

Transit Security Grant Program / After Action Workshop Summary
Federal Emergency Management Agency / Transportation Security Administration
September – October 2011

These notes are meant to supplement the PowerPoint slides that were used at the After Action Workshops held in Oakland, CA on September 28, 2011 and in Arlington, VA on October 3, 2011. They are intended to capture, consolidate and provide a record of the discussions that occurred at these workshops, based on topics presented on the slides. This summary will be reviewed in order to determine whether the discussions should result in changes to the TSGP. We continue to invite you to share your thoughts with us about these discussions and/or provide us with recommendations for improving the grant programs. We welcome your input and consider them a valuable part of this grant program. The slides are available at:

http://www.tsa.gov/what_we_do/grants/programs/tsgp_tieri/2011/index.shtm.

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Welcome and Opening Remarks

We are here to gain your feedback on what did and did not work for the Fiscal Year (FY) 2011 Transit Security Grant Program (TSGP). We value what is said and try to include that feedback in future grant guidance. Be honest with your ideas; we are here to try to improve the process. One change for FY 2011 was separating the grant guidance into two parts to make it easier to review and follow. We continue to look for ways to streamline the guidance and keep it as straightforward as possible.

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Funding Allocations and Priorities (Capability, Sustainment)

We will discuss the FY 2012 program later in this workshop, but whatever the future level of funds, we want to maintain the capability that has been built with grant funds. We do not want to regress by failing to complete or maintain projects, and “lose” those funds from the grant program. In FY 2011, one of the priorities of the TSGP was Top Transit Asset List (TTAL) projects that included the complete package in which assets would be fully remediated with the funding requested. In previous years, we have received requests for partial remediation and year-after-year more requests for the same project are submitted assuming there will be continued funding. We are now focusing on complete remediation of the assets.

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RTSWG & Regional Transit Security Strategies (RTSS)

The FY 2011 TSGP required that RTSWGs update their Regional Transit Security Strategies (RTSS) by December 31, 2011.

Agency Question: What do we need to do to meet the deadline of updating our RTSS? Do we need to send you the RTSS itself, or just a certification saying we have updated it? Will there be a review process or formal approval for the RTSS?

Federal Answer: We will probably use a process similar to what was used in FY 2005. You will submit your RTSS and it will be reviewed by DHS. You will then receive a review notice that shows the approval or a change request that your RTSS will need to be fully updated. An Information Bulletin (IB) will be issued in the next 30 days to give you specifics on the requirements. However, this will **not** affect your ability to receive/expend FY 2011 TSGP funding. You may proceed with implementing your projects even if your RTSS requires additional updates after December.

Agency Question: If my agency is historically considered Tier I, does my strategy have to meet the State's strategy?

Federal Answer: Yes, the intent is that your RTSS should dove-tail with the UASI or State strategy. Information on this issue will be included in a forthcoming IB.

Agency Question: In the FY 2005 TSGP Grant Guidance, there was a template for the RTSS. Can we still use that template?

Federal Answer: Yes, use that template; it will not change.

Period of Performance

We have a Period of Performance (POP) of 48 months for Capital projects, which is new this year. The TSGP's use of this new 48-month POP is a pilot in that it is the only grant program to do so. We will await the results to determine whether it is successful. Many of you have asked for an extension of the 36-month POP used in the past, so we are trying the 48 month POP and, if successful, it may become the norm. Operational projects remain a 36 month POP.

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Application Development and Process

We have received mixed feedback on a fully competitive vs. cooperative agreement process. We would like to foster a way to bring regions together for security discussions in their Regional Transit Security Working Groups (RTSWG), and not just for discussions about money. Quite a few regions still held meetings, even with the competitive process, but those discussions were more guarded than in the past. RTSWG meetings should not be contingent on whether the Congress has appropriated grant funding for the TSGP. We have to conduct business and cannot simply wait on funds and appropriations. We hope that the RTSWG meetings are being conducted for security purposes, and not done solely to discuss money.

Competitive vs. Cooperative Agreement Process

Agency Question: Why was TSGP wholly competitive in FY 2011, and were there any benefits to this process?

Federal Answer: The framework for the program is reviewed each year in a continuing effort to determine how to best focus limited TSGP funds. The competitive process was used because it focuses limited TSGP security funds to projects with high risk reduction value such as operational deterrence projects and those remediating critical infrastructure assets on the TTAL.

Agency Comment: The open, competitive process allowed us to tell you what we needed, instead of figuring out how our needs fit into a regional allocation. We enjoyed that and believe we were listened to. We thought that risk was carefully evaluated in the process, and we received a proportionate share of what was available based on risk. This process gave us the opportunity to apply for projects we had not applied for in the past.

Agency Comment: The regional target allocations in previous years helped foster communications between the agencies in our region. However, this year's competitive process had us competing against each other and we would prefer you go back to regional allocations.

Agency Comment: Regarding regional collaboration; it used to make more sense when the region was allocated money, and we divided the money among ourselves. The smaller agencies were

generally guaranteed to get some funding. With the competitive process, we feel we have less chance of receiving grant funding in the future.

Agency Comment: This competitive process allowed us to submit the number of projects we needed. It's a good tool to show what we need because the funds available to us are not sufficient enough alone, and cannot fulfill our security goals.

Agency Comment: From the perspective of a midsized agency, we looked at what we received funding for and consider FY 2011 our most successful year. Also, these pre- and post-award Workshops are valuable to us.

Agency Question: Did the competitive process bring more requests?

Federal Answer: Yes. We recorded an increase in the dollars requested with the competitive process. TSA and FEMA make good use of statistics such as dollar value of requests and types of/number of projects requested in order to show what projects are needed, regardless of funding availability. We have slide decks we use to brief Congress on how much was requested, how much was recommended, and what was actually funded. We like to show the difference between panel recommendations for funding, as well as detailing what could not be funded because the funding ran out.

Timelines/Communication

Agency Comment: Speaking as a small agency, the grant communication this year was excellent, especially regarding the compressed timeframes to apply.

Federal Question: Does anyone have feedback about how the compressed timeline impacted what you applied for and the number of projects? Or did you already have projects lined up as a result of the delays with Appropriations?

Agency Answer: Since we were in a wait and hold pattern for so long, we had things planned ahead of time, prior to the appropriations, and it did not affect the type or number of projects we applied for.

Grant Guidance Content

Agency Comment: My agency was newly eligible for Operational Packages, and we were pleased to receive funding this year. However, the FY 2011 TSGP guidance did not specify in the *Additional Overview and Information* section what newly eligible agencies needed to know about the requirement for a five year Security Capital and Operational Sustainment Plan. We found this requirement later in the guidance, only a few days before the applications were due. Since this was new for some, it should have been mentioned upfront.

Federal Response: That is a good point and will be taken back for consideration in changing next year's guidance.

Writing Quality Investment Justifications (IJ) / Budgets

It is important that you submit detailed budgets and clear IJ's. Individuals on the NRP are subject matter experts and grant experts but they may not have specific knowledge of your system. They need those detailed descriptions to understand the request. Your project might not get funded because the NRP could not understand the details or the budgets. Some costs are allowable and some are not; without sufficient budget detail, the NRP cannot recommend funding for the allowable costs and may not fund the project at all.

The NRP is responsible for determining if the project is reasonable. Without clear or detailed information from you, a project cannot be recommended for funding. We are grant and security experts only; as a result, do not assume that we understand engineering or other terminology used in your industry. As an example, if you ask five people what the definition of consequence management is, you will receive five different definitions. Assume you are describing this project to someone who may not understand your terminology, and provide clear definitions for potentially unclear terminology. A possible solution could be to have someone outside of your industry review your IJ in order to determine whether he understands it. If he does not, the NRP may have difficulty understanding it as well.

In your IJs, indicate why you want to do a project, including what the vulnerability is and how you are trying to remediate that vulnerability. It is also easier to understand the context when it is clearly described or linked to the BASE or comparable vulnerability assessment in the IJ's explanation.

The budget detail worksheet has not changed. You can always submit supplementary spreadsheets if it provides more detailed information. After all projects are scored and ranked, the level of detail in each IJ/budget becomes extremely important when it comes to the end of available funding and we are looking at the scalability of projects. Depending on the funds remaining and the scalability, we could potentially, partially fund the project. In the grant guidance roll-out workshops, we indicated the importance of identifying scalable projects. Some projects submissions were great in indicating the scalability which was helpful for the NRP.

Keep in mind you can apply for the 5% management and administration (M&A) funding as part of the grant. If that is not included in your budget submission, however, the NRP cannot approve the M&A as part of your project.

Agency Question: Would you be able to show us different examples of acceptable IJ's and Budgets?
Federal Answer: We are currently working on providing them to you. It is always quicker and easier to review and approve a good project whose IJ's and Budgets are clear, thorough and well reasoned. We are also attempting to develop a type of checklist to be completed along with the IJs and Budgets in order to help you ensure that all required information is provided in them.

Non-Disaster (ND) Grants System

We have tried hard to make the introduction of the ND-Grants System as simple as possible. In the past, we were using the Department of Justice's system and other systems that were not under our control. We implemented our FEMA ND-Grants system this year which will consolidate everything into one system. We are still dealing with old systems for grants from FY 2006-FY 2010. We will be using ND-Grants exclusively for FY 2011 grants. Be sure to familiarize yourselves with each fiscal year's grants guidance and system management. Pending available funding, we plan to migrate older awards into ND-Grants within the next several years and increase functionality and features.

With the new system, processing of extensions will be done electronically instead of needing to generate a paper copy with hard signatures. There are different modules available for ND-Grants and, as funding permits, we will be able to have additional features, more usability and functionality. It will allow for the integration of the program and financial systems in one. It is a lot of work for us as it is for you. It will improve in time and get better.

Agency Comment: This was our first time applying for TSGP funding. The information in the grant guidance was nicely laid out. But we also think the ND-Grants system is a beta system and there were problems with the awards, and with the distribution of multiple emails.

Federal Response: IBM owns the system and there was a glitch that resulted in grantees being sent emails numerous times. IBM had to reset the system. At this time refer to the awards that were announced and published back in August rather than on the emails from ND Grants. We also expect to have that glitch fixed later this week. [Note: the issue was resolved on October 6, 2011.]

Agency Comment: We appreciated being able to adjust our budgets before finalizing them in ND-Grants.

Role of State Administrative Agency in the Application Process

Agency Question: Do you anticipate that, in future years, the funding will go through the State Administrative Agency (SAA), or will it still go directly to the transit systems?

Federal Answer: While the Congress can change this requirement at any time, we nevertheless anticipate the funding will continue to go directly to the transit systems as it has in the last few years. The Congress has inserted this language directly into Appropriations Bills for the past few years, and we do not expect that to change.

Agency Comment: But the SAA actually allows you some coverage from an auditing perspective, so there is some use to having the SAA involved in the post-award aspects. But from an application standpoint, it was much easier for us to apply without having to go through the SAA.

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Funding Priority Areas

We are often asked by Congress what are the results of the TSGP over time. We have now funded over \$1.8B through the TSGP since 2005. They ask what has been done and for us to show the results. We need to show progress on things like the Top Transit Asset List (TTAL) which shows specific assets being mitigated through projects being completed. Operational projects, more specifically Operational Packages (OPacks), show a certain number of “boots on the ground.” These are physical and concrete results we are able to show.

While there was not a significant change to the funding priorities, there was a significant increase in operational project requests. Consequently, a number of “Priority E” projects (Other Capital Security Projects) were not funded. The Priority E projects were not necessarily bad; however, there was insufficient funding available after funding operational projects that rate higher in the funding priorities. Note that, if all operational project requests had been fully funded, they would have encompassed almost 80% of the available FY 2011 TSGP funding. However, not all operational project requests were recommended for funding by the NRP for a variety of reasons, including unallowable costs.

National vs. Local Priorities

Agency Question: It has happened in the past that the national priorities are not necessarily serving the regional priorities. Does our feedback really make a difference?

Federal Answer: Yes, your feedback does make a difference. It is not possible to incorporate all feedback, and some can be contradictory, but the more opinions we get, the more we can report back to decision makers. In FY 2011, for example, we were able to incorporate several items into the program based on stakeholder feedback, specifically increasing access to OPacks by changing the

eligibility requirements, and the addition of Operational Projects on Overtime for surge activities during holidays or other regionally significant events.

Agency Comment: We can use money from our operating budget for surge or patrols on overtime activities, but it is more difficult to use those internal funds for capital projects. We would like to get the maximum benefit from going through a BASE review, so we would like to see the priority list rearranged, or BASE taken into account for scoring other types of projects in addition to Operational Activities [Priority A].

Agency Comment: Our agency is the opposite. We can use the Section 5307 funds from the Department of Transportation for asset hardening, but without TSGP funds we would not be able to undertake some types of operational projects.

Agency Comment: We would like to see increased focus in TSGP for cyber-security projects. This is a growing security concern, and is not well reflected in the current TSGP funding priorities.

TTAL Funding

Agency Question: Did you fund any capital projects not on the TTAL?

Federal Answer: Yes we did. Approximately 15% of the total funds; around \$30M, went to “Priority E” projects. While we were pleased about the high number of requests for operational projects, and pleased that the Secretary waived the operational cap, the unintended consequence of that was that some good “Priority E” capital projects could not be funded because of limited resources as they are a lower priority than operational projects.

Agency Question: Can you talk about Priority C [TTAL Remediation] and what was funded?

Federal Answer: 35% or approximately \$69.7M of the FY 2011 TSGP funded TTAL remediation. We have a detailed graph available on our website (<http://www.tsa.gov/grants>) in the FY 2011 section under the “Transit Security (Tier I & Tier II)” section.

Agency Question: What about Priority D funding [TTAL Remediation Plans]?

Federal Answer: Approximately 3%, or \$5.3M, funded TTAL Remediation Plans.

Agency Question: Were all TTAL project requests fully funded?

Federal Answer: No. Some project submissions included requests for both the remediation plan and hardening in one project. We were clear in the guidance that we would fund the plan first, and then remediation, but not both together. So for those requests, we funded only the remediation plan portion of the project. Other TTAL project requests did not have the necessary detail to assure us that they had a complete remediation plan, so they were not recommended for funding.

Sustainability

Agency Comment: Our concern is about renewability of the grant program, and being able to use future funding to support our capabilities. Our local economies do not have the funding to take over these projects.

Federal Response: We have heard there is difficulty sustaining grant projects after the grant funding has been exhausted. Sustainability and maintaining capability are issues that we continue to be concerned with and we will take this into consideration as we review funding priorities for FY 2012.

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Operational Cost Limit

The 10% cap on operational activities set forth in the 9/11 Act was waived by the DHS Secretary based on her authority to do so that is also in the 9/11 Act due to the number of operational projects requested by agencies and recommended by the NRP. In particular, a number of agencies requested funding for Operational Patrols on Overtime, or “Surge” projects. Almost 48% of the available funding was awarded for operational activities. This caused a ripple down effect that impacted the remainder of other priorities so that, for example, few “Priority E” projects were funded. Operational activity project requests equaled approximately 80% of all available TSGP funds for FY 2011.

Operational Activities

Agency Question: We have a concern with funding for multi-agency operational projects like drills and exercises. Specifically, when we seek participation from first responders such as fire departments, we cannot reimburse them for their costs. What can be done to change this?

Federal Answer: The 9/11 Act identifies the types of entities eligible to receive TSGP funding. Currently, entities such as fire departments are not eligible to receive funds. That would take a legislative change. By law, only public transit agencies are eligible recipients of TSGP grants, so paying or reimbursing non-transit first responder agencies is not allowable. We understand that first responders are critical security partners, but we cannot pay for them through the TSGP. There might be legislative changes that could allow this, but it is not legally possible now.

Agency Question: Technology is important for asset remediation, but it does not do everything. What about if project implementation is only partially done? And what about something like a suicide bomber? A camera is not going to stop that. Now you have to put yourself on that road and it might not resonate well with Congress, as it would take several grant cycles for completion and you are now committed to that path.

Federal Answer: That is why we emphasize operational activities to help mitigate threat. We would like there to be a layered approach to security as you will need the operational components to help secure the capital side. Cameras will not detect explosives, but a K-9 team or mobile screening team that pulls that person aside will. We are going down the road where dollars are decreasing and technology can only take you so far, which is why we continue to emphasize operational projects.

Agency Question: We are a smaller transit system, and do not have the required 50 full time equivalent (FTE) law enforcement head count to be eligible for OPacks. How can we be considered for those types of operational funds?

Federal Answer: The 50-FTE minimum requirement in an attempt to ensure that agencies will be able to sustain the increase in headcount after the grant’s period of performance ends through normal attrition/growth. We review OPack eligibility every year, as can be seen by the change in eligibility requirements for FY 2011. We were able to point back to FY 2009 ARRA to show that using FTE count as a threshold worked as opposed to using ridership as a threshold. We continued to push the envelope and were able to demonstrate that the FY 2007 funds used for OPacks are being sustained.

Agency Question: Can we request funding for the entire 50 FTE?

Federal Answer: You can always request it, but it is unlikely that it would be approved for full funding.

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TTAL Remediation

The TTAL was introduced this year. It is intended to be a living list; it could be expanded. We are currently considering what the next iteration might be.

Agency Question: What constitutes “hardening” or full remediation for a TTAL asset?

Federal Answer: It depends on the asset. For some, it is actual structural hardening. For others, it includes things like access control, CCTV, and intrusion detection. Other types of activities, such as consequence management, were not considered part of hardening or full remediation, and therefore not recommended for funding.

Agency Question: If you received funding for a TTAL remediation plan, will you be given extra consideration in the future for funding to remediate the asset?

Federal Answer: The consideration you are given as having an asset on the TTAL already gives you top priority for capital projects through the Funding Priority Area score. In order to be considered as a “TTAL Remediation” project as it relates to the Funding Priority Areas, you would need to show your complete design and show the project is shovel ready. We, of course, cannot guarantee future funding, but there are considerations built into the scoring process to give TTAL-related projects priority over other capital projects.

Agency Question: Who determines when an asset on the TTAL is done? Would it be DHS or the agency?

Federal Answer: It will be a cooperative discussion between DHS and the agency. We would communicate why we think something is done; and likewise, we would want to know if you consider assets “done.” As we are gearing up for next year, which assets can potentially be taken off or added to the list will be a cooperative discussion.

If you have an asset you would like to be considered for addition to the list, you can submit your request to TSAGrants@tsa.dhs.gov. If you already included an asset(s) for consideration in your FY 2011 application, you do not need to resubmit it; we are already taking it under consideration for adding it to the TTAL funding.

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Scoring Methodology Changes

This year we included the agency BASE review as a scoring component for “Priority A” projects in order for those agencies having deficiencies to be given more consideration. It was a first step towards adding other factors in the scoring methodology.

With the addition of BASE reviews as a scoring component for “Priority A” projects, we also noticed a number of agencies used BASE results and identified vulnerabilities to explain other types of (capital) projects.

National Review Panel

Agency Question: Who comprised the National Review Panel (NRP)?

Federal Answer: The NRP is comprised of officials from TSA, FEMA, and the Federal Transit Administration within the Department of Transportation. Analysts from FEMA’s budget office also sat in to review budget detail and address questions on allowable costs. The NRP reviewed 206 projects this year.

Agency Question: With regards to the NRP review, it would be helpful to know what was done. We had items that were denied this year that were allowed in a previous fiscal year. We have a

requirement to support certain aspects of a K-9 team, but some of those items we requested to remain compliant were denied by the NRP. We think there needs to be a second review. It is confusing that we were denied equipment previously allowed.

Federal Agency: If there are issues that need reconciliation, we can work with you and review it. You can discuss the project specifics at another time, one-on-one, with your FEMA Program Analyst. With our best efforts, we can attempt to rectify your concerns.

Agency Question: Can we get the scores for our individual projects from the NRP?

Federal Agency: The score itself would not mean much to you without the context or the comparison with the other projects. We can provide you with the NRP's comments on strengths and weaknesses, which would be more valuable in preparing future Investment Justifications (IJs) than receiving the raw score context and project comparison.

Agency Question: What were the scoring ranges for the projects funded this year?

Federal Answer: The high end of the funded projects fell in the 20s; the funding cut-off was somewhat below 15. There were \$576M in total requests this year.

Scoring Factors

Agency Question: Are factors such as the linkage of capital projects to vulnerability assessments taken into consideration in the scoring process?

Federal Answer: Even though there is not a separate or specific scoring criterion for measuring assessment linkage to capital projects (as there is for operational projects), if an agency included that information in their IJ, it did positively affect scoring in other areas (e.g., feasibility, cost effectiveness).

Agency Question: Now that this is a competitive process, are traditionally Tier I agencies still conceptually considered Tier I in the scoring? Are we given extra consideration because we have historically been in a Tier I region?

Federal Answer: Historically, Tier I agencies that have higher regional risk are given scoring consideration through their agency's Risk Group Score. Tier I agencies are still considered higher risk, and that is taken into consideration in the scoring methodology through the Risk Group Score.

Agency Question: Does the risk methodology take into account the ultimate attractiveness (or threat) of a target [TTAL asset]?

Federal Answer: Not specifically to a particular TTAL asset but indirectly by affecting the region's threat score. Currently, the assets on the TTAL are not ranked. This year, all recommended projects related to the TTAL were funded, and we did not have to make "trade-off" decisions on which asset to fund over another which would have necessitated asset ranking. However, the ranking of assets on the TTAL is an issue we are trying to address for future years when we may have to make "trade-offs" because the available grant funding may preclude us from funding all requests for projects related to assets on the TTAL. While the risk model for FY 2011 did not take into account threat for a specific asset, it does consider regional threat. And if a specific asset is a target, it would affect the region's threat score. We are currently considering different tiers for the TTAL. So while TTAL asset threat or risk was not a specific component this year, we may add it in the future.

Agency Question: That type of threat [to a specific asset] seems it would have to be intelligence-dependent. Those relative ranks are likelihoods and have nothing to do with the local environment?

Federal Answer: Threat is definitely intelligence-driven, and we work closely with DHS intelligence offices in determining regional threat values, and also when we developed the TTAL. What has not yet been completed are the threat, vulnerability, and/or consequence by asset rather than by region which is currently the case. TSA and FEMA are working together to address the threat aspect by asset. Also, we provided the slate of recommended TTAL projects to the DHS Offices of Intelligence and Analysis (IA) and Infrastructure Protection (IP) for review in order for them to ensure that we were addressing the areas of threat/risk based on intelligence.

Agency Question: What difference did the “regional collaboration” scoring component really make in the scoring? Did many agencies submit regional projects under the competitive framework this year?

Federal Agency: With the new competitive process and less available funding this year, regional collaboration did make a difference for some projects, even with the lower value/point range (0 – 1.5) than some of the other scoring components. Regional collaboration is not limited to other transit agencies; for example, a drill could bring first responders together with your agency [provided TSGP funds only pay for transit participation]. There were several examples of regional public awareness campaigns, where one transit agency requested funds on behalf of the whole region. Regional collaboration not only brings partner agencies together, but can provide economies of scale to get more out of the funding.

Agency Question: Where can we see our Agency Risk Group Score?

Federal Answer: The risk group scores are considered Sensitive Security Information (SSI), and are provided only on a need to know basis as required by the SSI regulation. If an agency would like to receive its score, the agency should send an email to TSAGrants@tsa.dhs.gov, and we will provide your score to you consistent with SSI protocols. [If TSA provides you with the risk score or any other SSI, you must comply with the SSI requirements set forth at 49 C.F.R. part 1520. A copy of this regulation can be obtained online at http://www.tsa.gov/assets/pdf/ssi_regulation.pdf.]

Scoring of Operational vs. Capital Projects

Agency Question: Did you consider separate scoring between capital and operational projects?

Operational projects are always going to win because they are a higher priority than capital projects.

Federal Answer: That is something we will consider in the future, and that we did consider this year because there was a low cap on operational costs. However, we had a tight timeline for this grant cycle and we were unable to do so. And while operational projects are given a higher score for the Funding Priority Area, it does not necessarily mean that all operational projects will automatically score higher than capital projects, because that is only one component of the scoring formula. This year, there were several capital projects that scored higher than some operational projects.

Federal Question: Should we try and determine upfront a “target” percentage for capital and operational projects?

Agency Answer: I would like to avoid a scenario in which there was an X% requirement for operational projects and the rest for capital because there may be more worthy capital projects than the arbitrary percentage would allow. This would require funding lesser-quality projects because you have those percentages in writing. I would prefer to see them open instead of forcing ourselves to fund a specific project type.

BASE Reviews

Agency Question: Are ferry system’s eligible to have a BASE review?

Federal Answer: Ferry systems by themselves would not typically be eligible for a BASE because the BASE is intended for mass transit agencies; however there are some transit agencies with a ferry component that have had BASE reviews conducted.

Agency Comment: I would at least like to see the entire BASE review considered for grants, not just in the “Priority A” operational activities.

Agency Comment: We would also like to see BASE considered in the scoring of other types of projects, such as bollards, gates, and other types of capital hardening efforts.

Federal Question: Should there be other factors considered in the scoring process?

Agency Answer: Many agencies have used a lot of internal resources to improve our processes. We like the linkage of BASE to operational funding, and believe that is something that should be expanded to capital projects.

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Environmental Planning and Historic Preservation (EHP) Reviews

There have been several improvements to the EHP process in the past few years. Many of the EHP staff did not understand the transit environment; therefore, we took them to observe actual transit system environments and provided them with real-life project examples. It also helped to further their understanding of how the EHP process can severely hinder the progress of using grant money.

Starting this year, the majority of projects will have funds released without a hold based on EHP. It will be the responsibility of the grant recipients to complete the EHP requirements **prior to beginning work on a project**. Once you submit all required EHP documentation, your FEMA Program Analyst will give approval so you can spend the money. This improvement accelerates access to the funds, but does not remove the EHP requirement. If your agency is audited later, you still need to have proof of your appropriate EHP clearance. In some cases in the past, it took two years before money was available to grantees. Exceptions where agencies could still receive a significant EHP delay would be complex projects, like those involving bodies of water.

Agency Question: Why can we not get an EHP waiver for those projects that deal with the right of way (ROW), since we already have EHP clearance for the ROW for FTA projects?

Federal Answer: We hear that question all the time. Regardless of another department’s approval or waiver, FEMA has its own requirements. We are reviewing FEMA policies in coordination with the FEMA Mitigation Branch in order to consider EHP waivers from other departments as applying to the TSGP. We are also streamlining the process and you may have already seen progress. The EHP review staff is compiling fact sheets which will include the common EHP-specific issues for each grant program. The process will become electronic and the form will be streamlined.

Agency Question: I do not understand EHP. What are some of the projects that can be excluded from EHP reviews? Are we expected to have a budget for all projects?

Federal Answer: Prior to FY 2011 there was an automatic hold for EHP review, even if the project did not require EHP clearance. For example, drills and exercises do not need EHP approval. However, prior to FY 2011 there was still an automatic hold in the system on all projects for EHP. Consider that if you are applying for a capital project and you are “disturbing the dirt,” an EHP review will still be required. And, yes, approved budgets are required for all projects prior to commencing work.

Agency Question: We are getting a lot of interaction with our regional environmental officers. Is that going to continue?

Federal Answer: FEMA headquarters had EHP experts that were contractors and unable to travel. FEMA is now in the process of transferring more EHP responsibility to the regional offices where it is easier for its staff to come to you and have EHP-related discussions. We encourage you to invite the regional EHP staff to your location as it can make a difference for them to see the project first hand. We will visit your agencies and meet with you in order to do what needs to be done in order for issues to be resolved. If you have a specific EHP issue and would like an on-site visit, please contact your FEMA Program Analyst.

Budget Reviews

This year we were able to have the budget analysts available for the NRP. The budget review process is usually undertaken several weeks or months after awards are announced. This year we had a compressed schedule and we had the budget analysts present to get an immediate response and approval of budgets where possible. This will enable the award and release of funds process to move forward more quickly. We were able to put everything on the front side and we hope to be able to continue with that process. We have made a lot of improvements for FY 2011 and hope that FY 2012 is even better.

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Post Award Processes

Agency Question: On the bottom of our TSGP award letter there appears to be information which indicates something to the effect that agencies are not required to accept the award. The language is confusing. Do we need to accept the award?

Federal Answer: Yes, the award must be accepted. Please send us a copy of your award letter by email so that we can investigate this issue further.

Agency Question: Our agency applied for \$400K and we received \$200K. Should we go ahead and accept our award and then revise budget or should the budget be revised first?

Federal Answer: Accept the award first. We cannot proceed without the agency's acceptance of the award. Budget revisions can be done afterwards.

Reporting and Drawdown

FEMA and TSA have been working on developing monthly funding reports, by region, for the historic Tier I regions. Once it is finalized, we will share it with those of you in historic Tier I regions. The monthly report will show your total award, released amount, money on hold, and amount drawn down by fiscal year.

One of the biggest issues for Congress and the Office of Management and Budget (OMB) is grant drawdown. They continually ask us why grant funding is not spent more quickly? There is currently \$4B on the books of unspent funds for all open grant years. At the federal level they look at the big picture. Why is the money sitting there? We share with Congress that, for particular programs, that is just part of business because large capital projects do take years to complete due to the procurement process and actual implementation work. There are three grant programs that typically either use the full POP or need extensions to complete projects. The TSGP is one of these grant programs. While we are trying to streamline the process to get funds out quicker, we also recognize that large capital projects do take years to complete. We are communicating to Congress that the money is already obligated or dedicated to specific projects; we know where the money is going. We are also trying to

get a better handle on your own state/local processes - once you get the funding, what do you do? What can we do to help you spend the monies more quickly? We understand that there are differences by state. It is important that you try and drawdown your money quickly. What can we do to work with you so that you can spend down the money so that no money is turned back? When money is turned back, that reflects poorly for the next grant cycle.

Agency Question: When you present drawdown information to Congress, do you also offer contract obligation information? Do those numbers and the expected utilization get shared with Congress?

Federal Answer: We report to Congress quarterly on what has been drawn down for all grant programs, including any funding on hold. We have been trying to educate all interested entities that drawdown does not show the entire process and it takes time to spend funds even though things are getting done. We understand that, for the TSGP, the majority of drawdown will likely not occur until the end of the POP because of the larger capital projects. The more often you drawdown funds, the better it is for all of us.

Agency Comment: We have to find a better measure of progress than drawdown, such as having them also look at the money returned unspent to the government instead of looking at drawdown alone. As for not seeing large drawdown until the end of the POP, agencies should not be criticized for taking the time they are allowed under the grant agreement to complete the project using grant funding. Unused TSGP grant funding that is returned to the government may be a more accurate gauge of problems with the TSGP than delays in drawdown. We are also reporting quarterly on the encumbered funds; that may be another good measure for FEMA to show Congress.

Agency Question: We are looking at “fund swapping” across a couple of different years. What if we are coming to the end of the POP for FY 2007, and have a FY 2008 project that is just getting started? Can we “swap” funds to use the FY 2007 funds on the FY 2008 project that is underway, and then we have an extra year to spend the “extra” FY 2008 funding? Fund swapping between fiscal years can be accomplished using the earlier year funds first for projects that have already been approved.

Federal Answer: It can be done. It can also be labor intensive on both ends, and we need to ensure the paper trail is established to document what has happened.

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TSGP FY 2012 Look Ahead

For the FY 2012 appropriations bill, there have been several versions thus far with different funding levels. The recent Senate version has \$200M total for TSGP, Amtrak, the Intercity Bus Security Grant Program (IBSGP) and the Freight Rail Security Grant Program (FRSGP). A previous House version sends the entire Department of Homeland Security Grant package of \$1B to the Secretary, which is over a 50% reduction from FY 2011 funding levels, and gives the Secretary the discretion of deciding which grant programs get how much, including if all existing grant programs continue to receive funding or are terminated. It is entirely possible that there may be legislative changes in a law reauthorizing the grant programs as to what programs will be continued and in what form.

Specifically, the TSGP is authorized by the *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act). The economy was different in 2007 when the 9/11 Act was passed. The authorized amount for FY 2011 was \$1.1B, but only \$250M was actually appropriated, of which \$200M was available for TSGP after other program amounts were taken out (e.g., Amtrak, FRSGP, IBSGP, and M&A for FEMA). As the 9/11 Act authorization ends September 30, 2011, it is not clear what will be authorized in future years. We are not certain when a reauthorization will be

passed; nevertheless, the TSGP can be continued without an authorization so long as an appropriation law is passed that includes funds for the TSGP.

We would like to be open and transparent and share with you some of the issues that we are considering for next year. Based on several factors, we are reviewing the TSGP risk model for FY 2012. We did not change the risk model last year because of the other changes to the TSGP, even though the risk model was revised for other programs, such as the Homeland Security Grant Program (HSGP) and the Port Security Grant Program (PSGP). The HSGP and PSGP risk models were updated for FY 2011 to better define and delineate vulnerability, and generally revisit the factors used in the threat, vulnerability and consequence components of the models. The SSI Risk Group Scores are derived from the outputs of the TSGP risk model. An update to the TSGP risk model could result in a different scale for the Risk Group Scores; changes to some agencies' risk scores; and could impact eligibility. We are now discussing if we have the correct weights between threat, vulnerability and consequence, and identifying more accurate measures of vulnerability and consequence. Currently, we do not have the answer if, and/or, how eligibility will be affected by updates to the risk model, or if legislation/changes in the funding level will result in eligibility changes.

In regard to eligibility, we note that, while TSGP eligibility is not directly tied to UASI eligibility, TSGP eligibility has historically been influenced by UASI in that transit agencies in eligible UASI regions were eligible for TSGP. In addition, in FY 2011, we observed that historically Tier II agencies only received funding for operational projects, and many "Priority E" projects fell below the level of available funding. We are attempting to not make any major changes for FY 2012, and to keep the program aligned with FY 2011, unless there are legislatively-mandated changes or changes driven by risk or funding levels.

Agency Question: I saw that one version of appropriations legislation at this point allocated \$200M for TSGP. Is that accurate?

Federal Answer: The Senate version of the Appropriations Bill does have a transportation grants line item for \$200M, but that includes more programs than just TSGP, such as Intercity Bus, Freight Rail, and Amtrak. So in that scenario, the amount available for TSGP would likely be less than \$200M.

Agency Question: It looks like the funding amounts for grants are continuing to shrink over time, is that true?

Federal Answer: Yes, at least through FY 2011 that has been the case. In FY 2009, including ARRA, there was almost \$500M for TSGP; in FY 2010, it was down almost 50% from that to \$253M. Last year, the TSGP allocation went down another 20% to \$200M. With the current fiscal climate, and what is included in the current FY 2012 House and Senate budget versions, it is likely the TSGP will not be funded at a higher amount in FY 2012. However, as Congress has not appropriated funds for FY 2012 yet, we do not know the final figure.

Agency Comment: The block grant funding shift that was talked about in the House [\$1B appropriation for all preparedness grants, not broken out into separate line-items] appears that it might hang around for future consideration.

Federal Response: We have heard from industry lobbying associations that the Congress remains interested in this funding scenario; but we cannot speculate on future Congressional action or intent.

Agency Comment: Ideally, if we are successful at eliminating the risk to the fullest extent possible, then agencies should be able to sustain the capabilities they have built through grant funding, and we would ultimately no longer need security grants like TSGP. This would be similar to the build up for the Cold War in Europe; after a time, it became a sustainment situation. The issue is that it is unknown when we break even on mitigating security risks.

Agency Question: What type of capabilities are you looking for in FY 2012?

Federal Answer: We are looking at aligning the TSGP with Presidential Policy Directive (PPD)-8. We are in the process of drafting all program guidance kits. They will be aligned with PPD-8 including prevention, protection, mitigation, response, and recovery. A part of that alignment is sustainment. We are looking at creating a direct link between PPD-8 and the National Preparedness Goal (NPG) to all of the FEMA grant programs.

Agency Question: Do you see this moving towards a Target Capabilities List (TCL) type of model?

Federal Answer: Those discussions are still being held. It will depend on the specific grant program. We do not believe the priorities will change for the TSGP, but understand the grant guidance may look a bit different because of PPD-8. We have to change the local/regional view some grant programs have taken and realign those programs into a national view of capability.

Agency Question: Is the amount that FEMA can keep for M&A going up?

Federal Answer: No. The amount has remained relatively level. That funding is provided directly to FEMA, and is used to pay for 100% of FEMA's grant administrative capabilities.

Agency Question: How much do you think the funding priorities will change for FY 2012?

Federal Answer: We do not anticipate making major changes to the funding priorities; however, we do not yet know whether there will be changes to funding or other priorities in appropriation or other laws. There is uncertainty because the reauthorization and appropriations legislation have not yet been enacted, and a new authorization and/or appropriations could set forth new funding priorities.

Federal Question: Would you rather see restrictions on project types or a decrease in who is eligible to apply for grant funds? Is spending resources to write up IJ's without ultimately receiving grant funds an efficient use of your resources?

Agency Answer: We would rather be eligible, and in any event, submit IJ's to have a chance at getting funding.

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Closing Comments

The FY 2011 Appropriation was delayed longer than expected, and the FY 2012 Appropriation will be delayed at least briefly as well. There will be a continuing resolution to extend federal operating authority through November 18, 2011. We are preparing for FY 2012 now so we will be ready when appropriations are finalized. In the current fiscal climate, there is close scrutiny on what is being accomplished with federal spending, including grants. As we evaluate FY 2012, we will continue to search for methods to drive funding to mitigate the highest risks in transit. As we observed in FY 2011, we could be faced with another short grant cycle.

The competitive process was successful in funding projects with high security value such as operational projects for agencies who may not have historically received it, and remediation of nationally critical infrastructure. One downside noted was that some agencies were concerned about sharing their plans with others in their regions.

We will be holding our regular monthly TSGP conference calls until Appropriations are passed, at which time we would move into weekly calls. The monthly calls occur the first Wednesday of each month at 1pm EDT. The call in number 888-323-4702 and the pass code is Wednesday.

If you do have any additional questions or feedback, you may submit them via email to ASKCSID (ASKCSID@dhs.gov) and carbon copy TSA Grants (TSAGrants@tsa.dhs.gov).