



Local governments working together for a better metropolitan region

November 12, 2009

Senator Barbara Mikulski
United States Senate
503 Hart Office Building
Washington, DC 20510

Dear Senator Mikulski:

nty The Metropolitan Washington Council of Governments (COG) Board of Directors request that the Federal Emergency Management Agency (FEMA) at the Department of Homeland Security (DHS) suspend the application of its policy regarding the use of preparedness funds for sustainment purposes and revise its guidelines to ensure funds are available for critical homeland security and emergency management capabilities. The Board of Directors, echoing concerns expressed by the Governors of Maryland and Virginia, the Mayor of the District of Columbia, the National Governor's Association, the National Emergency Management Association and thousands of regional first responders, is requesting that the National Capital Region Congressional Delegation lead the effort to reinstate the FEMA policy authorizing the use of grant funds for maintenance/sustainment.

v Without prior notice, the Grant Programs Directorate at FEMA informed states on September 22, 2009 of a policy change regarding the use of Homeland Security Program (HSGP) funds to sustain homeland security investments. The change indicated that grantees may only use grants funds to pay for "maintenance agreements, user fees, and other sustainment costs as long as the equipment was purchased with FEMA preparedness grant funding and the sustainment costs fall within the performance period of the grant that was used to purchase the equipment." This change places more extensive limitations on the use of these funds than did prior policy. The effect of this change is to abandon DHS's pragmatic approach to maintenance and sustainment that allowed urban areas and states to undertake more cost effective approaches to ensure that HSGP funds are applied to achieve core, priority capabilities.

This policy will make it more difficult for the National Capital Region (NCR) to build and sustain the capabilities needed to prepare for and respond to acts of terrorism and natural disasters. Board of Directors respectively request that you take action that will result in the suspension of the FEMA policy prohibiting the use of preparedness grant funds for sustainment to insure these capabilities are not lost.

Please feel free to contact David Robertson, Executive Director of the Metropolitan Washington Council of Governments at [drobertson@mwkog.org](mailto:d Robertson@mwkog.org) or (202) 962-3260 for additional information or comment.

Sincerely,

Penelope Gross
Chair, COG Board of Directors

Cc: The Honorable Janet Napolitano, Secretary, U.S. Department of Homeland Security
The Honorable Craig Fugate, Administrator, Federal Emergency Management Agency,
U.S. Department of Homeland Security
The Honorable Peter Orszag, Director, Office of Management and Budget
John Brennan, Assistant to the President for Homeland Security and Counterterrorism

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Maryland



Virginia



District of Columbia

November 2, 2009

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

We request that the Federal Emergency Management Agency (FEMA) at the Department of Homeland Security (DHS) suspend the application of its policy regarding the use of preparedness grant funds for sustainment purposes and revise its guidelines to ensure funds are available for critical homeland security and emergency management capabilities.

Without notice or opportunity to comment, the Grant Programs Directorate at FEMA sent an email to states on September 22, 2009 announcing a clarification of its policy regarding the use of Homeland Security Grant Program (HSGP) funds to sustain homeland security investments. According to the email, grantees may only use grant funds to pay for "maintenance agreements, user fees, and other sustainment costs as long as the equipment was purchased with FEMA preparedness grant funding and the sustainment costs fall within the performance period of the grant that was used to purchase the equipment." The clarification goes beyond past policy of limiting the use of funds with respect to maintenance. The policy restriction applies to an extensive list of equipment and related services included in DHS' Authorized Equipment List. The effect of this clarification is to abandon DHS's pragmatic approach to maintenance and sustainment that allowed Urban Areas and states to undertake more cost effective approaches to ensure that HSGP funds are applied to achieve core, priority capabilities.

This policy will make it more difficult for the National Capital Region (NCR) to build the capabilities needed to prepare for and respond to acts of terrorism and natural disasters. Key capabilities that would be impacted include law enforcement antiterrorism tools, epidemiological tracking systems needed to respond to H1N1, interoperable communication systems, and regional WebEOC and text alert systems. Though state and local governments are committed to protecting the NCR, potential liabilities of millions of dollars come at a time when our states and localities cannot meet the gap. The multi-state, multi-locality nature of the NCR complicates our ability to guarantee maintenance, licensing, and upgrades of common systems. In the NCR, a local jurisdiction often serves as sub-grantee and project

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lead; without Urban Areas Security Initiative (UASI) funds, no jurisdiction can sustain a core capability for all jurisdictions in the NCR. A sample of key projects indicates that the total federal and regional investment that will go to waste is nearly \$90 million dollars, an amount that will clearly climb as the full implications of the policy clarification are understood.

Several projects illustrate the challenge posed by the FEMA sustainment policy to the ability of law enforcement, emergency managers, and first responders to prepare and protect the NCR. To leverage the law enforcement and intelligence assets needed to protect the nation's capital, the NCR has invested substantial funds in the Law Enforcement Information Exchange (LInX) and the Automated Fingerprint Identification System (AFIS). LInX shares law enforcement information from more than 80 law enforcement records management systems in the region. AFIS provides for the electronic exchange and search of fingerprint and mug shots. Without these programs, the NCR law enforcement community will not be able to identify or share quickly information about suspected terrorists. One jurisdiction may apprehend a suspect but fail to realize who they have because the information is not readily available through fingerprints, mug shots, or other law enforcement information.

Similarly, the NCR has used UASI funds to establish regional capabilities for text alerts and WebEOC that allow Emergency Managers to communicate and track incidents in real time through all of the Region's Emergency Operations Centers and to communicate alerts and emergency messages to the public. Upgrades, licenses, and service contracts are essential to maintaining these key regional and national capabilities. The sustainment policy would cut off funding for these proven crisis management tools that assisted during the 56th Presidential Inauguration and in response to this summer's Metro crash and the shooting at the National Holocaust Museum.

Online tools that require annual licensing fees are vital to the region's ability to identify and respond to outbreaks of disease whether triggered by naturally occurring or manmade events. One such tool, ESSENCE, is critical for health officers and responders to track and monitor H1N1 activity. Without it, common messaging, common approaches, and the ability to respond effectively and quickly will be undermined.

In each instance, and in dozens more where funds will not sustain communications equipment or related services, the policy may have the unintended and perverse outcome of supporting acquisition of new equipment at greater costs rather than more sensible, cost effective upgrades and maintenance. Under this policy, the NCR would be unable to upgrade and maintain its 1,276 unit radio cache for emergency deployment, but it could instead purchase a new system. The policy will also deter the expansion of the region's networked radiation detection program, the ability to improve law enforcement information sharing, and fusion center program upgrades, because the states and localities cannot sustain the effort once begun.

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The sustainment policy may be intended to reinforce "that grants are a shared responsibility between Federal, State, and Local entities," but it will have the opposite effect. It will limit the flexibility that has allowed us to work in partnership with all levels of government to protect our citizens.

We urge you to suspend the policy regarding the use of preparedness grant funding to allow for the sustainment of critical homeland security and emergency management capabilities.

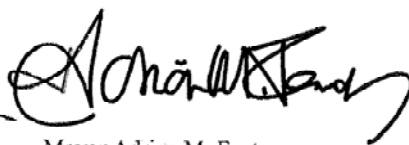
Sincerely,



Governor Martin O'Malley
Maryland



Governor Timothy M. Kaine
Virginia



Mayor Adrian M. Fenty
District of Columbia

cc: The Honorable Craig Fugate, Administrator, Federal Emergency Management Agency,
Department of Homeland Security
The Honorable Peter Orszag, Director, Office of Management and Budget
John Brennan, Assistant to the President for Homeland Security and Counterterrorism