

(3) require public transportation agencies to update the security plans required under subsection (c) as appropriate.

(f) SECURITY IMPROVEMENT PRIORITIES.—

(1) IN GENERAL.—Beginning in fiscal year 2008 and each fiscal year thereafter, the Secretary, after consultation with management and nonprofit employee labor organizations representing public transportation employees as appropriate, and with appropriate State and local officials, shall utilize the information developed or received in this section to establish security improvement priorities unique to each individual public transportation agency that has been assessed.

Effective date.

(2) ALLOCATIONS.—The Secretary shall use the security improvement priorities established in paragraph (1) as the basis for allocating risk-based grant funds under section 1406, unless the Secretary notifies the appropriate congressional committees that the Secretary has determined an adjustment is necessary to respond to an urgent threat or other significant national security factors.

(g) SHARED FACILITIES.—The Secretary shall encourage the development and implementation of coordinated assessments and security plans to the extent a public transportation agency shares facilities (such as tunnels, bridges, stations, or platforms) with another public transportation agency, a freight or passenger railroad carrier, or over-the-road bus operator that are geographically close or otherwise co-located.

(h) NONDISCLOSURE OF INFORMATION.—

(1) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall be construed as authorizing the withholding of any information from Congress.

(2) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a public transportation agency under any other Federal law.

(i) DETERMINATION.—In response to a petition by a public transportation agency or at the discretion of the Secretary, the Secretary may recognize existing procedures, protocols, and standards of a public transportation agency that the Secretary determines meet all or part of the requirements of this section regarding security assessments or security plans.

**SEC. 1406. PUBLIC TRANSPORTATION SECURITY ASSISTANCE.**

6 USC 1135.

(a) SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program for making grants to eligible public transportation agencies for security improvements described in subsection (b).

(2) ELIGIBILITY.—A public transportation agency is eligible for a grant under this section if the Secretary has performed a security assessment or the agency has developed a security plan under section 1405. Grant funds shall only be awarded for permissible uses under subsection (b) to—

(A) address items included in a security assessment;

or

(B) further a security plan.

(b) USES OF FUNDS.—A recipient of a grant under subsection (a) shall use the grant funds for one or more of the following:

- (1) Capital uses of funds, including—
  - (A) tunnel protection systems;
  - (B) perimeter protection systems, including access control, installation of improved lighting, fencing, and barricades;
  - (C) redundant critical operations control systems;
  - (D) chemical, biological, radiological, or explosive detection systems, including the acquisition of canines used for such detection;
  - (E) surveillance equipment;
  - (F) communications equipment, including mobile service equipment to provide access to wireless Enhanced 911 (E911) emergency services in an underground fixed guideway system;
  - (G) emergency response equipment, including personal protective equipment;
  - (H) fire suppression and decontamination equipment;
  - (I) global positioning or tracking and recovery equipment, and other automated-vehicle-locator-type system equipment;
  - (J) evacuation improvements;
  - (K) purchase and placement of bomb-resistant trash cans throughout public transportation facilities, including subway exits, entrances, and tunnels;
  - (L) capital costs associated with security awareness, security preparedness, and security response training, including training under section 1408 and exercises under section 1407;
  - (M) security improvements for public transportation systems, including extensions thereto, in final design or under construction;
  - (N) security improvements for stations and other public transportation infrastructure, including stations and other public transportation infrastructure owned by State or local governments; and
  - (O) other capital security improvements determined appropriate by the Secretary.
- (2) Operating uses of funds, including—
  - (A) security training, including training under section 1408 and training developed by institutions of higher education and by nonprofit employee labor organizations, for public transportation employees, including frontline employees;
  - (B) live or simulated exercises under section 1407;
  - (C) public awareness campaigns for enhanced public transportation security;
  - (D) canine patrols for chemical, radiological, biological, or explosives detection;
  - (E) development of security plans under section 1405;
  - (F) overtime reimbursement including reimbursement of State, local, and tribal governments, for costs for enhanced security personnel during significant national and international public events;
  - (G) operational costs, including reimbursement of State, local, and tribal governments for costs for personnel assigned to full-time or part-time security or counterterrorism duties related to public transportation,

provided that this expense totals no more than 10 percent of the total grant funds received by a public transportation agency in any 1 year; and

(H) other operational security costs determined appropriate by the Secretary, excluding routine, ongoing personnel costs, other than those set forth in this section.

(c) DEPARTMENT OF HOMELAND SECURITY RESPONSIBILITIES.—In carrying out the responsibilities under subsection (a), the Secretary shall—

(1) determine the requirements for recipients of grants under this section, including application requirements;

(2) pursuant to subsection (a)(2), select the recipients of grants based solely on risk; and

(3) pursuant to subsection (b), establish the priorities for which grant funds may be used under this section.

(d) DISTRIBUTION OF GRANTS.—Not later than 90 days after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall determine the most effective and efficient way to distribute grant funds to the recipients of grants determined by the Secretary under subsection (a). Subject to the determination made by the Secretaries, the Secretary may transfer funds to the Secretary of Transportation for the purposes of disbursing funds to the grant recipient. Deadline.

(e) SUBJECT TO CERTAIN TERMS AND CONDITIONS.—Except as otherwise specifically provided in this section, a grant provided under this section shall be subject to the terms and conditions applicable to a grant made under section 5307 of title 49, United States Code, as in effect on January 1, 2007, and such other terms and conditions as are determined necessary by the Secretary.

(f) LIMITATION ON USES OF FUNDS.—Grants made under this section may not be used to make any State or local government cost-sharing contribution under any other Federal law.

(g) ANNUAL REPORTS.—Each recipient of a grant under this section shall report annually to the Secretary on the use of the grant funds.

(h) GUIDELINES.—Before distribution of funds to recipients of grants, the Secretary shall issue guidelines to ensure that, to the extent that recipients of grants under this section use contractors or subcontractors, such recipients shall use small, minority, women-owned, or disadvantaged business concerns as contractors or subcontractors to the extent practicable.

(i) COORDINATION WITH STATE HOMELAND SECURITY PLANS.—In establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b), the Secretary shall act consistently with relevant State homeland security plans.

(j) MULTISTATE TRANSPORTATION SYSTEMS.—In cases in which a public transportation system operates in more than one State, the Secretary shall give appropriate consideration to the risks of the entire system, including those portions of the States into which the system crosses, in establishing security improvement priorities under section 1405 and in awarding grants for capital security improvements and operational security improvements under subsection (b).

(k) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary Deadline.

shall notify simultaneously, the appropriate congressional committees of the intent to award such grant.

(l) RETURN OF MISSPENT GRANT FUNDS.—The Secretary shall establish a process to require the return of any misspent grant funds received under this section determined to have been spent for a purpose other than those specified in the grant award.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to the Secretary to make grants under this section—

(A) such sums as are necessary for fiscal year 2007;

(B) \$650,000,000 for fiscal year 2008, except that not more than 50 percent of such funds may be used for operational costs under subsection (b)(2);

(C) \$750,000,000 for fiscal year 2009, except that not more than 30 percent of such funds may be used for operational costs under subsection (b)(2);

(D) \$900,000,000 for fiscal year 2010, except that not more than 20 percent of such funds may be used for operational costs under subsection (b)(2); and

(E) \$1,100,000,000 for fiscal year 2011, except that not more than 10 percent of such funds may be used for operational costs under subsection (b)(2).

(2) PERIOD OF AVAILABILITY.—Sums appropriated to carry out this section shall remain available until expended.

(3) WAIVER.—The Secretary may waive the limitation on operational costs specified in subparagraphs (B) through (E) of paragraph (1) if the Secretary determines that such a waiver is required in the interest of national security, and if the Secretary provides a written justification to the appropriate congressional committees prior to any such action.

(4) EFFECTIVE DATE.—Funds provided for fiscal year 2007 transit security grants under Public Law 110–28 shall be allocated based on security assessments that are in existence as of the date of enactment of this Act.

6 USC 1136.

**SEC. 1407. SECURITY EXERCISES.**

(a) IN GENERAL.—The Secretary shall establish a program for conducting security exercises for public transportation agencies for the purpose of assessing and improving the capabilities of entities described in subsection (b) to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism.

(b) COVERED ENTITIES.—Entities to be assessed under the program shall include—

(1) Federal, State, and local agencies and tribal governments;

(2) public transportation agencies;

(3) governmental and nongovernmental emergency response providers and law enforcement personnel, including transit police; and

(4) any other organization or entity that the Secretary determines appropriate.

(c) REQUIREMENTS.—The Secretary shall ensure that the program—

(1) requires, for public transportation agencies which the Secretary deems appropriate, exercises to be conducted that are—