issues associated with using those funds effectively.

A key goal of first responder funding should be developing and maintaining the capacity and ability of first responders to respond effectively to and mitigate incidents that require the coordinated actions of first responders. These incidents encompass a wide range of possibilities, including daily auto accidents, truck spills, and fires; major natural disasters such as floods, hurricanes, and earthquakes; or a terrorist attack that involves thousands of injuries. Effectively responding to such incidents requires well-planned, well-coordinated efforts by all participants. Major events, such as natural disasters or terrorist attacks, may require the coordinated response of first responders from multiple jurisdictions within a region, throughout a state or among states. Thus, it follows that developing a coordinated plan for such events should generally involve participants from the multiple jurisdictions that would be involved in responding to the event. However, a major challenge in administering first responder grants is balancing two goals: (1) minimizing the time it takes to distribute grant funds to state and local first responders and (2) ensuring appropriate planning and accountability for effective use of the funds.

In fiscal years 2002 and 2003, at least 16 federal grants were available for first responders, each with somewhat different requirements. Previously, we have noted that substantial problems occur when state and local governments attempt to identify, obtain, and use the fragmented grants-in-aid system to meet their needs.[4] Such a proliferation of programs leads to administrative complexities that can confuse state and local grant recipients. Congress is aware of the challenges facing grantees and is considering several bills that would restructure first responder grants.

[4]See U.S. General Accounting Office, *Homeland Security: Reforming Federal Grants to Better Meet Outstanding Needs*, GAO-03-1146T (Washington, D.C.: Sept. 3, 2003).

Basic Steps in Distributing State Homeland Security Grant Funds

Much of the concern about delays in distributing federal grant funds to local first responders has involved the State Homeland Security grants which are distributed to states on the basis of a formula. Each state received 0.75 percent of the total grant appropriation, with the remaining funds distributed according to state population.

There are a number of sequential steps common to the distribution of ODP State Homeland Security Grants from ODP to the states and from the states to local governments. They include the following:

1. Congress appropriates funds.
2. ODP issues grant guidance to states.
3. State submits application, including spending plans, to ODP.
4. ODP makes award to states noting any special conditions that must be cleared before the funds can be used.
5. State meets and ODP lifts special conditions, if applicable.
6. State subgrants at least 80 percent of its funds to local governments.
7. Local governments purchase equipment directly or through the state.
8. Local governments submit receipts to the state for reimbursement.
9. State draws down grant funds to reimburse local governments.

The total time required to complete these steps is dependent upon ODP requirements and state and local laws, requirements, regulations, and procedures. Generally, the DHS OIG report and the report of the House Select Committee on Homeland Security found similar causes of delays in getting funds to local governments and first responder agencies. These included delays in completing state and local planning requirements and budgets; legal requirements for the procedures to be used by local governments in accepting state grant allocations; the need to establish procedures for the use of the funds, such as authority to buy equipment and receive reimbursement later; and procurement requirements, such as bidding procedures. Generally, neither the IG report nor the House Select

Committee report found that the delays were principally due to ODP's grant management procedures and processes.

ODP Grant Awards to the States

Both the DHS OIG report and the House Select Committee report found that ODP's grant applicant process was not a major factor in delaying the distribution of funds to states. The DHS OIG found that in fiscal years 2002 and 2003, ODP reduced the time it took to make on-line grant application guidance and applications available to states, process grant applications, and award the grants to states after applications were submitted. The DHS OIG found that the total number of days from grant legislation enacted to award of grants to states declined from on average 292 days for fiscal year 2002 grants to on average 77 days for fiscal year 2003 grants. For the three states we examined, we found that the time between the enactment of the appropriation and ODP's award of the grant to these states declined from 8 months in fiscal year 2002 to 3 months for fiscal year 2003 State Homeland Security Grant Program, Part I, and 2 months for fiscal year 2003 State Homeland Security Grant Program, Part II.

One factor that did delay the states' ability to use ODP grant funds was the imposition of special conditions. In fiscal years 2002 and 2003, ODP imposed special conditions for the state homeland security formula grants if the state had failed to adequately complete one of the requirements of the grant application. For example, in fiscal years 2002 and 2003, to receive funding states had to submit detailed budget worksheets to identify how grant funds would be used for equipment, training, and exercises. To accelerate the grant distribution process, ODP would award funds to states that had not completed the budget detail worksheets, with the special condition that states and locals would be essentially unable to use the funds until the required budgets were submitted and approved. Thus, the time it took to lift the special conditions was largely dependent upon the time it took state and local governments to submit the required documentation. States could not begin to draw down on the grant funds until the special conditions were met. In one state we reviewed, ODP notified the state of the special conditions on May 28, 2003, and the conditions were removed on August 6, 2003, after the state had met those conditions. In another state, ODP notified the state of the special conditions on September 13, 2002, and the conditions were removed on March 18, 2003.

ODP imposed special conditions on both the fiscal year 2002 State Domestic Preparedness Grant Program and the fiscal year 2003 State

Homeland Security Grant Program, Part I, but not on the State Homeland Security Grant Program, Part II.

State Awards to Local Governments

After ODP makes its initial award, the state must subgrant at least 80 percent of its grant award to local units of government. In fiscal year 2003, the states had to certify to ODP within 45 days that they had made these subgrants.[5] The subgrant entities and procedures can vary with each state, making it hard to generalize about this phase of the distribution process. In our work, we found that some states subgranted the funds to the county level, while another subgranted to regional task forces composed of several counties. Subgrantees also varied in their procedures to distribute funds to local governments. Some subgrantees managed the grant process themselves, while others chose to pass funds further down, to a county or city within the jurisdictional area.

Most States Met Deadline for Subgranting Funds But Some Local Jurisdictions Were Not Prepared to Spend Funds

As reported by the DHS OIG, Congress adopted appropriation language for the fiscal year 2003 State Homeland Security Grant, Part II, that required states to transfer 80 percent of first responder grant funds to local jurisdictions within 45 days of the funds being awarded by ODP. This requirement was included in the appropriation bill to ensure that states pass funds down to local jurisdictions quickly, and ODP incorporated this requirement into its grant application guidance. However, according to the DHS OIG report, this action had a limited effect because most states met the 45-day deadline by counting funds as transferred when the states agreed to allocate a specific amount of the grant to a local jurisdiction, even if the state had not determined how the funds would be spent or when contracts for goods and services would be let. Additionally, many states and local jurisdictions delayed spending of prior year grant funds in order to meet the fiscal year 2003 requirement. The House Select Committee staff also reported that nearly all states met this 45-day requirement with respect to 2003 funding as of February 2004, but noted that this may not reflect the actual availability of funds for expenditures by local jurisdictions. The committee report cited the example of Seattle, Washington. While it had been awarded $30 million in May 2003, Seattle received authorization to spend these funds only shortly before the April 2004 release of the committee's report. In the three states we examined,

[5]For fiscal year 2004 grants, states were allowed 60 days.

we also found that states had certified they had allocated funds to local jurisdictions within the required 45-day period.

Various Local Legal and Procedural Requirements Took Time

According to the DHS OIG, state and local governments were sometimes responsible for delaying the delivery of fiscal year 2002 grant funds to first responders because various governing and political bodies within the states and local jurisdictions had to approve and accept the grant funds. Six out of the 10 states included in the DHS OIG's sample reported that their own state's review and approval process was one of the top three reasons that the funds had not been spent by the time the report was published. For example, one of three states for which data were available took 22 days to accept ODP's award and 51 days to award a subgrant to one of its local jurisdictions; the local jurisdiction did not accept the grant for another 92 days. Another state took 25 days to accept ODP's grant award and up to 161 days to award the funds to its local jurisdictions. Local jurisdictions then took up to 50 days to accept the awards.

Our work showed similar results. One city was notified on July 17, 2003 that grant funds were available for use, but the city council did not vote to accept the funds until November 7, 2003.

The House Select Committee reported that, in over half of the states they reviewed, local jurisdictions had not submitted detailed spending plans to the states prior to the time the states had transferred grant funds to them. Specifically, they found that often times, even though a reasonable estimate of the available award amount was available months earlier, many local jurisdictions waited to initiate their planning efforts until they were officially notified of their grant awards. Because ODP imposed special conditions in some grant years, these local jurisdictions, therefore, could not begin to draw down funds until they provided the detailed budget documentation, outlining how the funds would be spent, as required by ODP.

For the fiscal year 2002 statewide homeland security grants, local jurisdictions and state agencies were required to prepare, submit, and receive approval of detailed budget work sheets that specifically accounted for all grant funds provided. This specific detailing of items included not only individual equipment items traditionally accounted for as long-term capital equipment, but also all other items ordinarily recorded in accounting records as consumable items, such as disposable plastic gloves, that usually need not be accounted for individually. Preparing this

detailed budget information took time on the part of local jurisdictions to prepare and for the states and ODP to review and approve.

Since the first round of fiscal year 2003 state homeland security grants, ODP has not linked the submission and approval of detailed budget information to the release of grant funds. ODP required the submission and approval of the same detailed budget worksheets for the fiscal year 2003 statewide grants, but did not condition the release of funds on their submission and approval. For the fiscal year 2004 grants, ODP still requires the submission of detailed budget work sheets by local jurisdictions to the state, but not to ODP, for its approval.

The DHS OIG also found that there were numerous reasons for delays in spending grant funds. Some were unavoidable and others they found to be remediable. In general, the DHS OIG found identifying the highest priority for spending grant funds to be a difficult task. Most states the DHS OIG visited were not satisfied with the needs analysis that they had done prior to September 11, 2001. Some states took the time to update their homeland security strategies, and one state delayed fiscal year 2002 grant spending until it had completed a new strategy using ODP's fiscal year 2003 needs assessment tool. The DHS OIG also found little consistency in how the states manage the grant process. The states used various methods for identifying and prioritizing needs and allocating grant funds. States may rely on the work of regional task forces, statewide committees, county governments, mutual aid groups, or local fire and police organizations to identify and prioritize grant spending.

Both the DHS OIG report and House Select Committee report noted that state and local procurements have, in some cases, been affected by delays resulting from specific procurement requirements. Some states purchase equipment centrally for all jurisdictions, while others sub-grant funds to local jurisdictions that make their own purchases. In these latter instances, local procurement regulations can affect the issuance of equipment purchase orders. The House Select Committee report discussed how state and local procurement processes and regulations could slow the expenditure of grant funds. For example, in Kentucky, an effort was taken to organize bidding processes for localities and to provide them with pre-approved equipment and services lists. However, state and local laws require competitive bidding for any purchases above $20,000, a requirement that can delay actual procurements. Moreover, if bids had been requested for a proposal and those bid specifications were not met, then the bidding process must start over again. As Kentucky's Emergency Managing Director explained, "There is a process and procedure that must

be gone through before localities can actually spend the funds, and the state has not identified funds that are exempt from these local rules of procedure that are in place."

In one of the jurisdictions for which we obtained documentation, we also found that procurement regulations may require that funds be available prior to the issuance of equipment purchase orders. This requirement took from June 18, 2003 to September 4, 2003 before purchase orders could be issued. In the individual jurisdictions in the three states for which we obtained documentation we also found that some apparent delays in obligating grant funds resulted from the time normally required by local jurisdictions to purchase and contract for items, to prepare requests for proposals, evaluate them once received, and have purchase orders approved by legal departments and governing councils and boards. In one case, the time between the city controller's release of funds to the issuance of the first purchase order was about 3 months, from September 4, 2003, to December 15, 2003.

Conclusion

The reports by the DHS OIG and by the Select Committee, as well as the preliminary work we have undertaken, support the conclusion that local first responders may not have anticipated the natural delays that should have been expected in the complex process of distributing dramatically increased funding through multiple governmental levels while maintaining procedures to ensure proper standards of accountability at each level. The evidence available suggests that the process is becoming more efficient and that all levels of government are discovering and institutionalizing ways to streamline the grant distribution system. These increased efficiencies, however, will not continue to occur unless federal, state, and local government each continue to examine their processes for ways to expedite funding for the equipment and training needed by the nation's first responders. At the same time, it is important that the quest for speed in distributing funds does not hamper the planning and accountability needed to ensure that the funds are spent on the basis of a comprehensive, well-coordinated plan to provide first responders with the equipment, skills, and training needed to be able to respond quickly and effectively to a range of emergencies, including, where appropriate, major natural disasters and terrorist attacks.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have.

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