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Homeland Security and Counterterrorism Research and Development: Funding, Organization, and Oversight

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Summary

After the 2001 terrorist attacks, planning and coordination mechanisms for research and development (R&D) to counter terrorism were developed in the White House's Office of Homeland Security, Office of Science and Technology Policy, and in individual agencies. Subsequently, P.L. 107-296, the Homeland Security Act consolidated some R&D and coordination in the Department of Homeland Security (DHS). FY2003 funding was appropriated in P.L. 107-8. A House/Senate conference committee approved FY2004 R&D appropriations totaling \$1.050 billion, 16% more than the President requested. Policy issues include implementation; and coordination of priority-setting among DHS, other agencies, and existing R&D coordination bodies. This report will be updated.

Funding for Federal Counterterrorism R&D. Federal funding for counterterrorism R&D has increased substantially in the last three years. The President's Office of Science and Technology (OSTP) estimated the FY2004 budget request for all federal R&D to combat terrorism at \$3.2 billion,¹ about 6 times the FY2000 amount. The new Department of Homeland Security will manage about one-third of this budget. According to the Office of Management and Budget's (OMB) *Annual Report to Congress on Combating Terrorism, FY2002*, 5.5% of the FY2003 budget request for combating terrorism was for R&D. **See Table 1.**

¹ See [<http://www.ostp.gov/html/budget/2004/2004.html>]. See also CRS Report RL31576, *Federal Research and Development Organization, Policy, and Funding for Counterterrorism*; and CRS Report RL31354, *Possible Impacts of Major Counter Terrorism Security Actions on Research, Development, and Higher Education*. For additional information about DHS, see CRS Report RL31914, *Research and Development in the Department of Homeland Security*, and CRS Report RS21542, *Department of Homeland Security: Issues Concerning the Establishment of Federally Funded Research and Development Centers (FFRDCs)*.

Table 1. Research and Development (R&D) to Combat Terrorism, By Agency, FY2000-FY2004 (Request), Dollars in Millions

Agency	FY2000 Actual	FY2001 Actual	FY2002 Enacted	FY2002 Supplemental	FY2003 Enacted	FY2003 Supplemental	FY2004 Request
Agriculture	\$37.3	\$51.7	\$28.0	\$52.2	\$30.4	---	\$42.1
Commerce	9.6	0	11.7	7.0	16.4	---	19.4
Corps of Engineers - Civil Works	unknown	unknown	---	3.0	---	---	---
Defense	unknown	unknown	259.0	2.0	597.0	---	157.0
Energy	59.7	66.2	64.9	19.0	19.0	---	[43.7] (OMB FY2003 rept. p. 57)
EPA	unknown	0	2.8	1.5	49.7	---	29.0
DHHS	109.7	102.8	117.2	85.0	831.2 [previous FY2003 data=1,770.9 (NIH,\$1.75B; CDC, \$40M; FDA, \$50M)]	---	1648.2
Homeland Security	---	---	110.0	93.4	658.2	---	844.0
Justice	45.2	11.4	13.1	76.1	173.5	4.9	174.7
NSF	unknown	7.0	7.0	0	27.0	---	---
Postal Service	unknown	unknown	---	9.5	---	---	---
State	unknown	unknown	1.8	---	1.8	---	1.8
Transportation	50.7	50.2	54.7	54.0	3.7	---	3.9
Treasury	2.1	1.2	1.1	0	1.1	---	unknown
Total	\$511.3	\$589.4	\$827.0	\$383.6	\$2,649.4	\$4.9	\$3,205.7

Source: OMB, *Annual Report to Congress on Combating Terrorism, FY2002*, p. 27 for column FY2000; OMB, *Annual Report to Congress on Combating Terrorism, June 24, 2002*, p. 26, for column FY2001, DOE for FY2002, DHHS for FY2003, and Treasury. Remainder: OMB, *2003 Report to Congress on Combating Terrorism*, Sept. 2003, p. 16, [http://www.whitehouse.gov/omb/inforeg/2003_combat_terr.pdf].

The FY2004 request for R&D to combat terrorism was described in OMB's FY2003 terrorism report and the largest programs are summarized here. The *Department of Health and Human Services (DHHS)*, with about 53% of the total, manages most of the federal civilian effort against bioterrorism. The *Department of Homeland Security (DHS)* R&D, at 27% of the total, is for the programs supported by the Science and Technology Directorate. The third largest supporter of federal counterterrorism R&D is the *National Science Foundation*, followed by the *Department of Justice* and the *Department of Defense (DOD)*, including the Defense Advanced Research Projects Agency (DARPA). The *Technical Support Working Group (TSWG)*, a State Department/DOD group, coordinates interagency work on new technologies to combat terrorism (funding requested at about \$43 million, with an operating budget of about \$141 million). The *Department of Agriculture's (USDA)* R&D focuses on plant and animal diseases. The *Environmental Protection Agency (EPA)* focuses on toxic materials research. In the *Commerce Department*, R&D at the National Institute of Standards and Technology (NIST) deals with protecting information systems. In the past, the *Department of Energy's (DOE)* counterterrorism R&D included work on security, materials, detection of toxic agents, genomic sequencing, DNA-based diagnostics, and microfabrication technologies.

Creation of a Department of Homeland Security and Other Laws. The Homeland Security Act of 2002, P.L. 107-296, November 25, 2002, created the Department of Homeland Security (DHS), and, as one of its four directorates, a Directorate on Science and Technology. Most of DHS's research, development, test, and evaluation (RDT&E) is under jurisdiction of the Under Secretary for Science and Technology (S&T), created by Title III. Dr. Charles McQueary, an engineer, recently retired as President of General Dynamics Advanced Technology Systems, was confirmed to this position. His responsibilities are to: coordinate DHS's S&T missions; in consultation with other agencies, develop a strategic plan for federal civilian countermeasures to threats, including research; except for human health-related R&D, conduct and coordinate DHS's intramural and extramural R&D and coordinate with other federal agencies to carry out DHS R&D; establish national R&D priorities to prevent importation of chemical, biological, radiological, nuclear and related weapons and terrorist attacks; collaborate with DOE regarding using national laboratories; collaborate with the Secretaries of Agriculture and of Health and Human Services to identify "select agents," but not to assume their responsibilities to enforce "select agent" rules; develop guidelines to disseminate DHS's research and transfer technology; and support U.S. S&T leadership. The law authorized a 20-member Homeland Security Science and Technology Advisory Committee to advise and recommend research. Members are to include representatives of emergency first-responders, citizen groups, economically disadvantaged communities, and experts in emergency response, research, engineering, business, and management. If possible, DHS's research is to be unclassified.

Title III transferred to DHS DOE programs in chemical and biological security R&D; nuclear smuggling and proliferation detection; nuclear assessment and materials protection; biological and environmental research related to microbial pathogens; the Environmental Measurements Laboratory; and the advanced scientific computing research program from Lawrence Livermore National Laboratory. DHS was mandated to incorporate a newly created National Bio-Weapons Defense Analysis Center and USDA's Plum Island Animal Disease Center, but USDA may continue to conduct R&D at the facility. DHS is responsible for Coast Guard and Transportation Security Administration (TSA) R&D. The DHS Secretary is to collaborate with the DHHS Secretary to set priorities for DHHS's human health-related R&D on "countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats."

Pursuant to Title III, the Under Secretary may establish or contract with one or more Federally Funded R&D Centers (FFRDC) for independent analysis of homeland security issues. A Homeland Security Advanced Research Projects Agency (HSARPA) will administer an Acceleration Fund, to support innovative homeland security RDT&E in businesses, FFRDCs, and universities. Extramural funding is to be competitive and merit-reviewed, but distributed to as many U.S. areas as practicable. One or more university-based centers for homeland security is to be established and initial proposals are being reviewed now. Regarding intramural R&D, the DHS may use any federal laboratory and may establish a headquarters laboratory to "network" federal laboratories. A Homeland Security Institute FFRDC was authorized to conduct risk analysis and policy research to determine vulnerabilities of, and alternative security approaches for, critical infrastructures; improve interoperability of tools for field operators and first responders; and test prototype technologies. The Institute may use the National Infrastructure Simulation and Analysis Center (NISAC), which was transferred from DOE. A Technology Clearinghouse was authorized to transfer information about innovative solutions for homeland security and will coordinate with TSWG, which is now reviewing initial proposals received.

Among the functions of the Special Assistant to the Secretary, created by Sec. 102 of P.L. 107-296 is working with the private sector to develop innovative technologies for homeland security. The DHS Secretary, with the National Security Council and OSTP, is to establish uniform procedures to handle critical infrastructure information that is voluntarily submitted to the Government in good faith that will not be subject to disclosure under the Freedom of Information Act. DHS issued a proposed rule on this (see *Federal Register*, Apr. 15, 2003, pp. 18524 -18529). P.L. 107-296 codified an existing Office of Science and Technology in the National Institute of Justice and authorized local technology centers to support training and RDT&E for equipment (Sec. 232 and 235). The DHS Secretary was given special acquisitions authority for basic, applied, and advanced R&D (Sec. 833). Sec. 1003 authorized NIST to conduct R&D on improving information security. The DHS Under Secretary for Information Analysis and Infrastructure Protection was authorized to establish a "NET Guard," comprised of S&T volunteers, to assist in recovery from attacks on information systems (Sec. 224). OSTP's Director was mandated to report to Congress on effects of changes in visa procedures on the issuance of student visas (Sec. 428). According to Sec. 1712, OSTP's Director is to advise the President on homeland security, and to consult and cooperate with the Office of Homeland Security (OHS). (See below for information about OHS.)

P.L. 107-305, "The Cyber Security Research and Development Act," (H.R. 3394), authorized \$903 million over five years for R&D and training programs by the National Science Foundation and NIST to prevent and combat terrorist attacks on private and government computers. Several committees have held hearings on cybersecurity R&D.

DHS estimated its FY2003 R&D funding at \$761 million. FY2004 requested funding totaled \$907 million, with \$803 million for the S&T directorate. According to the budget request, 5% of DHS R&D funding would be for basic research, 13% for applied research, 66% for development, and 16% for facilities and equipment. R&D funding for programs transferred from other agencies was estimated at about \$200 million. The conference report on FY2004 Homeland Security appropriations (H.Rept. 108-280) would allow \$874 million in appropriations for R&D in the Directorate of Science and Technology, and additional R&D in DHS to bring the total R&D appropriation to \$1.050 billion, which is 16 % more than the President requested. **See Table 2.** Additional federal homeland security-related R&D is funded by other agencies, including the National Institutes of Health, totaling about \$1.6 billion, requested for FY2004 for bioterrorism R&D.

Coordination Mechanisms Created Before Authorization of DHS. The Office of Science and Technology Policy (OSTP) is a statutory office in the Executive Office of the President (EOP); its Director advises the President and recommends federal R&D budgets. OSTP's Director has chaired the National Security Council's Preparedness Against Weapons of Mass Destruction R&D Subgroup (comprised of 16 agencies), which helps plan R&D relating to chemical, biological, nuclear, and radiological threats. OSTP provides technical support to the DHS and manages the interagency National Science and Technology Council (NSTC), which created a new Committee on Homeland and National Security to set help set R&D priorities in eight functional areas. OSTP's interagency work has focused on such topics as anthrax, regulations to restrict access to research using biological "select agents," access to "sensitive but unclassified" scientific information, policy for foreign student visas, access to "sensitive" courses, and advanced technology for border control. Pursuant to Executive Order 13231, OSTP was to work with the interagency President's Critical Infrastructure Board to recommend priorities and budgets for information security R&D. The OHS had been created in the EOP on October 8, 2001

by Executive Order 13228. It was replaced by the new Homeland Security Council (HSC), created by P.L. 107-296, to provide policy and interagency guidance. It is unclear if the HSC Policy Coordination Committee on R&D, created pursuant to Executive Order 13228, still functions.

Table 2. Department of Homeland Security: R&D in the Budget
(budget authority in millions of dollars)

	FY 2003 Estimate	FY 2004 Request*	FY2004 Conf. Report, H.Rept. 108-280
DHS R&D:			
Border & Transportation Security (TSA)	\$110	\$75	\$155
Emergency Preparedness	0	0	0
Information Analysis and Infra.	15	5	5
Science and Technology	521	803	874
<i>Biological countermeasures</i>	—	365	199
<i>Nuclear & Radiological countermeasures</i>	—	137	127
<i>Chemical countermeasures</i>	—	55	52
<i>High Explosives countermeasures</i>	—	10	10
<i>Threat & vulnerability assessments</i>	—	90	94
<i>Conventional missions</i>	—	55	34
<i>Rapid Prototyping / TSWG</i>	—	30	75
<i>Standards / state and local</i>	—	25	39
<i>Emerging threats</i>	—	22	21
<i>Critical infrastructure protection</i>	—	5	67
<i>University programs / HS fellowships</i>	—	10	70
<i>Salaries & expenses 1/ (Mgt/Adm. in H.Rept 108-280)</i>	—	0	44 (in S&T directorate, but not counted as R&D)
<i>Nat'l Biodef. Anly&Countermeasures Cntr2/</i>	---	0	88
Coast Guard	23	23	15
Total DHS R&D	669	907	Excluding Mgt/Adm., 1050
<i>Selected non-R&D items:</i>	0	890	890
<i>Biodefense countermeasures (BioShield)</i>			
Total DHS Discretionary Budget	28875	28372	29411

Source, except for last column, based on largely on: AAAS R&D Funding Update, DHS in FY2004 House Appropriations, June 25, 2003. AAAS estimates based on FY 2004 appropriations bills. Includes conduct of R&D and R&D facilities. FY 2003 and FY 2004 request figures based on OMB R&D data and supplemental agency budget data. Figures are rounded to the nearest million.

* FY 2004 request figures have been revised since the February 2003 release of the President's budget.

1/ The House Homeland Security appropriations bill moved salaries and expenses for federal employees in the S&T Directorate from program line items to a consolidated Salaries & Expenses account. 2/Funded in Biological Counter-measures in FY2003 and FY2004 request.

The working group on bioterrorism prevention, preparedness, and response, established by Section 108 of P.L. 107-188, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, consists of the DHHS and DOD Secretaries and other agency heads. One of its functions is to recommend “research on pathogens likely to be used in a biological threat or attack on the civilian population”

Critiques Before Creation of the Department of Homeland Security.

Before passage of P.L. 107-296, some critics said that effective counterterrorism R&D required better coordination than OHS, OSTP, NSTC and other groups could provide, and that R&D priorities should reflect intelligence and threat estimates, and balance between long-range and short-term R&D to hasten deployment of technological responses. The

Administration called for consolidating core R&D in a homeland security agency in *National Strategy for Homeland Security*, July 2002). The National Academies advocated creating a Secretary for Technology and a homeland security “think tank” (in *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism*, June 2002). The Brookings Institution in *Assessing the Department of Homeland Security*, July 15, 2002, urged caution because homeland security R&D priorities were unclear.

Oversight Issues. Under Secretary McQueary noted, in a speech before the AAAS on April 11, 2003 and in congressional testimony, that DHS S&T priorities include intramural work in the National Laboratory for Homeland Security; soliciting innovative ideas from academia and industry via work in HSARPA; promoting standards for design and manufacture of homeland security technologies; participating with TSWG to support prototyping of new technologies; and strategic R&D partnerships with the academic community, including academic fellowships. Key DHS S&T initiatives focus on: border protection and monitoring (including prevention of illegal entry of nuclear devices), biological protection (including working with the Centers for Disease Control and Prevention to develop surveillance systems and to deploy sensors to monitor the release of pathogens and agents), and information analysis (including tools and cybersecurity research). It is unclear how DHS sets priorities for programs, including for, HSARPA, the university center(s), the Homeland Security Institute, and laboratories. The 20-member Homeland Security Science and Technology Advisory Committee, authorized by P.L. 108-280 to advise and recommend research, has not been established yet. An article in the *Chronicle of Higher Education*, September 16, 2003, estimates that FY2003 congressional “earmarks” for homeland security-related academic R&D total \$223 million, a 68% increase over 2002, and questions the impacts of earmarking on DHS’s priority-setting processes.

Coordination of federal homeland security R&D may be an issue. DHS has responsibility for about one-third of the budget request for R&D to combat terrorism. DHS has some authority to coordinate and help set priorities for other federal homeland security R&D, including in human health. The extent of that responsibility remains to be demonstrated. The heads of other agencies that handle R&D have no formal role in DHS’s R&D priority-setting and coordination, and the role of the DHS Secretary in setting priorities for those agencies is undetermined. DHS’s effectiveness in planning and coordinating R&D may depend upon the Secretary’s ability to influence other agencies and his interactions with existing counterterrorism coordination mechanisms in OSTP, NSTC, and interagency committees. Additional questions could be raised about what kinds of coordination occur between DHS and the other federal agencies which support homeland security R&D, especially extramural R&D. (See CRS Report RS21617, *Homeland Security: Extramural R&D Funding Opportunities in Federal Agencies*.)

There are issues of how Congress will organize its oversight activities for DHS’s multifaceted R&D and for homeland security-related activities in other agencies. In response to criticism of P.L. 107-296, legislation was enacted (P.L. 108-7), to revise eligibility criteria so that more institutions can compete for funding for DHS’s academic-based homeland security center(s). The Subcommittee on Cybersecurity, Science, and Research & Development of the House Select Committee on Homeland Security held an oversight hearing on May 21, 2003. Additional hearings have been held and others are scheduled by this subcommittee and others in the House and Senate.