



Department of Homeland Security's Flawed Grant Analysis Shortchanges New York

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Member of Homeland Security Committee, Appropriations Subcommittee on
Homeland Security, and Select Intelligence Oversight Panel**

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Summary

Despite the Democratic Congress increasing funding and enacting landmark legislation requiring first responder grants to be risk-based, in its final disbursement of homeland security grants, the Bush Administration again shortchanged the most high-risk areas. New York City will receive \$144.2 million from the Urban Area Security Initiative in FY08. While this \$10 million increase over FY07 is a step in the right direction, it remains substantially less than the \$205 million it received in FY05.

The Department of Homeland Security's FY08 first responder grant allocation:

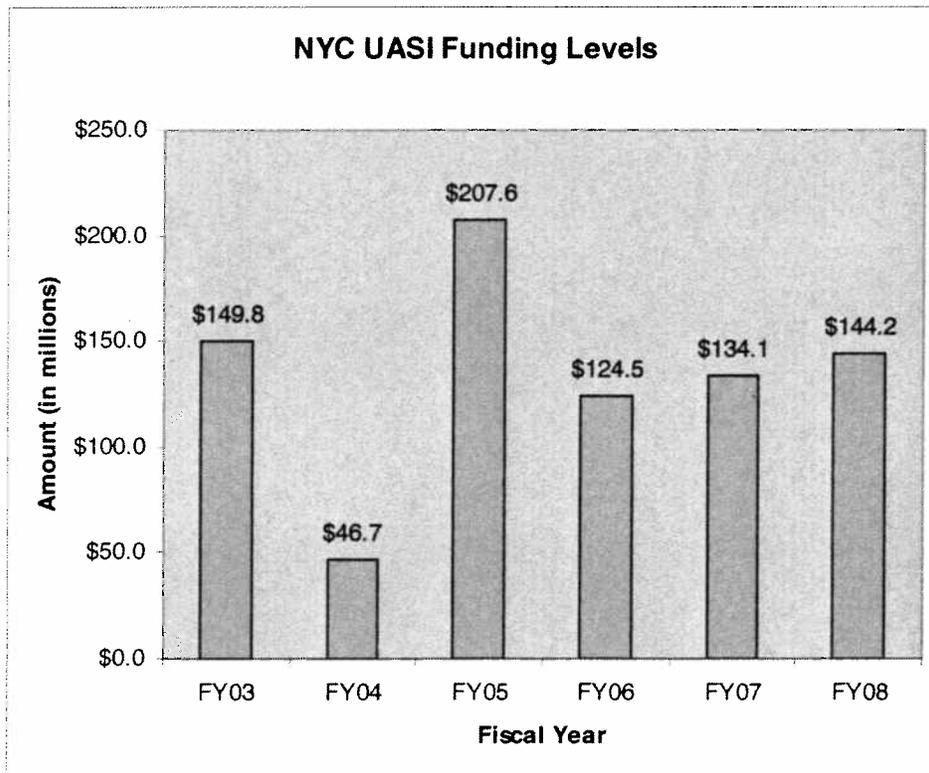
- Violates the law by awarding funds to areas that are not high-risk;
- Caps the amount of funds the seven most at-risk areas could receive, forcing New York, Washington, D.C., and a handful of other high-risk areas to compete against one another while protecting 45% of funds for 53 areas that may face no real threat of attack;
- Diminishes actual terrorist threats when considering risk of attack to a community; and
- Ignores unique circumstances facing high-risk communities.

Summary

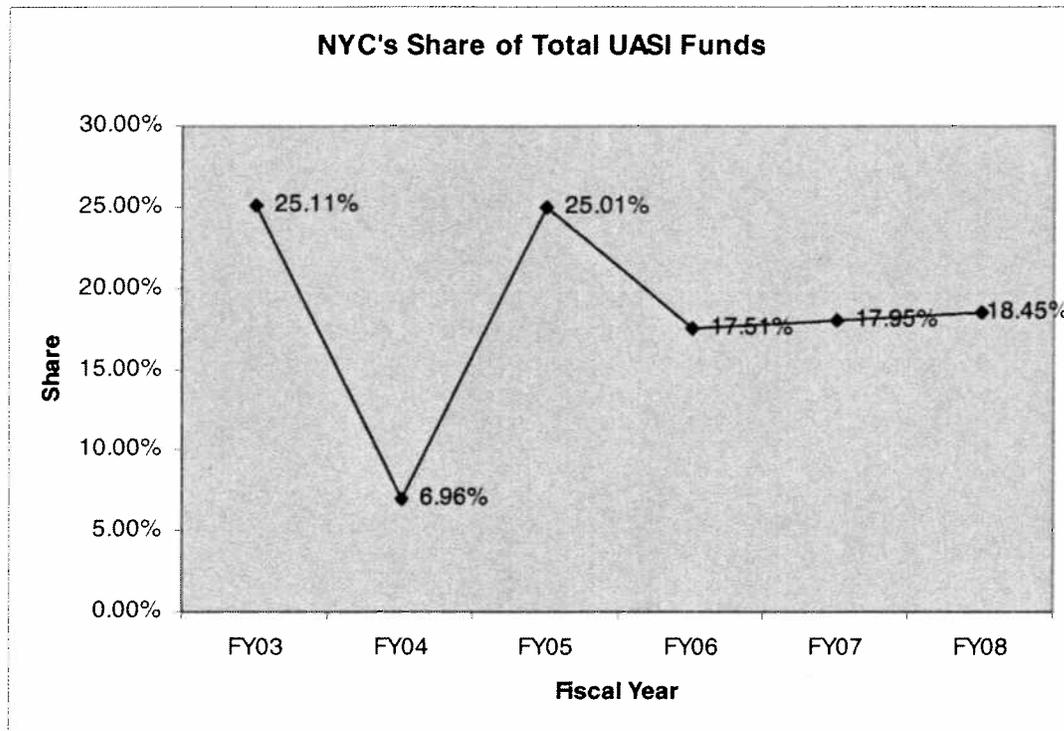
Because the Department of Homeland Security (DHS) had a great deal of discretion in awarding homeland security grants in previous years, New York City and other high-risk cities have received dramatically varied funding, particularly from the Urban Area Security Initiative (UASI), as you can see in the chart below.

On August 3, 2007, President Bush signed H.R. 1, the Implementing the Recommendations of the 9/11 Commission Act (9/11 Act). Title I of this landmark legislation, cosponsored by Congresswoman Lowey, authorized UASI and the State Homeland Security Grant Program (SHSGP), including limiting UASI to high-risk urban areas.

Despite this legislation's focus on risk in the calculation for awarding these grants, the FY08 allocation methodology not only repeats many previous mistakes, it further penalizes high-risk urban areas, which will require local officials in New York and other cities to find other revenue streams for vital security projects.



DHS has previously defended its allocation process by stating that funding levels authorized by Congress have shifted every year. However, this argument clearly does not account for the variations in the share of total UASI funds that New York City, the undisputed top target in the country, has received.



Despite directives by Congress for DHS to award funds based on risk factors, it has changed the methodology numerous times, failing to ensure this program achieves its goal of focusing assistance on the most threatened cities in our county.

This report outlines the Department's flawed procedures in determining risk allocations that undercut preparedness and response efforts.

The Allocation Methodology Hurts High-Risk Areas

"I have serious concerns with this allocation process for federal homeland security funding, particularly the cap on available funds for the most at-risk regions. It is indefensible that threat of attack is not the most important factor in determining which areas receive priority funding." ~ Congresswoman Nita Lowey

Problem 1: UASI Recipients Expand from Seven Cities to 60 Regions

Chief among the problems is the number of areas awarded UASI grants, the only grant program intended to be dedicated exclusively to high-risk urban areas. The program has expanded far beyond Congress' original intent.

Since his first public statement as Secretary in March 2005, Chertoff has stressed a risk-based paradigm to guide DHS policies. Yet in allocating UASI grants, the Department has consistently moved away from risk-based funding by unnecessarily adding UASI recipients. In FY08, DHS funds a record high 60 areas.

State and local governments first received funds as part of Public Law 108-7, the FY03 Consolidated Appropriations Resolution. The law provided \$100 million for seven high-

threat urban areas – New York, Washington, DC, Chicago, Los Angeles, San Francisco, Houston, and Seattle. Congress instructed the Department of Justice’s Office of Justice Programs (prior to the creation of DHS) to award funds taking into account credible threat, vulnerability, the presence of infrastructure of national importance, population, and identified needs of the jurisdiction’s public safety agencies.

Problem: UASI is the only DHS grant program allocated exclusively on the basis of risk. It began in FY03 with only seven recipients, but DHS has now awarded funds to 60 areas, diminishing funds for high-risk cities, in violation of Congressional intent. Regions that are not high-threat should receive assistance from grants other than UASI.

Since the creation of the program, DHS has expanded it to areas that fail to meet the definition of high-density, high-risk cities. DHS awarded UASI grants, including to 23 additional urban areas, with \$700 million in supplemental funds for FY03. Combined with the funds from the PL 108-7, grants were awarded to 30 urban areas, ranging from a high of \$149 million for New York City to a low of \$5.7 million for Tampa, FL.

In FY04, 50 cities were awarded funds, ranging from \$46.7 million for New York City to \$6.3 million for San Antonio, TX. In FY05, once again 50 cities were awarded funds, ranging from \$207 million for New York to \$5 million for Toledo, OH.

In FY06, 46 “regions” received funds further diluting the programs’ impact because some regions incorporated multiple cities that had previously received funds. For instance, in FY05 Oakland, San Francisco, and San Jose received funding separately. In FY06, DHS combined each city into one Bay Area region. While this may encourage greater cooperation and planning among large jurisdictions, the program expanded far beyond the 50 cities that received funds in the previous two years.

In addition, 11 of the 46 FY06 UASI recipients were labeled “sustainment regions,” meaning the funds were to help finish ongoing projects in areas that were previously awarded UASI grants but no longer remained in the top 35 areas. DHS did not rule out the possibility of a sustainment region receiving future funds, but it implied that only 35 regions would likely receive funds in the future.

However, in FY07, 46 regions once again received funds. Four areas on the FY06 list were dropped in FY07 – Louisville, Baton Rouge, Omaha, and Toledo. Four areas were added to the FY07 list – Norfolk, El Paso, Providence, and Tucson. DHS abandoned the sustainment approach, with seven of the 11 FY06 sustainment regions receiving funds in FY07.

In FY08, 60 regions will receive funds. Albany, Austin, Baton Rouge, Bridgeport, Hartford, Louisville, Nashville, Richmond, Riverside, Rochester, Salt Lake City, San Jan, Syracuse, and Toledo were added while no area that received funding in FY07 was dropped in FY08.

DHS has made false claims that the 9/11 Act required it to expand UASI. No such provision is included in the law. It merely states that any of the 100 most populous metropolitan statistical areas are eligible. The 9/11 Act does not include a ceiling or floor for the number of recipients. It is the Department, not Congress, which has increased

the number of eligible areas. In fact, the Department's decision to award funds to areas that are not high-risk clearly violates the law.

Every area of the country should be eligible for federal homeland security funds. However, areas that aren't high-threat should receive assistance from other programs such as SHSGP, the Metropolitan Medical Response System program, Port Security Grant Program, Transit Security Grant Program, the Emergency Management Performance Grant program, and others to enhance their preparedness and response capabilities. By providing areas that are not high-risk with funds designated for high-risk areas, we fail to do everything we can to prevent and prepare for attacks in the cities that are the most likely targets for terrorists.

Problem 2: Capping Funds for High-Risk Areas

Once again, UASI funds for Tier I urban areas, or those facing the greatest risk of attack, have been inexplicably capped at no more than 55% of total funds. DHS has defined Tier I urban areas as those which, if attacked, would be certain to produce at least two of the following consequences:

- fatalities greater than 3,000;
- economic impact of \$50 billion or more;
- psychological impact requiring mass evacuations with prolonged absence; or
- loss of governance or mission execution that disrupts multiple regions for more than one week resulting in loss of necessary services to the public.

Problem: Before completing a risk analysis or reviewing a single proposal, DHS capped funds for New York, Washington, DC, and other high-risk targets, safeguarding nearly half of UASI funds for areas not at significant risk of an attack.

DHS placed seven urban areas in Tier I: the Bay Area, Chicago, Houston, Los Angeles/Long Beach, the National Capital Region, Northern New Jersey, and New York City. By capping the amount of funds that high-risk areas could receive, DHS effectively safeguarded nearly half of the funds for 53 Tier II urban areas.

The FY06 UASI allocation was widely ridiculed for slashing funds for NY and the National Capital Region, the two most likely targets of a terrorist attack, by 40% each. Tracey Henke, who oversaw the FY06 allocation process as the Assistant Secretary for the Preparedness Directorate's Office of Grants and Training, resigned in October 2006. Many hoped that this was a sign that much-needed improvements would be made. However, DHS instituted the cap on Tier I areas in FY07 and again in FY08. The table below illustrates the arbitrary cap's effect of providing high-risk areas with approximately the same share of funds today as in FY06 while larger appropriations of funds by the Democratic Congress resulted in increased overall funds for recipients.

Urban Area	FY06 Level	FY06 % of Total	FY07 Level	FY07 % of Total	FY08 Level	FY08 % of Total	Change in FY08-FY06 % Total
Bay Area	\$28.32	3.99%	\$34.13	4.57%	\$37.16	4.75%	0.76%
Chicago	\$52.26	7.35%	\$47.28	6.33%	\$45.86	5.87%	-1.48%
Houston	\$16.67	2.35%	\$25.00	3.35%	\$37.50	4.80%	2.45%
LA/LB	\$80.61	11.34%	\$72.58	9.72%	\$70.40	9.01%	-2.33%
DC Area	\$46.47	6.54%	\$61.65	8.25%	\$59.80	7.65%	1.11%
New York	\$124.45	17.51%	\$134.09	17.95%	\$144.19	18.45%	0.94%
New Jersey	\$34.33	4.83%	\$36.07	4.83%	\$34.99	4.48%	-0.35%
Total	\$383.11	53.91%	\$410.80	55.00%	\$429.90	55.00%	1.09%

[numbers in millions]

As the chart indicates, three Tier I areas' share of funds has actually decreased under the tier system.

In FY06, the year in which Secretary Chertoff admitted DHS relied on too much "bean counting" and not enough common-sense, nearly 54% went to Tier I areas. In FY08, before DHS even evaluated a single application, it limited Tier I areas to no more than 55% of total funds.

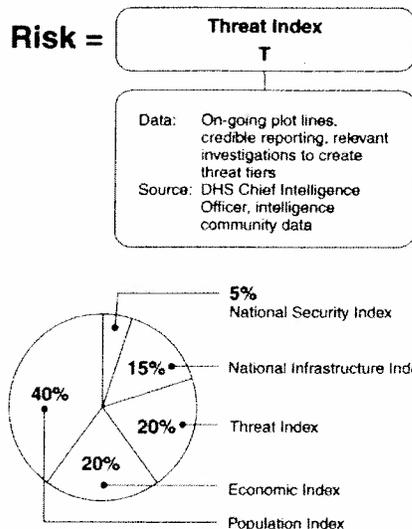
The cap limits the amount the most at-risk areas could receive. It essentially forces them to compete against one another while protecting funds for areas that are not high-risk. Had intelligence led DHS to believe the relative threat, vulnerability, or consequence for one Tier I area increased, and hence meant that city should receive an increased share, it would have taken money away from another high-risk area.

For example, under this system, if DHS estimated an increased threat to Los Angeles, additional funds for LA would have to be taken away from New York and the other Tier I areas, but DHS wouldn't take funds from a Tier II city such as Toledo. An arbitrary and unnecessary cap set DHS up to fail again. The Department has yet to provide a valid explanation as to why funds for Tier I areas were capped at 55%.

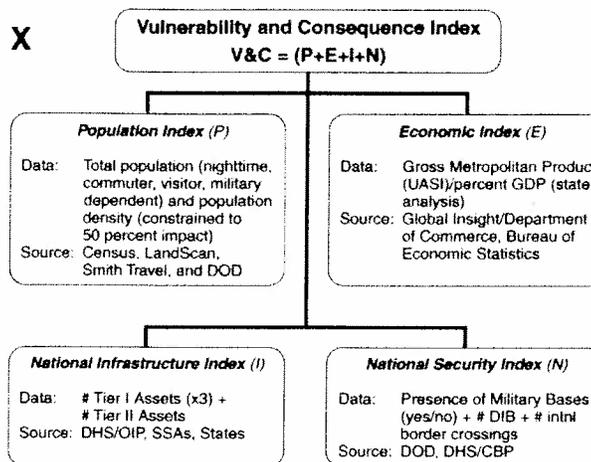
In fact, as DHS works to maintain the 55% cap, programs for Tier I regions that are more essential to national security than some of the initiatives funded for Tier II regions are likely left unfunded.

Problem #3: Minimizing Threat in Risk Calculations

In determining the relative amount of risk that each area faces, DHS assigned a point value to the threat, vulnerability, and consequence of an attack. Because there is no magic formula to determine risk, assigning risk scores is difficult. However, DHS made a misguided decision to minimize the threat of a terrorist attack, which represents only one-fifth of the total risk calculation. The following chart from FEMA outlines the value of each factor.



Source: DHS.



Vulnerability and consequence should certainly play a large role in the risk calculation. However, areas under actual threat of attack demand a greater focus on preparedness and prevention efforts. And, we know those areas tend to be major cities based on attacks terrorists have carried out New York, the Washington, DC area, Madrid, London, Dubai, and Moscow.

Problem: Vulnerability and consequence are important, but they should not be given four times the weight of the actual threat of an attack in calculating DHS funds. Failure to adequately calculate threat decreases overall effectiveness of these vital resources.

An examination of actual terror threats and attacks clearly shows that New York is in increasingly greater need of funds. On June 21, 2006, Mayor Bloomberg testified before the House Homeland Security Committee that since 1990, there have been at least eighteen attacks or plots involving New York that were uncovered by law enforcement. These include the 1993 and 2001 World Trade Center attacks; al Qaeda plots to destroy the Holland and Lincoln tunnels, the George Washington Bridge, United Nations Headquarters, and chemical attacks in the subway system; anthrax attacks in 2001; three separate instances of security personnel from Iran's Mission to the United Nations videotaping critical infrastructure; and the arrest in London by NYPD detectives and FBI agents of an al Qaeda operative planning to bomb pubs, restaurants, and train stations. This testimony was prior to the June 2007 disclosure of the plot to destroy fuel containers at John F. Kennedy International Airport. New York, unlike most UASI communities, faces significant confirmed threats from terrorists. Unfortunately, these threats are minimized in the formula DHS has created to assess risk.

Vulnerabilities exist everywhere, but real threats do not. A smaller community could be considered vulnerable because of a relatively small police department or other factors that should be irrelevant unless there is an actual threat of an incident occurring in that community.

“As a New Yorker and a member of the Homeland Security and Appropriations Committees, I am outraged by the Department’s efforts to direct funds that have

been set aside for high-threat cities away from New York and other high-risk areas to regions with significantly less risk.” ~ Congresswoman Nita Lowey

Problem #4: One-Size-Fits-All Approach Hurts High-Risk Areas

Once again the Department has treated equally cities that face unequal risk. Instead of focusing on high-risk communities, UASI is distributed in a way that appears to favor areas that do not face the highest risk.

First, the Department no longer allows high-risk communities to use funds for what is often most needed, “boots on the ground” for intelligence gathering, information sharing, and surveillance personnel. In FY07, DHS wisely allowed the seven Tier I areas to use funds for non-overtime operational costs for existing counterterrorism positions. This was a welcome change from previous years.

However, DHS ended this pilot program in FY08, which makes no sense. The New York Police Department has over 1,000 counterterrorism officers. This division, one of the leading counterterrorism teams in the world, helps keep the city safe. This is exactly the type of activity that the federal government should fund. Instead, the Department explicitly prohibits NYPD from using federal funds to pay for existing counterterrorism officers.

High-risk areas should be treated differently than those that are not. Lower-risk communities do not need to create the large counterterrorism teams that high-risk cities already have in place.

Second, the FY08 guidance listed three objectives as its highest priorities: measuring the progress in achieving the National Preparedness Guidelines; strengthening improvised explosive device (IED) deterrence, prevention, and protection capabilities; and strengthening preparedness planning. The Department should be commended for seeking to address these critical objectives. However, the guidance includes a requirement that 25% of all UASI, SHSGP, and Metropolitan medical Response System grants be used for IED activities and preparedness planning.

This one-size-fits-all approach does not meet the needs of high-risk areas, like New York and others that have already invested in planning. While there will always be a need to update plans, it is important not to limit funds for equipment, training and personnel to execute those plans.

The DHS requirement to utilize 25% of funds on planning benefits those that have waited for the federal government to provide assistance instead of those that have acted on their own, often without federal funds, to create thorough preparedness plans. It forces all communities that apply, regardless of different circumstances, to include significant planning proposals. Impact and investment challenges comprise 40% of the investment justification to determine what programs should be funded. A community that does not have adequate preparedness plans in place could apply to create robust plans, which are often very expensive. This would likely be considered to have significant impact and would otherwise face significant investment challenges, making it more attractive to the Department than critical activities to carry out plans previously developed.

Third, DHS did not always apply the correct statistics to determine the vulnerability and consequence index component of the risk score. For instance, when calculating population, which accounted for 40% of the total risk score, DHS considered the population density of the entire New York City metropolitan area, including Westchester, Nassau, and Suffolk Counties. Many of those who live in the suburban areas work in New York City and spend a significant amount of time there, making the population density of the city even greater. The population density figures DHS used discounts the actual density of New York City, the likeliest target of an attack.

Each of these three problems reflects the complications that arise when the Department writes one-size-fits-all guidance. The very purpose of UASI is to assist high-risk urban areas. The program should be limited and tailored to those few areas. Efforts to incorporate 60 or cities into a program that began with seven ensure that UASI is destined to fail.

Recommendations and Conclusions

“After the Department’s latest failure to adequately allocate grants on the basis of risk, I will introduce legislation to overhaul this process, ensuring that resources are directed to the areas that need them the most.” ~ Congresswoman Nita Lowey

Congresswoman Lowey’s legislation will improve UASI by:

- Giving the actual threat of an attack equal weight to both consequence and vulnerability;
- Preventing DHS from awarding UASI funds to more than 35 areas to ensure that recipients are high-risk;
- Abolishing the tier system that safeguards funds for areas not in the top risk tier; and
- Removing the provision in the 9/11 Act that adds UASI allocations to the minimum funding levels each state must receive.

These changes will require the Department to focus on true threats. The 9/11 Commission Report stated that homeland security assistance should not be a source of general revenue sharing and that it should supplement local resources based on risk and vulnerabilities that merit additional support. While the Department has concocted various risk-assessment tools to distribute grants, it fails to produce adequate results.

Because threat levels and local needs vary so widely across the country, it is impossible for DHS to create a one-size-fits-all formula to allocate funds. The Department has a great deal of discretion in determining awards, which it should use to implement common-sense changes so that the areas most likely to be targets are able to prepare, prevent, and respond to an attack.