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Homeland Security and Counterterrorism Research and Development: Funding, Organization, and Oversight

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Summary

Following the 2001 terrorist attacks, planning and coordination mechanisms for research and development (R&D) to counter terrorism were developed in the White House's Office of Homeland Security, Office of Science and Technology Policy, and in individual agencies. Subsequently, P.L. 107-296, the Homeland Security Act (H.R. 5005), consolidated some R&D and coordination in the Department of Homeland Security (DHS). DHS's FY2003 R&D funding was requested at about \$761 million, and at \$1 billion for FY2004. FY2003 funding was appropriated in P.L. 107-8. Policy issues include implementation; coordination of priority-setting among DHS, other agencies, and existing R&D coordination bodies; and appropriations. This report will be updated as events warrant.

Funding for Federal Counterterrorism R&D

Federal funding for counterterrorism R&D has increased substantially in the last three years. The President's Office of Science and Technology (OSTP) estimated the FY2004 budget request for all federal R&D to combat terrorism at \$3.2 billion,¹ about 6 times the FY2000 amount. The new Department of Homeland Security will manage about one-third of this budget. According to the Office of Management and Budget's (OMB) *Annual Report to Congress on Combating Terrorism, FY2002*, 5.5% of the FY2003 budget request for combating terrorism was for R&D. **See Table 1.**

¹ See [<http://www.ostp.gov/html/budget/2004/2004.html>]. See also CRS Report RL31576, *Federal Research and Development Organization, Policy, and Funding for Counterterrorism*; and CRS Report RL31354, *Possible Impacts of Major Counter Terrorism Security Actions on Research, Development, and Higher Education*.

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Table 1. Research and Development (R&D) to Combat Terrorism, By Agency, FY2000-FY2003 (Request), Dollars in Millions

Agency	FY2000 Actual	FY2001 Actual	FY2002 Enacted	Emergency Response Fund, FY2002*	FY2003 Request
Agriculture (USDA)	\$37.3	\$51.7	\$83.9	\$91.3	\$48.4
Commerce (DOC)	9.6	0	6.3	0	20.0
Energy (DOE)	59.7	66.2	64.9	19.0	99.8
Environmental Protection Agency (EPA)	unavailable	0	2.8	1.5	75.0
Health and Human Services (DHHS)	109.7	102.8	119.1	180.0	1,771.1 (NIH, \$1.75B; CDC, \$40.0M; FDA, \$50.0M)
Justice (DOJ)	45.2	11.4	66.1	0	36.1
National Science Foundation	unavailable	7.0	7.0	0	27.0
National Security	190.0	298.9	385.5	11.0	767.2
Transportation (DOT)	50.7	50.2	58.3	64.0	59.3
Treasury	2.1	1.2	1.1	0	1.1
Total	\$511.3	\$589.4	\$795.2	\$366.8	\$2,905.2

Sources: OMB, *Annual Report to Congress on Combating Terrorism, FY2001*, p. 27 for column labeled FY2000. The rest of the data is from the FY2002 OMB report, op. cit., p. 26.

*Funds were included in the FY2002 emergency supplemental appropriations law, P.L. 107-38

The FY2003 request for R&D to combat terrorism was described in OMB's FY2002 terrorism report and is summarized below, beginning with the largest programs. The *Department of Health and Human Services (DHHS)*, with 60% of the total, manages most of the federal civilian effort against bioterrorism. The FY2003 request for *national security* R&D, at 26% of the total, was largely for the *Department of Defense (DOD)*, including the Defense Advanced Research Projects Agency (DARPA). The *Department of Energy's (DOE)* counterterrorism R&D includes work on security, materials, detection of toxic agents, genomic sequencing, DNA-based diagnostics, and microfabrication technologies. The *Environmental Protection Agency (EPA)* focuses on toxic materials research. The *Department of Agriculture's (USDA)* R&D focuses on plant and animal diseases. In the *Commerce Department*, R&D at the National Institute of Standards and Technology (NIST) deals with protecting information systems. The *Technical Support Working Group (TSWG)*, a State Department/DOD group, coordinates interagency work on new technologies to combat terrorism (funding requested at \$49 million).

Creation of a Department of Homeland Security and Other Laws

The Homeland Security Act of 2002, P.L. 107-296, November 25, 2002, created the Department of Homeland Security (DHS), and, as one of its four directorates, a Directorate on Science and Technology. DHS estimated its R&D funding for FY2003 at \$761 million. The FY2004 request is about \$1 billion, with \$803 million for the S&T directorate, mostly for development leading to technologies. Funding for R&D programs transferred from other agencies is estimated to total about \$200 million. **See Table 2.** AAAS estimates FY2003 R&D appropriations at \$669 million, categorized by directorate as follows: Border and Transportation Security, \$110 million (plus Coast Guard, \$23 million); Information Analysis and Infrastructure, \$15 million; and Science and Technology, \$521 million. (AAAS, "DHS Opens Doors, Proposes \$1.0 Billion for R&D," March. 4, 2003, (<http://www.aaas.org/spp/rd/>).)

Table 2. DHS's Estimated R&D Funding

R&D Program or Unit	FY2003 Funding	FY2004 Budget Categories Established by DHS	FY2004 Budget Request
New Funding			
Nat'l. Bio-Weapons Defense. Analysis Cntr.	Presidential request at \$420 million	<i>Biological Countermeasures and the new National Biodefense Analysis and Countermeasures Program</i>	\$365 million
not applicable	not applicable	<i>Radiological/Nuclear Countermeasures</i>	\$137 million
not applicable	not applicable	<i>Chemical/High Explosives Countermeasures</i>	\$65 million
not applicable	not applicable	<i>Threat and Vulnerability Testing and Assessments</i>	\$90 million
not applicable	not applicable	<i>Standards (for responder detection devices and equipment)</i>	\$25 million
not applicable	not applicable	<i>Conventional Missions (RDT&E for border/transportation security and for emergency preparedness)</i>	\$55 million
Homeland Security Institute	not available	<i>University Programs, Homeland Security Institute, rapid prototyping</i>	\$62 million
University Center for Homeland Security	not available		
Contracts with other FFRDCs	not available		
HSARPA and Acceleration Fund for R&D	\$500 million was authorized for the fund	<i>Advancing and Harnessing Science and Technology, includes HSARPA</i>	(\$350 million)*
Total Requested for DHS S&T	\$561 million	Total Requested for DHS S&T	\$803 million
Funding Transferred From Other Agencies to DHS for Other R&D Activities			
Coast Guard R&D, from DOT	\$24 million, + 10% of HSARPA's Acceleration Fund for R&D	Coast Guard R&D, from DOT	[\$24 million estimated]
NISAC, from DOE	\$20 million	NISAC, from DOE	[\$20 million, estimated]
Other R&D, from DOE	Not available, previously estimated at \$100 million	Other R&D, from DOE	not available
Plum Island, from USDA	\$25 million	Plum Island, from USDA	[\$25 million estimated]
TSA Aviation Security, from DOT	Not available, previously estimated at \$130 million	<i>Included under "Border and Transportation Security"</i>	\$65 million
DHS R&D Funding by Character of Work			
<i>Basic Research in DHS</i>	<i>\$47 million</i>	<i>Basic Research in DHS</i>	<i>\$47 million</i>
<i>Applied Research in DHS</i>	<i>\$64 million</i>	<i>Applied Research in DHS</i>	<i>\$126 million</i>
<i>Development in DHS</i>	<i>\$537 million</i>	<i>Development in DHS</i>	<i>\$663 million</i>
<i>Facilities/Equipment in DHS</i>	<i>\$113 million</i>	<i>Facilities/Equipment in DHS</i>	<i>\$165 million</i>
Grand Total Requested for DHS R&D	\$761 million	Grand Total Requested for DHS R&D	\$1,001 million

Source: Data in roman is estimated by CRS. Data in italics is from OMB, *Analytical Perspectives, Budget, FY2004*, pp. 183-184 or the DHS budget at [<http://www.dhs.gov/dhspublic/display?theme=47&content=426>]. Information in [] is based on conversations with OMB staff, 2/4/03. Totals may not add due to rounding and non-reported data. Interviews with OMB staff indicate that S&T funding is to be managed by the S&T Directorate, which might also manage some of the other transferred R&D funding. These funding details are subject to change as additional information is made available.

*This cross-cutting category consists of funding from programs above that were already counted in the \$803 million total.

Pursuant to P.L. 107-296, most of DHS's research, development, test, and evaluation (RDT&E) is under jurisdiction of the Under Secretary for Science and Technology (S&T), created by Title III. Dr. Charles McQueary, an engineer, recently retired as President of General Dynamics Advanced Technology Systems, was confirmed on March 19, 2003, to this position. Among his responsibilities are to: coordinate DHS's S&T missions; in consultation with other agencies, develop a strategic plan for federal civilian countermeasures to threats, including research; except for human health-related R&D, conduct and coordinate DHS's intramural and extramural R&D and coordinate with other federal agencies to carry out DHS R&D; establish national R&D priorities to prevent importation of chemical, biological, radiological, nuclear and related weapons and terrorist attacks; collaborate with DOE regarding using national laboratories; collaborate with the Secretaries of Agriculture and of Health and Human Services to identify "select agents," but not to assume their responsibilities to enforce "select agent" rules; develop guidelines to disseminate DHS's research and transfer technology; and support U.S. S&T leadership. The law authorized a 20-member Homeland Security Science and Technology Advisory Committee to advise and recommend research. Members are to include representatives of emergency first-responders, citizen groups, economically disadvantaged communities, and experts in emergency response, research, engineering, business, and management. To the extent possible, DHS's research is to be unclassified.

Title III transferred to DHS DOE programs in: chemical and biological security R&D; nuclear smuggling and proliferation detection; nuclear assessment and materials protection; biological and environmental research related to microbial pathogens; the Environmental Measurements Laboratory; and the advanced scientific computing research program from Lawrence Livermore National Laboratory. DHS was mandated to incorporate a newly created National Bio-Weapons Defense Analysis Center and USDA's Plum Island Animal Disease Center, but USDA may continue to conduct R&D at the facility. DHS has responsibility for Coast Guard and Transportation Security Administration (TSA) R&D. The DHS Secretary is to collaborate with the DHHS Secretary in setting priorities for DHHS's human health-related R&D on "countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats."

Analysis and evaluation units were authorized in DHS. Pursuant to Title III, the Under Secretary may establish or contract with one or more Federally Funded R&D Centers (FFRDC) for independent analysis of homeland security issues. A Homeland Security Advanced Research Projects Agency (HSARPA) will administer an Acceleration Fund, to support innovative homeland security RDT&E in businesses, FFRDCs, and universities. Extramural funding is to be competitive and merit-reviewed, but distributed to as many U.S. areas as practicable. One or more university-based centers for homeland security is to be established. Regarding intramural R&D, the Under Secretary may use any federal laboratory and may establish a headquarters laboratory to "network" federal laboratories. A Homeland Security Institute FFRDC was authorized to: conduct risk analysis and policy research to determine vulnerabilities of, and alternative security approaches for, critical infrastructures; improve interoperability of tools for field operators and first responders; and test prototype technologies. The Institute may use the National Infrastructure Simulation and Analysis Center (NISAC), which was transferred from DOE. A Technology Clearinghouse was authorized to transfer information about innovative solutions for homeland security and will coordinate with TSWG.

Among the functions of the Special Assistant to the Secretary, created by Sec. 102 of P.L. 107-296 is working with the private sector to develop innovative technologies for homeland security. The DHS Secretary, with the National Security Council and OSTP, is to establish uniform procedures to handle critical infrastructure information that is voluntarily submitted to

the Government in good faith that will not be subject to disclosure under the Freedom of Information Act. DHS issued a proposed rule on this (see *Federal Register*, Apr. 15, 2003, pp. 18524 -18529). P.L. 107-296 codified an existing Office of Science and Technology in the National Institute of Justice and authorized local technology centers to support training and RDT&E for equipment (Sec. 232 and 235). The DHS Secretary was given special acquisitions authority for basic, applied, and advanced R&D (Sec. 833). Sec. 1003 authorized NIST to conduct R&D on improving information security. The DHS Under Secretary for Information Analysis and Infrastructure Protection was authorized to establish a “NET Guard,” comprised of S&T volunteers, to assist in recovery from attacks on information systems (Sec. 224). OSTP’s Director was mandated to report to Congress on effects of changes in visa procedures on the issuance of student visas (Sec. 428). According to Sec. 1712, OSTP’s Director is to advise the President on homeland security, and to consult and cooperate with the Office of Homeland Security (OHS). (See below for information about OHS.)

In other legislation, P.L. 107-305, “The Cyber Security Research and Development Act,” (H.R. 3394), authorized \$903 million over five years for new research and training programs at the National Science Foundation and NIST for R&D and training to prevent and combat terrorist attacks on private and government computers.

Coordination Mechanisms Created Before Authorization of DHS

The Office of Science and Technology Policy (OSTP) is a statutory office in the Executive Office of the President (EOP); its Director advises the President and recommends federal R&D budgets. OSTP’s Director has chaired the National Security Council’s Preparedness Against Weapons of Mass Destruction R&D Subgroup (comprised of 16 agencies), which helps plan R&D relating to chemical, biological, nuclear, and radiological threats. OSTP manages the interagency National Science and Technology Council (NSTC), which created a new Committee on Homeland and National Security to set help set R&D priorities in eight functional areas. OSTP’s interagency work has focused on such topics as anthrax, regulations to restrict access to research using biological “select agents,” access to “sensitive but unclassified” scientific information, policy for foreign student visas, access to “sensitive” courses, and advanced technology for border control. Pursuant to Executive Order 13231, OSTP was to work with the interagency President’s Critical Infrastructure Board to recommend priorities and budgets for information security R&D. The OHS had been created in the EOP on October 8, 2001 by Executive Order 13228. It was replaced by the new Homeland Security Council (HSC), created by P.L. 107-296, to provide policy and interagency guidance. It is unclear if the HSC Policy Coordination Committee on R&D, created pursuant to Executive Order 13228, still functions.

The working group on bioterrorism prevention, preparedness, and response, established by Section 108 of P.L. 107-188, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, consists of the DHHS and DOD Secretaries and other agency heads. One of its functions is to recommend “research on pathogens likely to be used in a biological threat or attack on the civilian population”

Critiques of Priority-Setting and Coordination Mechanisms Before Authorization of a Department of Homeland Security. Before passage of P.L. 107-296, some critics said that effective counterterrorism R&D required better coordination than OHS, OSTP, NSTC and other groups could provide, and that R&D priorities should reflect intelligence and threat estimates, and balance between long-range and short-term R&D to hasten deployment of technological responses. Some observers said that, to overcome fragmentation, core R&D should be consolidated in a homeland security agency (a position taken by the Administration in its *National Strategy for Homeland Security*, July 2002), or called for creation

of a Secretary for Technology and a homeland security “think tank” (for example, the National Academies in *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, June 2002). The Brookings Institution in *Assessing the Department of Homeland Security*, July 15, 2002, urged caution because homeland security R&D priorities were unclear.

Oversight Issues

Many DHS S&T activities were to be transferred to DHS by March 1, 2003, and others by June 1, 2003, according to the Administration’s reorganization plan issued on November 25, 2002. According to Under Secretary McQueary in recent speeches and congressional testimony,² DHS S&T priorities include: intramural work in the National Laboratory for Homeland Security; soliciting innovative ideas from academia and industry via work in HSARPA; promoting standards for design and manufacture of homeland security technologies; participating with TSWG to support prototyping of new technologies; and strategic R&D partnerships with the academic community, including creation of a fellowship program at DHS, with selection activities administered by the AAAS. Key DHS S&T initiatives focus on the issues of border protection and monitoring (including prevention of illegal entry of a nuclear device), biological protection (including working with the Centers for Disease Control and Prevention to develop surveillance systems, and deployment of sensors to monitor the release of pathogens and agents), and information analysis (including information analysis tools and research in cybersecurity). It is unclear how DHS will set priorities for its support agencies, including HSARPA, the university center(s), the Homeland Security Institute, and laboratories.

Coordination of federal homeland security R&D may be an issue. DHS’s FY2004 R&D budget request includes about \$800 million for new programs and \$200 million for transferred programs, this is one-third of the budget request for R&D to combat terrorism. DHS has some authority to coordinate and help set priorities for other federal homeland security R&D, including in human health. The extent of that responsibility remains to be demonstrated. The heads of other agencies that handle R&D have no formal role in DHS’s R&D priority-setting and coordination, and the role of the DHS Secretary in setting priorities for those agencies is undetermined. DHS’s effectiveness in planning and coordinating R&D may depend upon the Secretary’s ability to exert influence on other agencies and his interactions with existing counterterrorism coordination mechanisms in OSTP, NSTC, and interagency committees.

There is the issue of whether DHS scientists will be housed together or will remain separate and operate essentially as a “virtual group.” Physical proximity may promote mission effectiveness, but has the potential to separate DHS scientists from their counterparts in other agencies and the possibility of distorting scientific communication, which many say is essential to progress. There are also issues of how Congress will conduct oversight of the DHS’s multifaceted R&D activities, and the level of appropriations that will be made available to fund the authorized programs. House and Senate appropriations hearings were held on April 10.

In response to criticism of P.L. 107-296, legislation was enacted (P.L. 108-7), to revise eligibility criteria so that more institutions can compete for funding for DHS’s academic-based homeland security center(s).

² At Appropriations Committee hearings, Apr. 10, 2003 and in a presentation at the AAAS Colloquium on Science and Technology, Apr. 11, 2003, Washington, D.C.