



The Florida Senate

Interim Project Report 2004-147

November 2003

Committee on Home Defense, Public Security, and Ports

James E. "Jim" King, Jr., President

FEDERAL FUNDING FOR DOMESTIC SECURITY

SUMMARY

Substantial amounts of federal funds for domestic security have been granted to state and local governments since the attacks on America in 2001. Florida will have received and expended, more than \$300 million in federal domestic security grant funds by June 30, 2004. The funds have come in various forms including formula-based grants for equipment, training, planning and exercises; direct grants to seaports; direct grants to firefighters; increases in CDC funding for bioterrorism preparedness; new funds for hospital response capabilities, EPA grants to local governments for protection of water supplies; special grants for high-threat, high density urban areas; and reimbursement for overtime costs incurred by state and local law enforcement during heightened threat alerts at the onset of Operation Liberty Shield.

Federal funding has come in several different waves. The funds have been substantial, but disbursement schedules have been erratic. Problems with passage of the federal 2003-2004 budget, and the onset of the war with Iraq made for a very confusing funding cycle in 2003.

The first allocations in 2001 and 2002 were actually redirections of funds intended for emergency preparedness and public health for the 1999-2001 federal budget years. Changes in usage guidances were made shortly after the attacks on America in 2001. Florida applied those original funds, totaling \$14,715,840, towards the implementation of the state Domestic Security Strategic Plan. In order to stand up the strategic plan, the Legislature appropriated \$2,656,403 in November 2001 and \$13,665,655 for FY 2002-2003, during the 2002 Regular Session. These state appropriations, were in addition to federal funds, but were immediately available for the state's response effort. In addition to the state dollars, the Legislature provided FTEs to the Florida Department of Law Enforcement, Department of Agriculture and Consumer Services and the Department of Health to

assist in the domestic security effort.¹ The Legislature authorized federal expenditures of \$80,498,724 in 2002. The federal funds made available to the state from September 2001-September 2002 amounted to \$95,214,564.

The U.S. Congress missed the October 2002 deadline for passage of the fiscal year 2002-2003 budget and was unable to pass a new budget for federal FY 2003-2004 until March 2003. This five month lapse in available federal funding, coupled with the passage of the Wartime Supplemental Appropriations Act of 2003, caused a long gap period in fund disbursement followed by a flood of funding in early summer of this year. This uneven flow of federal dollars caused a great deal of confusion and frustration at the state and local government level. Many equipment and supply production lines were diverted from civilian to military production prior to and during the war, which added to the lack of availability of some specialized equipment. This funding flow, and most supply lines, have now evened out. For the period from October 2002 through September 2003, Florida's state and local governments have received \$229,160,946 in federal grants.²

Congress passed the federal fiscal year 2004-2005 domestic security budget on September 26, 2003. It became law on October 1, 2003. The act, known as the Department of Homeland Security Appropriations Act of 2004, represents the first time that almost all components of the federal domestic security response

¹ In 2001, the Legislature authorized 30 FTEs to FDLE for RDSTF support, 5 FTEs to FDLE for counter-terrorism intelligence, and 10 FTEs to DOH for bioterrorism intelligence. In 2002, the Legislature authorized an additional 13 FTEs for DOH and 29 FTEs for DOACS for increased agriculture inspections. In 2003, 8 additional FTEs were authorized for DCA for operational support and 25 FTEs to DOACS for biological prevention and detection.

² Includes \$180,560,946 authorized in SB 2-A and annualized CDC/HRSA funding in the amount of \$48.6 million.

have been combined under one budget authority. While exact amounts of funding available to Florida from this new funding cycle are not yet known, the budget reflects a sustained level of funding similar to what we have seen in the past domestic security funding cycles, for \$1.7 billion for Office of Domestic Preparedness formula grants; \$500 million for Law Enforcement Terrorism Prevention grants, \$725 million for High-Threat, High-Density Urban Area grants and \$125 million for Round 4 of the Transportation Security Administration's Ports Security grants. Also of interest to Florida, TSA has been allocated Transportation Worker Identification Card (TWIC). Last year, the Legislature created the Florida Uniform Ports Access Credentialing System (UPACS) to streamline access to the state's twelve public seaports³.

This program, which is being managed by the Department of Highway Safety and Motor Vehicles, has drawn the interest of the TSA. DHSMV and TSA are currently in negotiations to name Florida's UPACS project as a prototype for the federal TWIC project. This cooperative effort would provide technical and financial assistance in implementation of the Florida Uniform Ports Access Credentialing System. Upon successful completion of negotiations, Florida would become one of only three TWIC prototypes in the nation.

Additional FFY 2004-2005 domestic security funds are anticipated to be available through the U.S. Department of Justice, in the form of COPS local law enforcement equipment and training-grants, Department of Agriculture and Department of Health and Human Services, through CDC bioterrorism preparedness and HRSA hospital response planning grants. Those department budgets had not been approved by Congress at the time of this report. The agencies are operating under Continuing Resolution until the individual Department Appropriations Acts are passed.

Most federal funds distributed for domestic security purposes have been released to states with specific formulas and instructions for distribution to local government agencies. The Division of Emergency Management, Department of Community Affairs has been responsible for procurement of most training and equipment because of their historical relationship with FEMA, which has evolved into the Office of Domestic Preparedness and the Office of Emergency Preparedness within the Department of Homeland Security. DEM is the state agency/division designated

by the Department of Homeland Security to receive and disburse federal grant funds. Some former Department of Justice grants still come to FDLE for distribution while others now come to DEM due to the flow from Office of Domestic Preparedness. Some other state agencies are responsible for other grants such as Department of Health for CDC/HRSA grants, and Department of Environmental Protection for water supply security grants. Some grants, such as the water supply security grants, firefighter assistance grants and seaport security grants flow directly to the local government entity. The Department of Homeland Security supports having all grants distributed through the aligned state agency for accountability purposes.

BACKGROUND

Prior to September 11, 2001, federal block grants to state and local governments were available from some federal agencies for programs within their agencies' purview. Some examples of these grants were: Federal Emergency Management Administration (FEMA) Emergency Preparedness grants, Federal Fire Prevention and Control Act of 1974 Firefighter Assistance Grants, and Department of Justice C.O.P.S. local law enforcement program grants. The Department of Health and Human Services had CDC grants programs, including one for bioterrorism planning and preparedness. Funding amounts for these grants were steady over the years and not very large. For example, the CDC Bioterrorism Preparedness grant for Florida was \$1 million in 2001.

Immediately following the 2001 attacks on America, Congress took action to shore up state and local governments' abilities to prevent, prepare for and respond to terrorist attacks. Issues such as funding for Seaports Security Grants that had been languishing in Congress were pushed to the forefront. In the 2002-2003 federal budget cycle, Florida received over \$50 million in CDC/HRSA Bioterrorism Preparedness grant funds, \$19.7 million in seaport security grants and tens of millions in emergency preparedness, firefighter assistance and Department of Justice law enforcement grants.

While there was some concern that there might be a lack of sustainment after the first year of Congressional action, the federal funds continued to flow, albeit in a less than smooth pattern, throughout federal fiscal year 2003-2004. Four factors caused difficulties in this timeframe. First, Congress was unable to pass a budget prior to the end of the fiscal year in October 2002. The Omnibus Appropriations Act of 2003 was finally

³ CS/CS/SB 1616, codified as 2003-96, L.O.F.

passed in March 2003. This five month lapse in budget authority put many grants awards programs behind schedule due to a lack of certainty about what funds would be available. Second, effective March 31, 2003, the newly created Department of Homeland Security come into existence, combining functions of all or part of 22 federal agencies. Third, the pending war in Iraq caused the Department of Defense to place large equipment and supply orders with many of the single source vendors that states were using to provide needed supplies, and; Fourth, Congress passed a Wartime Supplemental Act of 2003 in April which had extremely tight deadlines for disbursement of federal grants funds to state and local governments.

In a three month period, Florida received notification for eligibility for over \$200 million in federal funding. These funds were for everything from CDC/HRSA to Ports Security to FEMA/ODP Equipment & Training Grants and included specific grants from the Wartime Supplemental Act of 2003 for High-Threat, High-Risk Urban Areas, High Risk Critical Infrastructure security and overtime funding for law enforcement deployed in anticipation of increased threats related to the start of the war.

On October 1, 2003, the President signed into law the Department of Homeland Security Appropriations Act of 2004. While specific grants allocations for state and local governments are unknown at this time, the guidance in the law appears to sustain funding levels at or above amounts authorized for the last two years.

Federal Funding Working Group

In early 2002, the Florida Department of Law Enforcement, lead agency for Florida's strategic response to terrorism, determined that the combination of the amount of federal funds becoming available, and the many different federal agencies putting forth grants programs, was becoming difficult to track. The Executive Director of FDLE instructed senior budget staff to form a working group with senior budget staff from all involved state agencies in order to identify potential federal funding sources for domestic security programs and to track state agencies' progress in applying for and receiving these grants. Legislative staff from the Senate and House security committees was invited to participate in these staff meetings and did so from the inception of the working group. Some agencies were diligent in their participation and information sharing while others were less than cooperative. After several months, it became clear that a more proactive approach was needed to keep

agencies engaged in the important business of federal funding management for domestic security.

The Governor appointed the Executive Federal Funding Committee, made up of agency heads of affected departments, with his Chief of Staff as Chairman. Subsequently, the Chief of Staff invited legislative staff directors from the House and Senate security committees to serve on the panel. This group of agency heads has had greater success in keeping the focus on identifying and securing federal funding.

METHODOLOGY

Staff has been involved in the domestic security appropriations and authorization process from October 2001 until present. This committee is responsible for oversight of state agency identification, tracking and application for federal grants, and coordinating legislative administered funds for domestic security documents for the Senate Appropriations Committee. The staff director has participated in all Federal Funding Workgroup meetings and, by invitation of the Office of the Governor, serves on the Executive Domestic Security Funding Committee, as approved by the Senate President.

Staff has participated in extensive conversations and meetings with the Florida Department of Law Enforcement, the Division of Emergency Management, Department of Community Affairs; the Department of Health, the Department of Agriculture and Consumer Services, the Department of Highway Safety and Motor Vehicles, and other state agencies regarding federal funding issues. From identification of new and emerging federal grants, to the operational mechanics of procurement and reporting procedures, committee staff has developed a working knowledge of every aspect of the domestic security federal funding process.

In addition to day-to-day conversations and meetings regarding these programs, staff recently participated in meetings with representatives of the U.S. Coast Guard, the Transportation Security Administration, the Office of Domestic Preparedness, the Department of Homeland Security and several members of Florida's congressional delegation serving on Appropriations, Homeland Security and Transportation Committees to discuss specific issues relative to federal funding in Florida. Staff has participated in meetings with Transportation Security Administration staff in Miami, Tallahassee and Washington in furtherance of the cooperative prototype project for Florida's Uniform Ports Credentialing System.

FINDINGS

Florida has been extremely successful in acquiring federal funding for domestic security programs. This success is the result of many factors. The state has been very proactive in identifying and pursuing new funding sources. For example, in Round One of the Seaports Security Grants (2002), Florida ports received twenty percent of all funds distributed nationwide. FDLE and the Florida Seaport Transportation Economic Development Council (FSTED) worked together with all of Florida's active public seaports to prioritize security needs for the federal agency awarding those grants. Florida was the only state in the nation to provide such a prioritized list of needs. Many of the federal grants are based on population or risk factors. Several areas in the state score very high in those rankings, which increases the state's overall funding share. As grants become available Florida has notified eligible recipients and held training/awareness sessions. For example, the Florida Department of Education contacted all local school districts when a USDOE grant became available for school security planning and FDLE held workshops for local law enforcement in all seven Regional Domestic Security Task Force regions to explain the reimbursement program for law enforcement overtime associated with increased threat levels during Operation Liberty Shield.

From the beginning of this new government mission in September 2001, the Legislature has worked very closely with the executive branch to assure that all available federal funds are planned for and operational as quickly as possible after receipt. Cooperative efforts between legislative and agency staffs have provided a streamlined budget process that allows for domestic security funding to be easily identified in the state budget. These staffs continue to work together to make the process more efficient and understandable. The inception of the federal Department of Homeland Security should result in a more streamlined federal process. There is even the possibility that Congress will re-organize its committee structure to adapt to the new agency. Such a change is very much in discussion at this time and could be considered as soon as next year.

In meetings and conversations with senior staff representatives of the Department of Homeland Security, the Office of Domestic Preparedness, the Transportation Security Administration and the U.S. Coast Guard in Washington, D.C. in September 2003,⁴

it was very clear that Florida is far and away ahead of all other states in its focused approach to domestic security. All of the above-named groups were very positive in their support for Florida's approach. The agency representatives were responsive to every request for assistance and very complementary of the professional and coordinated effort put forth by the state. That enthusiasm for the state's response was echoed by Florida members of the U.S. House Committee on Appropriations; Select Committee on Homeland Security and Committee on Transportation during that visit.

There is one pending grant award for FFY 2003-2004, Round Three of the Seaports Security Grants program.

In addition, there are substantial new grants funds to be allocated in FFY 2004-2005, including \$1.7 billion in state and local ODP formula grants; \$500 million in Law Enforcement Terrorism Preparedness grants; \$750 million in Firefighter Assistance grants; \$125 million in Round Four Seaports Security grants; \$725 million in High-Threat, High-Density Urban Area grants; and several hundred million dollars not yet finally identified in CDC/HRSA and Department of Justice grants.

It appears that federal funding streams will remain strong in the coming years. Federal government commitment to domestic security assistance for state and local governments is strong. As this new paradigm evolves, the federal government is beginning to stress accountability in providing those funds, which is a very positive development for Florida, since the state has built in audit trails and centralized procurement systems for the expenditure of these funds. The Division of Emergency Management is currently leading the statewide needs and vulnerability assessment required by the Office Domestic Preparedness prior to release of 2004-2005 formula grants. This effort is being supported in the field by each of the seven Regional Domestic Security Task Forces.

Due to the large number of federal grants programs available for domestic security, and the need to assure that the funds coming to the state are applied against the state's strategic plan, it is important to have an accountable receipt and distribution process in place. While there were situational difficulties with the flow of federal funds in FFY 2002-2003 caused by the late

Susan Skelton; and Florida Chief of Domestic Security Initiatives, Lt. Col. Stephen Lauer, USMC RET., attended a series of meetings in Washington D.C., on September 8-10, 2003 on domestic security issues.

⁴ Senator Paula Docketery, Chairman Senate Committee on Home Defense, Public Security, and Ports; Staff Director

passage of the federal budget and the onset of the war, Florida was able to keep the process moving and get the equipment and training orders placed very quickly due to the very streamlined, centralized procurement system at the Division of Emergency Management. Because of Florida's extensive experience with tropical storms and hurricanes, DEM maintains a robust procurement office which has been instrumental in keeping Florida's federal domestic security dollars flowing towards the final local government destination.

The centralized procurement system allows a more effective use of funds through high volume purchasing.

Because Florida has had such an active profile over time with emergency response vendors, orders from Florida are turned around quickly. If each locale had to go through the process, costs would rise and turn around times for orders would be much longer. In addition, by purchasing equipment for all regions at once, we are assured that responders in all regions are trained on the same products. In an emergency, responders from any part of the state could operate in any other part of the state. This standardized equipment, training and incident command structure represent the backbone of the statewide response capability. Any effort to re-direct funds away from the state has the effect of reducing the ability to account for proper use of the funds and of weakening Florida's statewide response capability.

Florida has taken an aggressive approach to procuring federal domestic security funds. This proactive approach has been very successful. All indications are that funds will continue to become available and Florida will continue to be competitive in receiving federal grants.

RECOMMENDATIONS

- Continue to aggressively work to identify and obtain federal funds through active participation in the federal budget process.
- Continue to advocate for all domestic security funds received from the federal government to flow through state agencies for purposes of accountability and to assure that funds are being used in furtherance of the federally approved state strategic plan.
- Encourage the continuation of the Governor's Executive Federal Funding Committee to oversee state agencies' activities related to pursuing federal funds.