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Congress of the United States
House of Representatives
Washington, DC 20515-4708

March 20, 2008

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

The Honorable Jim Nussle
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Secretary Chertoff and Director Nussle:

I write today regarding the Fiscal Year (FY) 2008 Homeland Security Grant Program Guidance. Specifically, I am deeply concerned about restrictions on the use of State Homeland Security Grant Program (SHSGP) funds that could negatively impact the State of Washington and its fusion center activities.

The FY08 guidance, as originally released in February 2008, prohibits states with Urban Area Security Initiative (UASI) jurisdictions from using SHSGP funds for operational costs, including for staffing at state and local fusion centers. As a result of the concerns raised by states like Washington, the Department released Information Bulletin #281 on March 5, 2008, which permits all states to use up to 15% of SHSGP funds for fusion center staffing at the primary designated state fusion center, but only allows the use of these funds for new positions above the current capability.

This guidance is troubling, particularly in light of the Implementing Recommendations of the 9/11 Commission Act (9/11 Act) and the accompanying Joint Explanatory Statement, which permits grant recipients to use up to 50% of both SHSGP and UASI for operational costs. The 9/11 Act specifically permits grants to be used for "paying salaries and benefits for personnel, including individuals employed by the grant recipient on the date of the relevant grant application, to serve as qualified intelligence analysts." In addition, the 9/11 Act permits grants to be used for any activity that was permitted in FY07. Despite this directive, the Department has sought to restrict the use of SHSGP funds for these vital personnel.

The Washington Joint Analytical Center (WAJAC) is Washington's primary statewide fusion center and was designated as such by the Governor at the request of the Department of Homeland Security. Since FY04, Washington has used Law Enforcement Terrorism Prevention Program (LETPP) funds to support contract analysts at the WAJAC. Despite the importance placed on the development and enhancement of fusion centers in previous grant guidance and the National Strategy for Information Sharing, the FY08 guidance will prevent Washington from using any grant funds to fund analysts at the WAJAC, even with the change to the guidance provided in Information Bulletin #281, because the use of funds is restricted to hiring new analysts, rather than supporting ongoing operations. Without this funding source in FY08, the WAJAC will be facing a significant shortfall and may have to cease its operations.

I urge you to amend the FY08 Homeland Security Grant Program guidance to bring it into compliance with the 9/11 Act and permit grant recipients to use SHSGP funds to pay current and hire additional intelligence analysts. We must continue to support state and local fusion centers to ensure the sharing of vital intelligence throughout our Nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Reichert". The signature is stylized with a large, looping initial "D" and a cursive "Reichert".

DAVE REICHERT
Member of Congress