

GAO

## Testimony

Before the Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations, Committee on Government Reform, House of Representatives

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# HOMELAND SECURITY

## Intergovernmental Coordination and Partnership Will Be Critical to Success

Statement of JayEtta Hecker,  
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Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here to discuss issues critical to successful federal leadership of, assistance to, and partnership with state and local governments to enhance homeland security. As you are aware, the challenges posed by homeland security exceed the capacity and authority of any one level of government. Protecting the nation against these unique threats calls for a truly integrated approach, bringing together the resources of all levels of government.

In my testimony today, I will focus on the challenges facing the federal government in (1) establishing a leadership structure for homeland security, (2) defining the roles of different levels of government, (3) developing performance goals and measures, and (4) deploying appropriate tools to best achieve and sustain national goals. My comments are based on a body of GAO's work on terrorism and emergency preparedness and policy options for the design of federal assistance,<sup>1</sup> our review of many other studies,<sup>2</sup> and the Comptroller General's June 25, 2002, testimony on the new Department of Homeland Security (DHS) proposal. In addition, I will draw on GAO's ongoing work for this Subcommittee, including an examination of the diverse ongoing and proposed federal preparedness programs, as well as a series of case studies we are conducting that examine preparedness issues facing state and local governments. To date, we have conducted interviews of officials in four geographically diverse cities: Baltimore, Maryland; New Orleans, Louisiana; Denver, Colorado; and, Los Angeles, California. We have also interviewed state emergency management officials in these states.

In summary:

- The proposed Department of Homeland Security will clearly have a central role in the success of efforts to enhance homeland security. Many aspects of the proposed consolidation of homeland security programs have the potential to reduce fragmentation, improve coordination, and clarify roles and responsibilities. Realistically, however, in the short term, the

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<sup>1</sup>See attached listing of related GAO products.

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

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magnitude of the challenges that the new department faces will clearly require substantial time and effort, and will take additional resources to make it effective. Moreover, formation of a department should not be considered a replacement for the timely issuance of a national homeland security strategy, which is needed to guide implementation of the complex mission of the department.

- Appropriate roles and responsibilities within and between the levels of government and with the private sector are evolving and need to be clarified. New threats are prompting a reassessment and shifting of longstanding roles and responsibilities, but these shifts are being considered on a piecemeal and ad hoc basis without benefit of an overarching framework and criteria to guide the process. A national strategy could provide such guidance by more systematically identifying the unique capacities and resources of each level of government to enhance homeland security and by providing increased accountability within the intergovernmental system.
- The nation does not yet have performance goals and measures upon which to assess and improve preparedness at all levels of government. Standards are a common set of criteria that can demonstrate success, promote accountability and determine areas where additional resources are needed, such as improving communications and equipment interoperability. Standards could also be used to help set goals and performance measures as a basis for assessing the effectiveness of federal programs. In the intergovernmental environment, these are often best defined through cooperative, partnership approaches.
- A careful choice of the most appropriate assistance tools is critical to achieve and sustain national goals. The choice and design of policy tools, such as grants, regulations, and tax incentives, can enhance the capacity of all levels of government to target areas of highest risk and greatest need, promote shared responsibilities by all parties, and track and assess progress toward achieving national preparedness goals.

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## Background

Homeland security is a complex mission that involves a broad range of functions performed throughout government, including law enforcement, transportation, food safety and public health, information technology, and emergency management, to mention only a few. Federal, state, and local governments have a shared responsibility in preparing for catastrophic terrorist attacks as well as other disasters. The initial responsibility for planning, preparing, and response 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

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government has principally provided leadership, training, and funding assistance.

The federal government's role in responding to major disasters has historically been defined by the Stafford Act,<sup>3</sup> which makes most federal assistance contingent on a finding that the disaster is so severe as to be beyond the capacity of state and local governments to respond effectively. 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.

In addition to post disaster assistance, there has been an increasing emphasis over the past decade on federal support of state and local governments to enhance national preparedness for terrorist attacks. 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 FEMA; the Departments of Justice, Health and Human Services, and Energy; and the Environmental Protection Agency, have also developed programs to assist state and local governments in preparing for terrorist events.

As emphasis on terrorism prevention and response grew, however, so did concerns over coordination and fragmentation of federal efforts. More than 40 federal entities have a role in combating and responding to terrorism, and more than 20 in bioterrorism alone. Our past work, conducted prior to the establishment of an Office of Homeland Security and a proposal to create a new Department of Homeland Security, has shown coordination and fragmentation problems stemming largely from a lack of accountability within the federal government for terrorism-related

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<sup>3</sup>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.

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programs and activities. Further, our work found there was an absence of a central focal point that caused a lack of a cohesive effort and the development of similar and potentially duplicative programs. Also, as the Gilmore Commission report notes, state and local officials have voiced frustration about their attempts to obtain federal funds from different programs administered by different agencies and have argued that the application process is burdensome and inconsistent among federal agencies.

President Bush took a number of important steps in the aftermath of the terrorist attacks of September 11<sup>th</sup> to address the concerns of fragmentation and to enhance the country's homeland security efforts, including the creation of the Office of Homeland Security in October 2001. The creation of such a focal point is consistent with a previous GAO recommendation.<sup>4</sup> The Office of Homeland Security achieved some early results in suggesting a budgetary framework and emphasizing homeland security priorities in the President's proposed budget.

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## Proposed Department Will Have A Central Role in Strengthening Homeland Security

The proposal to create a statutorily based Department of Homeland Security holds promise to better establish the leadership necessary in the homeland security area. It can more effectively capture homeland security as a long-term commitment grounded in the institutional framework of the nation's governmental structure. As we have previously noted, the homeland security area must span the terms of various administrations and individuals. Establishing a Department of Homeland Security by statute will ensure legitimacy, authority, sustainability, and the appropriate accountability to Congress and the American people.<sup>5</sup>

The President's proposal calls for the creation of a Cabinet department with four divisions, including Chemical, Biological, Radiological, and Nuclear Countermeasures; Information Analysis and Infrastructure Protection; Border and Transportation Security; and Emergency Preparedness and Response. Table 1 shows the major components of the proposed department with associated budgetary estimates.

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<sup>4</sup>U.S. General Accounting Office, *Combating Terrorism: Selected Challenges and Related Recommendations*, GAO-01-822 (Washington, D.C.: June 2002).

<sup>5</sup>U.S. General Accounting Office, *Homeland Security: Responsibility And Accountability for Achieving National Goals*, GAO-02-627T (Washington, D.C.: Apr. 11, 2002).

**Table 1: Department of Homeland Security Component Funding (FY 2003 Requested)**

	Dollars in millions	FTE (1)
<b>Chemical, Biological, Radiological, and Nuclear Countermeasures</b>		
Civilian Biodefense Research Programs (HHS)	\$1,993	150
Lawrence Livermore National Laboratory (DOE)	1,188	324
National BW Defense Analysis Center (New)	420	-
Plum Island Animal Disease Center (USDA)	25	124
	<b>3,626</b>	<b>598</b>
<b>Information Analysis and Infrastructure Protection</b>		
Critical Infrastructure Assurance Office (Commerce)	27	65
Federal Computer Incident Response Center (GSA)	11	23
National Communications System (DOD)	155	91
National Infrastructure Protection Center (FBI)	151	795
National Infrastructure Simulation and Analysis Center (DOE)	20	2
	<b>364</b>	<b>976</b>
<b>Border and Transportation Security</b>		
Immigration and Naturalization Service (DOJ)	6,416	39,459
Customs Service (Treasury)	3,796	21,743
Animal and Plant Health Inspection Service (USDA)	1,137	8,620
Coast Guard, (DOT)	7,274	43,639
Federal Protective Services (GSA)	418	1,408
Transportation Security Agency (DOT) (2)	4,800	41,300
	<b>23,841</b>	<b>156,169</b>
<b>Emergency Preparedness and Response</b>		
Federal Emergency Management Agency	6,174	5,135
Chemical, Biological, Radiological, and Nuclear Response Assets (HHS)	2,104	150
Domestic Emergency Support Team	-	-
Nuclear Incident Response (DOE)	91	-
Office of Domestic Preparedness (DOJ)	-	-
National Domestic Preparedness (FBI)	2	15
	<b>8,371</b>	<b>5,300</b>
<b>Secret Service (Treasury)</b>	<b>1,248</b>	<b>6,111</b>
<b>Total, Department of Homeland Security</b>	<b>\$37,450</b>	<b>169,154</b>

Note: Figures are from FY 2003 President's Budget Request.

(1) Estimated, final FTE figures to be determined.

(2) Before fee recapture of \$2,346 million.

Source: "Department of Homeland Security," President George W. Bush, June 2002.

The DHS would be responsible for coordination with other executive branch agencies involved in homeland security, including the Federal Bureau of Investigation and the Central Intelligence Agency. Additionally, the proposal to establish the DHS calls for coordination with nonfederal

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entities and directs the new Secretary to reach out to state and local governments and the private sector in order to:

- ensure that adequate and integrated planning, training, and exercises occur, and that first responders have the equipment they need;
- coordinate and, as appropriate, consolidate the federal government's communications systems relating to homeland security with state and local governments' systems;
- direct and supervise federal grant programs for state and local emergency response providers; and
- distribute or, as appropriate, coordinate the distribution of warnings and information to state and local government personnel, agencies and authorities, and the public.

Many aspects of the proposed consolidation of homeland security programs are in line with previous recommendations and show promise towards reducing fragmentation and improving coordination. For example, the new department would consolidate federal programs for state and local planning and preparedness from several agencies and place them under a single organizational umbrella. Based on its prior work, GAO believes that the consolidation of some homeland security functions makes sense and will, if properly organized and implemented, over time lead to more efficient, effective and coordinated programs, better intelligence sharing, and a more robust protection of our people, and borders and critical infrastructure.

However, as the Comptroller General has recently testified,<sup>6</sup> implementation of the new department will be an extremely complex task, and in the short term, the magnitude of the challenges that the new department faces will clearly require substantial time and effort, and will take additional resources to make it effective. Further, some aspects of the new department, as proposed, may result in yet other concerns. As we reported on June 25, 2002,<sup>7</sup> the new department would include public health assistance programs that have both basic public health and

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<sup>6</sup>U.S. General Accounting Office, *Homeland Security: Proposal for Cabinet Agency Has Merit, but Implementation Will Be Pivotal to Success*, [GAO-02-886T](#) (Washington, D.C.: June 25, 2002).

<sup>7</sup>U.S. General Accounting Office, *Homeland Security: New Department Could Improve Coordination but May Complicate Public Health Priority Setting*, [GAO-02-883T](#) (Washington, D.C.: June 25, 2002).

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homeland security functions. These dual-purpose programs have important synergies that should be maintained and could be disrupted, as the President's proposal was not sufficiently clear on how both the homeland security and public health objectives would be accomplished.

In addition, the recent proposal for establishing DHS should not be considered a substitute for, nor should it supplant, the timely issuance of a national homeland security strategy. At this time, a national homeland security strategy does not exist. Once developed, the national strategy should define and guide the roles and responsibilities of federal, state, and local entities, identify national performance goals and measures, and outline the selection and use of appropriate tools as the nation's response to the threat of terrorism unfolds.

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## Challenges Remain in Defining Appropriate Intergovernmental Roles

The new department will be a key player in the daunting challenge of defining the roles of the various actors within the intergovernmental system responsible for homeland security. In areas ranging from fire protection to drinking water to port security, the new threats are prompting a reassessment and shift of longstanding roles and responsibilities. However, proposed shifts in roles and responsibilities are being considered on a piecemeal and ad hoc basis without benefit of an overarching framework and criteria to guide this process. A national strategy could provide such guidance by more systematically identifying the unique capacities and resources of each level of government and matching them to the job at hand.

The proposed legislation provides for the new department to reach out to state and local governments and the private sector to coordinate and integrate planning, communications, information, and recovery efforts addressing homeland security. This is important recognition of the critical role played by nonfederal entities in protecting the nation from terrorist attacks. State and local governments play primary roles in performing functions that will be essential to effectively addressing our new challenges. Much attention has already been paid to their role as first responders in all disasters, whether caused by terrorist attacks or natural hazards. State and local governments also have roles to play in protecting critical infrastructure and providing public health and law enforcement response capability.

Achieving national preparedness and response goals hinge on the federal government's ability to form effective partnerships with nonfederal entities. Therefore, federal initiatives should be conceived as national, not

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federal in nature. Decisionmakers have to balance the national interest of prevention and preparedness with the unique needs and interests of local communities. A “one-size-fits-all” federal approach will not serve to leverage the assets and capabilities that reside within state and local governments and the private sector. By working collectively with state and local governments, the federal government gains the resources and expertise of the people closest to the challenge. For example, protecting infrastructure such as water and transit systems lays first and most often with nonfederal levels of government.

Just as partnerships offer opportunities, they also pose risks based upon the different interests reflected by each partner. From the federal perspective, there is the concern that state and local governments may not share the same priorities for use of federal funds. This divergence of priorities can result in state and local governments simply replacing (“supplanting”) their own previous levels of commitment in these areas with the new federal resources. From the state and local perspective, engagement in federal programs opens them up to potential federal preemption and mandates. From the public’s perspective, partnerships if not clearly defined, risk blurring responsibility for the outcome of public programs.

Our fieldwork at federal agencies and at local governments suggests a shift is potentially underway in the definition of roles and responsibilities between federal, state and local governments with far reaching consequences for homeland security and accountability to the public. The challenges posed by the new threats are prompting officials at all levels of government to rethink long standing divisions of responsibilities for such areas as fire services, local infrastructure protection and airport security. The proposals on the table recognize that the unique scale and complexity of these threats call for a response that taps the resources and capacities of all levels of government as well as the private sector.

In many areas, the proposals would impose a stronger federal presence in the form of new national standards or assistance. For instance, the Congress is debating proposals to mandate new vulnerability assessments and protective measures on local communities for drinking water facilities. Similarly, new federal rules have mandated local airport authorities to provide new levels of protection for security around airport perimeters. The block grant proposal for first responders would mark a dramatic upturn in the magnitude and role of the federal government in providing assistance and standards for fire service training and equipment.

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Although promising greater levels of protection than before, these shifts in roles and responsibilities have been developed on an ad hoc piecemeal basis without the benefit of common criteria. An ad hoc process may not capture the real potential each actor in our system offers. Moreover, a piecemeal redefinition of roles risks the further fragmentation of the responsibility for homeland security within local communities, blurring lines of responsibility and accountability for results. While federal, state, and local governments all have roles to play, care must be taken to clarify who is responsible for what so that the public knows whom to contact to address their problems and concerns. The development of a national strategy provides a window of opportunity to more systematically identify the unique resources and capacities of each level of government and better match these capabilities to the particular tasks at hand. If developed in a partnership fashion, such a strategy can also promote the participation, input and buy in of state and local partners whose cooperation is essential for success.

Governments at the local level are also moving to rethink roles and responsibilities to address the unique scale and scope of the contemporary threats from terrorism. Numerous local general-purpose governments and special districts co-exist within metropolitan regions and rural areas alike. Many regions are starting to assess how to restructure relationships among contiguous local entities to take advantage of economies of scale, promote resource sharing, and improve coordination of preparedness and response on a regional basis.

For example, mutual aid agreements provide a structure for assistance and for sharing resources among jurisdictions in preparing for and responding to emergencies and disasters. Because individual jurisdictions may not have all the resources they need to acquire equipment and respond to all types of emergencies and disasters, these agreements allow for resources to be regionally distributed and quickly deployed. The terms of mutual aid agreements vary for different services and different localities. These agreements provide opportunities for state and local governments to share services, personnel, supplies, and equipment. We have found in our fieldwork that mutual aid agreements can be both formal and informal and provide for cooperative planning, training, and exercises in preparation for emergencies and disasters. Additionally, some of these agreements involve private companies and local military bases, as well as local entities.

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## Performance Goals and Measures Needed in Homeland Security Programs

The proposed Department, in fulfilling its broad mandate, has the challenge of developing a performance focus. The nation does not have a baseline set of performance goals and measures upon which to assess and improve preparedness. The capability of state and local governments to respond to catastrophic terrorist attacks remains uncertain. The president's fiscal year 2003 budget proposal acknowledged that our capabilities for responding to a terrorist attack vary widely across the country. The proposal also noted that even the best prepared states and localities do not possess adequate resources to respond to the full range of terrorist threats we face. Given the need for a highly integrated approach to the homeland security challenge, performance measures may best be developed in a collaborative way involving all levels of government and the private sector.

Proposed measures have been developed for state and local emergency management programs by a consortium of emergency managers from all levels of government and have been pilot tested in North Carolina and North Dakota. Testing at the local level is planned for fiscal year 2002 through the Emergency Management Accreditation Program (EMAP). EMAP is administered by the National Emergency Management Association—an association of directors of state emergency management departments—and funded by FEMA. 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 (1) that 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. In recent meetings, FEMA officials have said that EMAP is a step in the right direction towards establishing much needed national standards for preparedness. FEMA officials have suggested they plan on using EMAP as a building block for a set of much more stringent, quantifiable standards.

Standards are being developed in other areas associated with homeland security. For example, the Coast Guard is developing performance standards as part of its port security assessment process. The Coast Guard is planning to assess the security condition of 55 U.S. ports over a 3-year period, and will evaluate the security of these ports against a series of performance criteria dealing with different aspects of port security. According to the Coast Guard's Acting Director of Port Security, it also

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plans to have port authority or terminal operators develop security plans based on these performance standards.

Communications is an example of an area for which standards have not yet been developed, but various emergency managers and other first responders have continuously highlighted that standards are needed. State and local governments often report there are deficiencies in their communications capabilities, including the lack of interoperable systems. Additionally, FEMA's Director has stressed the importance of improving communications nationwide.

The establishment of national measures for preparedness will not only go a long way towards assisting state and local entities determine successes and areas where improvement is needed, but could also be used as goals and performance measures as a basis for assessing the effectiveness of federal programs. 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.

However, FEMA has had difficulty in assessing 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.

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In the area of bioterrorism, the Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services is requiring state and local entities to meet certain performance criteria in order to qualify for grant funding. The CDC has made available 20 percent of the fiscal year 2002 funds for the cooperative agreement program to upgrade state and local public health jurisdictions' preparedness for and response to bioterrorism and other public health threats and emergencies. However, the remaining 80% of the available funds is contingent on receipt, review, and approval of a work plan that must contain 14 specific critical benchmarks. These include the preparation of a timeline for assessment of emergency preparedness and response capabilities related to bioterrorism, the development of a state-wide plan for responding to incidents of bioterrorism, and the development of a system to receive and evaluate urgent disease reports from all parts their state and local public health jurisdictions on a 24-hour per day, 7-day per week basis.

Performance goals and measures should be used to guide the nation's homeland security efforts. For the nation's homeland security programs, however, outcomes of where the nation should be in terms of domestic preparedness have yet to be defined. The national homeland security strategy, when developed, should contain such goals and measures and provide a framework for assessing program results. Given the recent and proposed increases in homeland security 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 fiscally responsible effort.

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## Appropriate Tools Need to Be Selected For Providing Assistance

The choice and design of the policy tools the federal government uses to engage and involve other levels of government and the private sector in enhancing homeland security will have important consequences for performance and accountability. Governments have a variety of policy tools including grants, regulations, tax incentives, and information-sharing mechanisms to motivate or mandate other levels of government or the private sector to address security concerns. The choice of policy tools will affect sustainability of efforts, accountability and flexibility, and targeting of resources. 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.

### Grants

The federal government often uses grants to state and local governments as a means of delivering federal assistance. Categorical grants typically permit funds to be used only for specific, narrowly defined purposes.

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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. In designing grants, it is important to (1) target the funds to state and localities with the greatest need based on highest risk and lowest capacity to meet these needs from their own resource base, (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. At their best, grants can stimulate state and local governments to enhance their preparedness to address the unique threats posed by terrorism. Ideally, grants should stimulate higher levels of preparedness and avoid simply subsidizing local functions that are traditionally state or local responsibilities. One approach used in other areas is the “seed money” model in which federal grants stimulate initial state and local activity with the intent of transferring responsibility for sustaining support over time to state and local governments.

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 grant would be used by state and local government’s to purchase equipment, train personnel, exercise, and develop or enhance response plans. FEMA officials have told us that it is still in the early stages of grant design and is in the process of holding various meetings and conferences to gain input from a wide range of stakeholders including state and local emergency management directors, local law enforcement responders, fire responders, health officials, and FEMA staff. Once the details of the grant have been finalized, it will be useful to examine the design to assess how well the grant will target funds, discourage supplantation, provide the appropriate balance between accountability and flexibility, and whether it provides temporary “seed money” or represents a long-term funding commitment.

## Regulations

Other federal policy tools can also be designed and targeted to elicit a prompt, adequate, and sustainable response. In the area of regulatory authority, the 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. An example of infrastructure regulations

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include the new federal mandate requiring that local drinking water systems in cities above a certain size provide a vulnerability assessment and a plan to remedy vulnerabilities as part of ongoing EPA reviews while the new Transportation Security Act is representative of a national preparedness regulation as it grants the Department of Transportation authority to order deployment of local law enforcement personnel in order to provide perimeter access security at the nation's airports.

In designing a regulatory approach, the challenges include determining who will set the standards and who will implement or enforce them. There are several models of shared regulatory authority offer a range of approaches that could be used in designing standards for preparedness. Examples of these models range from preemption though fixed federal standards to state and local adoption of voluntary standards formulated by quasi-official or nongovernmental entities.<sup>8</sup>

## Tax Incentives

As the Administration noted protecting America's infrastructure is a shared responsibility of federal, state, and local government, in active partnership with the private sector, which owns approximately 85 percent of our nation's critical infrastructure. To the extent that private entities will be called upon to improve security over dangerous materials or to protect critical infrastructure, the federal government can use tax incentives to encourage or 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.

## Information Sharing

Since the events of September 11<sup>th</sup>, 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 U.S. 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

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<sup>8</sup>For more information on these models, see U.S. General Accounting Office, *Regulatory Programs: Balancing Federal and State Responsibilities for Standard Setting and Implementation*, GAO-02-495 (Washington, D.C.: March 20, 2002).

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agencies. An expansion of this act has been proposed (S1615; 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, the proposed legislation provides that the Attorney General expeditiously grant security clearances to Governors who apply for them and to state and local officials who participate in federal counter-terrorism working groups or regional task forces.

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## Conclusion

The proposal to establish a new Department of Homeland Security represents an important recognition by the Administration and the Congress that much still needs to be done to improve and enhance the security of the American people. The DHS will clearly have a central role in the success of efforts to strengthen homeland security, but it is a role that will be made stronger within the context of a larger, more comprehensive and integrated national homeland security strategy. Moreover, given the unpredictable characteristics of terrorist threats, it is essential that the strategy be formulated at a national rather than federal level with specific attention given to the important and distinct roles of state and local governments. Accordingly, decisionmakers will have to balance the federal approach to promoting homeland security with the unique needs, capabilities, and interests of state and local governments. Such an approach offers the best promise for sustaining the level of commitment needed to address the serious threats posed by terrorism.

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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## Contacts and Acknowledgments

For further information about this testimony, please contact me at (202) 512-2834 or Paul Posner at (202) 512-9573. Other key contributors to this testimony include Matthew Ebert, Thomas James, Kristen Massey, David Laverny-Rafter, Yvonne Pufahl, Jack Schulze, and Amelia Shachoy.

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# Related GAO Products

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## Homeland Security

*Homeland Security: Proposal for Cabinet Agency Has Merit, But Implementation Will Be Pivotal to Success.* [GAO-02-886T](#). Washington, D.C.: June 25, 2002.

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